

On the Moral Irrelevance of a Global Basic Structure: Prospects for a Satisficing Sufficiencyarian Theory of Global Justice

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Many important criticisms to the possibility of global justice are advanced following one or another operationalization of the Rawlsian concept of a basic structure. The purpose of this paper is twofold: i) to show that the existence of a global basic structure is irrelevant from the standpoint of justice; ii) to set the stage for a cosmopolitan theory of global justice that employs satisficing sufficientarianism as a distributive principle. One of the main contentions is that the institutional-interactional cut in the recent literature should be transcended. That is, the site of justice should be extended to incorporate both the efficiency of discharging one's duties through a just institutional scheme and the moral value of promoting a good state of affairs through one's own efforts. In order to avoid the overdemandingness objection, however, the selected principles of justice ought to belong to the sufficientarian family. Towards the end of the paper I sketch one such theory, satisficing sufficientarianism.

Keywords: Basic structure, cosmopolitanism, overdemandingness objection, site of justice, satisficing sufficientarianism.

* I am grateful to Alexandru Volacu, Kimberly Hutchings, Emil Archambault, Oana Derviș and Nicolae Dobrei for their useful comments on the paper. An earlier version was presented at the 4th edition of the St. Andrews Graduate Conference in International Political Theory (May 2016).

Introduction

The concept of basic structure has been at the heart of numerous criticisms of global justice.¹ Theorists reluctant to accept the prospect for global redistribution have often based their arguments on the qualitative difference between relations mediated by national institutions and relations mediated by global institutions. Depending on their operationalization of the basic structure, they claimed that at the global level we do not have high enough levels of coercion (Blake 2001, Nagel 2005, Risse 2005) or cooperation (Sangiovanni 2007,² Klosko 2009) perceived as necessary conditions for triggering considerations of justice. Thus, they arrive at the conclusion that there is an important distinction to be made between full-fledged societal justice and the more ambiguous “global justice”, undeserving of the name, and which should require either different, less demanding principles of justice (Rawls 1999, Miller 2007: 79), or be understood in terms of humanitarian duties (Nagel 2005). Albeit value skepticism has ceased to be a respectable option, skepticism about global justice continues to pervade modern political philosophy.

The purpose of this paper is twofold: 1) to argue that whether a global basic structure exists is irrelevant from the standpoint of justice and 2) to set the stage for a cosmopolitan theory of global justice that employs satisficing sufficientarianism as its distributive principle (the “satisficing” component refers to what I consider to be two possible justifications of sufficientarianism: that it is rational for individuals to seek outcomes less than optimal and that moral imperatives do not require one to do more than “enough”³). Although the main focus of the paper is on the first subject, I regard the second as one of its logical consequences and as an embodiment of what can be achieved in the domain of global justice once the incredulousness-goggles are abandoned.

¹ Although the two concepts are analytically distinct, whenever I refer to global justice in this paper I mean *cosmopolitan* global justice. Cosmopolitanism is based on the idea that each human being has equal moral worth, and that we have certain responsibilities towards all human beings *qua* human beings (Brock and Brighouse 2005: 3–4). I will mostly refer to those who oppose the idea that there are global duties of justice as “anticosmopolitans.”

² Sangiovanni begins from coercion-based statism but proceeds towards a reciprocity-based statism. He maintains from coercion-based statism the idea that to share participation in reproducing the state coercive system puts us in special relations, which is unlike any other relation we have with individuals beyond our borders and the idea that coercion, private law and taxations are important in limiting egalitarian justice demands to the state. However, he states explicitly that coercion plays only an instrumental role in his reciprocity-based internationalism (Sangiovanni 2007: 18).

³ Although the problem of how to understand this “enough” cannot be tackled in this paper, I believe that it should be an objective assessment at the very least. As it will be seen in Section IV, I actually propose 2 thresholds, which on the one hand can increase the degree of indeterminacy but on the other can better respond to the diverse circumstances encountered in real life.

The sketch of a sufficientarian theory of global justice that I present in the 4th section is also a way of responding to an important criticism that can be raised against my proposal of holding both individuals and institutions responsible for realizing principles of justice.

I start from the premise that there are three plausible scenarios regarding the concept of a global basic structure, which will be dully called A, B and C: that it already exists (A), that it is absent but it is achievable (B), and that a global basic structure could never be enforced (C).⁴ In the first section I present five competing operationalizations of the basic structure (the framing, coercion, pervasive impact, cooperation and controlling influence views). I show how accepting any one of these leads to considerations of global justice (under scenarios A and B). In the second section I mainly deal with scenario B, arguing that taking the status quo as normatively demanding would be self-defeating for a theory of justice.⁵ This claim can be accommodated within a Rawlsian framework, which specifies a natural duty to establish just institutions where these are absent (Rawls 1971: 334).⁶ The third section introduces the problematic scenario C. I argue that the concept of basic structure does not exhaust the realm of justice. Going further than the narrow Rawlsian understanding on institutions that belong to the basic structure, I hold that for a theory of justice individual conduct outside those institutions should matter too. The moral principles that we choose should not be dependent on the existence of a basic structure. The institutional-interactional cut⁷ in the recent literature should thus be transcended. I advance a hybrid approach between interactional and institutional conceptions of justice. That is, the site of distributive justice⁸ should be extended to incorporate both the efficiency of discharging one's duties through a just institutional scheme and the moral value of promoting a good state of affairs through one's own efforts. Institutional crafting should be done following two distinct *desiderata*: 1) fulfilling the ends of our preferred theory of justice; 2) allowing individuals to pursue their own reasonable conception of the good within that institutional framework. To achieve such a synthesis, I must show that the latter *desideratum* can be endorsed by reasonable

⁴ The third scenario also caters to the arguments of those rejecting the epistemological value of this concept altogether.

⁵ However, see James (2005).

⁶ Chor-Tan (2004) and Gilabert (2007) have pursued this strategy. James (2005: 293), rejects this interpretation of the natural duty. According to James, this duty "is clearly meant to guide conduct with respect to existing practices."

⁷ For the distinction see Pogge (1992: 50–1).

⁸ The site of justice denotes here where the principles of justice ought to apply. Rawls holds that they apply to the basic structure of a society, interactional/moral cosmopolitans that these apply to individuals, Cohen that they apply to "the patterns of benefits and burdens in a society" (Cohen 1997: 12). The scope of justice, on the other hand, refers to the "constituency" of those principles—do they apply to a single society, or globally?

individuals⁹ and also that it does not embody unrealistic expectations from real people. One of the implicit objectives in this section is to show that the necessity of global justice is not dependent on a particular view on the site of justice, and that even if we reject the validity of the idea of a basic structure we hold duties of justice that extend to all other individuals.

This aspect will be argued for in the fourth section, where I am concerned with showing that, in order to avoid the trap of imposing supererogatoriness, the selected principles of justice ought to be sufficientarian. This is also where the *differentia specifica* from similar accounts such as Murphy's (1998) lies: the overdemandingness of pursuing egalitarianism as a "supergoal" (Pogge 2000: 161) precludes the pursuit of personal goals and is thus probably unstable on the long term.¹⁰ Global satisficing sufficientarianism avoids this problem, whilst accommodating the necessity of extending the site alongside the scope of justice.

1. *On the ambiguity of the basic structure argument*

What kind of duties do we bear towards other individuals? What grounds these duties and how weighty are them? Are our duties negative, or positive, and how far do they extend? Placing on the table some of the offers on the menu suffices to show that a minimal consensus on the matter is yet to be found. Pogge (2005: 42) argues that, by "upholding a shared institutional order that is unjust" we "foreseeably and avoidably reproduce radical inequality" and thus we are violating the negative duty not to impose harm on others. Stemplowska (2009) argues that our positive duties extend towards everyone, whereas Val-

⁹ I borrow the concept of reasonableness from Rawls. He argues that "persons are reasonable when, among equals, they are ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likewise do so" (Rawls 2005 [1993]: 49). Reasonable persons also accept the "burdens of judgment", *i.e.* the fact that other people can develop distinct conceptions of the good and can endorse different comprehensive doctrines (Rawls 2005: 61). The burdens of judgment act as a fundamental source for what Rawls calls reasonable pluralism. The two are perceived by Rawls as inextricably linked—"since we cannot eliminate these burdens, pluralism is a permanent feature of a free democratic culture" (Rawls 2001: 36). Of course, pluralism refers here to the diversity of comprehensive doctrines prevailing in a modern society, a feature which is, according to Rawls, to be cherished (Rawls 2001: 37).

¹⁰ It is perhaps important to note that I partially side here with Rawls' concern with the stability of a well-ordered society. One of the arguments from his Theory of justice for the two principles of justice as fairness is their capacity to stimulate the development of the sense of justice of citizens: "When the basic structure of society is publicly known to satisfy its principles for an extended period of time, those subject to these arrangements tend to develop a desire to act in accordance with these principles and to do their part in institutions which exemplify them" (Rawls 1971: 177). G.A. Cohen (1991), who rejects altogether the compromise of ideal theory by looking at incentives, holds the opposite position.

entini (2015) claims that we have to be Samaritans only towards the members of our state.¹¹ For Valentini, we are bound by duties of justice towards the needy in virtue of their claim to a sphere of sovereignty that would be imperiled but for our intervention. Hers is an argument that sees the emergence of the duties of samaritanism in our positioning both as “a member of society with entitlements against the state, and as a member of the state with obligations to act on its behalf” (2015: 741). Goodin (1988) argues that, at the level of ideal theory, we would be entitled to treat our “fellow countrymen” with partiality. He rejects the existence of so-called special duties, holding that there are only duties that ought to be discharged following a model of “assigned responsibility.” At the level of non-ideal theory, nevertheless, states cannot claim that they are fulfilling their general duty when they give priority to their citizens.

It would be difficult to track down all arguments for or against the idea of positive duties towards compatriots or towards everyone. In order to narrow the discussion, I will focus in this article on criticizing those arguments that relate to the idea of a basic structure. As such, the theories presented below belong to the family of *relational* conceptions of justice, according to which the “practice-mediated relations in which individuals stand condition the content, scope and justification of those principles and that social and political institutions fundamentally alter the relations in which individual stand, and hence the principles of distributive justice that are appropriate to them” (Sangiovanni 2009: 5). We should not consider, however, that all relational conceptions employ the basic structure argument. George Klosko, for instance, presents a public goods arguments for what he calls “compatriot preferences.” He argues that, in exchange for our obedience to the state’s laws, the state provides benefits in the form of public goods. Nothing comparable exists in the interstate realm. This is why there is moral precedence in the relations between citizens of the same country (Klosko 2009: 244–5). For methodological clarity, I stick in the present paper to those relational views that also employ the basic structure argument.

All the operationalizations of the idea of basic structure that are mentioned here have textual justification in Rawls’ own writings. Nevertheless, the reader should keep in mind that these are all particular applications, which at times depart drastically from the Rawlsian scaffolding and which sometimes make abstraction of the larger framework within which the concept of basic structure is embedded.¹² As Abiza-

¹¹ Valentini (2015) argues that we are bound by justice-based duties towards our compatriots and by beneficence-based duties towards everyone, with the qualification that her view of social samaritanism holds the “social” to be “a contingent matter [...] in an increasingly globalized world, justice-based help may have to extend beyond national borders.”

¹² See Rawls (2001: 25): “We start with the organizing idea of society as a fair system of cooperation and then make it more determinate by spelling out what

deh argued, Rawls himself mainly adopted an antic cosmopolitan stance for *methodological* reasons in *Theory of Justice* and *Justice as fairness* (Abizadeh 2007: 359).¹³ On the other hand, Rawls emphasizes that one of the reasons for which we need not have a global difference principle¹⁴ is that we have to generalize the idea of public reason and tolerate decent hierarchical societies as long as their basic structures respect a (minimal) core of requirements (Rawls 1999: 45, 58–9). By focusing on the basic structure of each society, critics argue, “Rawls has overlooked a fundamental dimension of the equality of peoples by ignoring the fact that the global basic structure can undermine the equality of peoples unless it is regulated by principles of distributive justice” (Buchanan 2000: 709). Thus, we have mixed evidence regarding the weight of the basic structure argument in John Rawls’ own antic cosmopolitanism. This is one of the reasons why I will present Rawls’ case for seeing the basic structure as the primary site of justice and afterwards I will discuss how the basic structure argument has been employed by antic cosmopolitans in its various operationalizations. This section responds to the first strategy of argumentation for global justice—by showing that, in the scenario where a global basic structure exists, we ought to apply the same principles we would apply at the level of a single state. That is, the positive duties we hold towards other individuals are duties of justice proper, not of beneficence.

For Rawls, the basic structure is formed of those institutions which distribute primary goods, determining the division of advantages stemming from social cooperation (Rawls 1971: 7). In the early conceptualization of the basic structure, an institution was considered part of it if it secured “just background conditions against which the actions of individuals and associations take place” (Rawls 1977: 160), ensuring what Rawls later calls the background justice (Rawls 2001: 10). Although the principles of justice should not apply directly to small-scale situations, Rawls holds that a just basic structure “constrains, but does not uniquely determine, the suitable principles of local justice.” Rawls avoids offering a clear-cut definition of the basic structure,

results when this idea is fully realized (the well-ordered society) and what this idea applies to (the basic structure). We then say how the fair terms of cooperation are specified and explain how the persons engaged in cooperation are to be regarded (as free and equal)”, and the argumentation that follows.

¹³ See Rawls (2001: 40): “a political relationship is one of persons within the basic structure of society as a structure we enter only by birth and exit only by death (or so we may assume for the moment). Political society is closed, as it were. We do not, and indeed cannot, enter or leave it voluntarily” (my emphasis). Nevertheless, in a brief discussion on the purposes of political philosophy, Rawls seems to go further than in this pragmatic defense of antic cosmopolitanism. According to him, one of the roles of justice as fairness is to contribute to how peoples think of their political and social institutions as a whole, and their basic aims and purposes as a society with a history” (2001: 2).

¹⁴ A position which has been previously endorsed by Rawlsians such as Pogge (1989) and Beitz (1979).

arguing that “were we to lay a definition of the basic structure that draws sharp boundaries, not only would we go beyond what that rough idea could reasonably contain but we would also risk wrongly prejudging what more specific or future conditions may call for, thus making justice as fairness unable to adjust to different social circumstances” (Rawls 2001: 11).¹⁵

According to Rawls, there are in fact two roles played by the basic structure, corresponding to the two principles of justice as fairness: “in one role the basic structure specifies and secures citizens’ equal basic liberties and establishes a just constitutional regime. In the other it provides the background institutions of social and economic justice in the form most appropriate to citizens seen as free and equal” (Rawls 2001: 49). Furthermore, Rawls notes that there are two reasons why the basic structure should be considered the subject of justice. The first line of argumentation is related to the necessity of ensuring background justice, which was mentioned above. A “division of labor” occurs, the endpoint being a situation where individuals “are left free to advance their permissible ends within the framework of the basic structure”; had it not been for a just basic structure, contingencies would have affected the distribution of burdens and benefits in society. *With* a just basic structure, on the other hand, whatever state of affairs is reached is considered by all individuals just: “taking the basic structure enables us to regard distributive justice as a case of pure background procedural justice: when everyone follows the publicly recognized rules of cooperation, the particular distribution that results is acceptable as just” (Rawls 2001: 54). The second reason for the basic structure is that it exerts “profound and pervasive influence on the persons who live under its institutions” (Rawls 2001: 55). Furthermore, the basic structure also has as an important purpose the education of citizens “to a conception of themselves as free and equal” (Rawls 2001: 56).

As mentioned, the arguments for the basic structure put forward by Rawls have to be distinguished from *the basic structure argument* against global justice, which holds that in the absence of a global basic structure there can be no obligations of justice towards foreigners. The case for global justice would be strengthened if it could be shown that irrespective of the interpretation of the basic structure, the present interdependence between citizens of distant countries triggers considerations of justice (I am not concerned with the attractiveness of each operationalization of the basic structure, only with whether or not they lead to global duties of justice).

¹⁵ There are two possible readings of this claim. One would follow James’ interpretation of Rawls as “reasoning from existing practices all along” (2005: 284). The second, which seems to be adopted by Miriam Ronzoni is that the ever-changing social conditions would ineluctably lead to a reevaluation of what institutions belong to the basic structure. See Ronzoni (2009).

a) *The coercion view*.¹⁶ This interpretation of the basic structure holds that the site of justice consists of those institutions that subject persons to autonomy-violating coercion, in Blake's version (Blake 2001: 272), or those institutions that "make demands on the will of their members [...] bringing with them exceptional obligations, the positive obligations of justice", in Nagel's version (Nagel 2005: 130). According to Blake, distributive justice is limited to the basic structure of a society because only its constitutive institutions "stand in need of justification through the use of public reason." For him, subjecting co-nationals to more stringent duties does not reflect unequal concern towards one subset of people. The justification for distributive justice at a narrower scope is that the national institutions are qualitatively different, and as such deserve to be justified: "to the insiders, the state says: yes, we coerce you, but we do so in accordance with principles you could not reasonably reject. To outsiders, it says: we do not coerce you, and therefore do not apply our principles of liberal justice to you" (Blake 2001: 287). Nagel takes into account not only one's subjection to coercive institutions, but also the fact that members of society play a Janus-like role, being both the society's subjects and the ones in whose name its authority is exercised. According to him, our participation in a coercive collective enterprise entails a certain "involvement of agency or will that is inseparable from membership in a political society" (Nagel 2005: 128). As Cohen and Sabel put it, Nagel accepts both weak statism and strong statism. Weak statism holds that the existence of a state is both a necessary and a sufficient condition for the emergence of egalitarian considerations. Strong statism entails that the existence of a state is both necessary and sufficient for triggering any norms beyond humanitarianism's moral minimum (J. Cohen and Sabel 2006). Cohen and Sabel compellingly argue that the normative discontinuity thesis endorsed by Nagel does not take into account the current conditions of global politics: economic integration is more intense than it ever used to; supranational institutions begin to have a considerable impact in fields as diverse as labor standards, environment, rights, food safety standards; the rules made in such structures have a great impact on individuals' conduct and welfare; there is an increasing transnational politics of movements and organizations; even when supranational institutions lack coercive powers, they still have the ability to distribute incentives and to impose sanctions. The fact that nowadays even the least integrated country is a member of fourteen organizations is a compulsory proof that the conditions of interdependence and cooperation that have justice-generating implications obtain globally (J. Cohen and Sabel 2006: 166). Abizadeh shows that, on the one hand,

¹⁶ Although the case for a coercion-based interpretation of the basic structure is the weakest of all 5, some textual evidence can be found in Rawls. For instance, he specifies that "justice as fairness is a relationship of persons within the basic structure of society...political power being always coercive power, in a constitutional regime it is at the same time the power of free and equal citizens" (Rawls 2001: 40).

Blake's account is morally unappealing: Blake's government would tell to members of other states: "we not only coerce you, but we coerce you without subjecting our ongoing coercion to the constraints of a legal system and the rule of law, and therefore we have no responsibilities of distributive justice to you" (Abizadeh 2007: 355). Furthermore, the empirical premise on which Blake's argument rests, that there is no international coercive legal system, is invalid (Abizadeh 2007: 356). Even if we bite the bullet and accept this flawed operationalization of the basic structure, the coercion view properly interpreted would still not show that a global basic structure does not exist.

b) *The cooperation view* originates in Rawls' interpretation of society as a "cooperative venture for mutual advantage" (Rawls 1971: 84). Sangiovanni acknowledges that, ultimately, human beings are the unit of moral concern, but argues that the same distributive principle cannot apply indiscriminately. The onerous demands imposed by duties of egalitarian justice arise only among citizens of the same state, since the states provide us with most of the goods "necessary for developing and acting on a plan of life" (Sangiovanni 2007: 3–4). The view he upholds, reciprocity-based internationalism, perceives equality as a "relational ideal of reciprocity." At the heart of his argument lies the moral relevance of the aforementioned ability of being able to develop and act on a plan of life. Since this ability is conditioned by the contributions of our fellow citizens and residents in the state, to them we owe obligations of egalitarian reciprocity (Sangiovanni 2007: 19–20). Albeit the place of one's birth is morally arbitrary, what grounds justice is the idea of reciprocity: "others are owed a fair return of what they have given you, just as you are owed a fair return for what you have given others." The fact that citizens of a state are subject to the same laws and social rules that enable them to "sustain their lives as citizens, producers and biological beings are owed a fair return for what those who have benefited from their submission have received" (Sangiovanni 2007: 26).¹⁷ For Sangiovanni, the brute luck-option luck distinction¹⁸ is valid only under certain circumstances: "the special presumption against inequalities [arising from brute luck] only applies among those who share in the maintenance and reproduction of the state" (Sangiovanni 2007: 29). How does Sangiovanni respond to the most significant objection addressed to Rawls' conceptualization of society as a venture for mutual advantage, that it neglects those who are not able-bodied and thus are not contributing parts of society (Young 2006: 95)? He addresses this objection, but gives what would definitely be perceived by feminists as an inadequate response—"they do not have claims deriving from a conception of distributive equality. This does not mean that they have no

¹⁷ Interesting enough, the three hypostases of the human being he envisions correspond to the Arendtian distinction between labor, work and action (Arendt 1958).

¹⁸ For the distinction, see Dworkin 2002: 73.

claims in justice. They have claims which derive from their equal moral worth and dignity as human beings” (2007: 31).

Although the cooperation view seems to lead to some counterintuitive implications, such as disregarding the claims of the disabled, I will leave aside this issue and proceed at showing how a case for global justice can be built on the basis of this operationalization of the basic structure. Take the case of Beitz, who is usually considered to hold a cooperation view of the basic structure.¹⁹ He argues that levels so high of interaction characterize today’s world order that global redistributive claims are required. On the other hand, in a scenario where two previously self-sufficient societies would begin exchanging apples and pears, this commercial act would not trigger considerations of justice (Beitz 1979: 65–6). Where to situate the threshold over which justice applies? How to determine whether the levels of interaction are sufficiently high?²⁰ Is cooperation really a necessary and sufficient condition for duties of justice to arise? Or is it just an instrumental condition? One way of settling the matter would be by employing the conceptual instruments provided by relational equality. According to Anderson (1999: 312), the ideal of equality should be embodied in relational egalitarianism, which considers that equality should characterize a type of social relations between people, instead of being a distribution of non-relational goods. Equality entails not a distributive pattern, but reflects the idea that all people are equally moral agents, everyone having the power to develop and exercise moral responsibility, to cooperate with others according to some principles of justice, to shape and fulfill a conception of their good. If one adopts such a stance regarding equality, one can see why a global basic structure exists. How we perceive ourselves depends not only on how our relations with conationals look like, but how we are perceived by others and how we fare in interactions with foreigners. A permanent position as an outsider cannot but have pernicious effects on one’s well-being. Proponents of the capability approach have long argued that the social norms can influence how one

¹⁹ For instance, this claim is held by Abizadeh (2007). I am not sure if Beitz would agree with this characterization, since he explicitly mentions that cooperation in a social and economic scheme does not suffice to trigger distributive principles of justice and that pervasive impact and coercion are better harbingers that there are distributive requirements (Beitz 1979: 166).

²⁰ Arash Abizadeh considers that the cooperation theory shows that a global basic structure does not exist, but that its rationale for holding the basic structure as the site of justice represents a plea for ensuring that the “existence condition of justice, social interaction, obtains at the global level as well” (2007: 327–340). He claims that under the cooperation view, one ought to recognize that “a basic structure is not an existence condition of justice, but an instrumental condition of justice” and that cosmopolitans have the more limited task of showing that a global basic structure would be feasible (Abizadeh 2007: 339). Thus, the problem is relegated to one at the second stage of non-ideal theory, where such agency shortcomings and feasibility issues are dealt with (Ypi 2010).

converts *distribuenda* into capabilities (Robeyns 2000).²¹ Thus, adopting a more nuanced cooperation view of the basic structure entails that its scope is global.²²

c) *The pervasive impact view*. Roughly, under the pervasive impact view the institutions that belong to the basic structure are those with a pervasive impact on persons' life chances. This approach also finds textual support in Rawls' *Theory of Justice*, where he notes that the basic structure is taken as the site of justice because "its effects are so profound and present from the start" (Rawls 1971: 7). According to Abizadeh, the standard antic cosmopolitan basic structure argument takes the following form under this interpretation:

P1: The scope of justice consists of those persons whose life chances are pervasively impacted by a society's basic structure.

P2: The range of persons whose lives are pervasively impacted by any given existing basic structure is not global in scope.

C: The scope of justice is not global (Abizadeh 2007: 343–4).

According to Abizadeh, and to other writers as well, the second premise is weak.²³ There are numerous international organizations that exert pervasive influence, such as the International Monetary Fund or the World Trade Organization. The purported case against global justice based on interpreting the basic structure in terms of institutions that impact people's lives is the weakest and as such I will not discuss it any further.

d) *The controlling influence view*. To my knowledge, this operationalization of the basic structure has only been endorsed by Hodgson (2012), who noticed that pervasive influence and coercion represent inadequate criteria for specifying what institutions should be considered as part of the basic structure. He identifies being subject to the rules associated with a basic structure with "being born in the middle of a game that one has no choice about playing." As such, the basic structure ought to be just, since it exerts an influence that determines "how a person can exercise her capacity for a conception of the good", specifying "the rules and constraints through which a person has no reasonable choice but to proceed if she is to adopt and pursue a conception of the good" (Hodgson 2012: 314–5). According to Hodgson, the coercion view makes the illegitimate attempt to treat all institutions as if they were similar to the model of criminal law, whereas the controlling influence view "acknowledges coercion as an important concern,

²¹ For the distinction between *distribuenda* and the metric/currency of justice, see Gheaus (2016).

²² There is another reason that I cannot explore here for advocating interpreting the cooperation view in relational egalitarian terms, i.e. its compatibility with sufficientarianism.

²³ Buchanan (2000: 705): "there is a global basic structure [...] a set of economic and political institutions that has profound and enduring effects on the distribution of burdens and benefits among peoples and individuals around the world."

yet it also recognizes that controlling influence can be exerted in ways that are not coercive in a narrow sense but that nevertheless raise fundamental concerns from the point of view of a person's ability to set and pursue ends" (Hodgson 2012: 326). Thus, an institution is part of the basic structure if it influences one's ability to set and pursue ends. Hodgson argues that criticisms such as Cohen's, regarding the impact of an egalitarian ethos on the life prospects of individuals, are accommodated within the controlling influence view: "if sufficiently prevalent, such an ethos has the potential to influence the workings of the basic structure at the deepest level, effectively changing the rules and constraints" (Hodgson 2012: 329). However, his view is indeterminate in an important respect, which leaves room for considerations of global justice to arise—what is and what is not part of the basic structure is determined *ex post facto*, by looking at the alternatives that individuals have; nevertheless, what his theory needs is an independent account of what constitute reasonable alternatives (Hodgson 2012: 334). In an increasingly interdependent world, and in the context of a refugee crisis, borders become part of the basic structure, and the border regime, which is a global institution, gains normative relevance. As such, Hodgson's operationalization of the basic structure is easy to reconcile with global justice claims.

e) *Framing*. Julius (2006) accepts the legitimacy of Nagel's idea that there are responsibilities that we incur although they do not originate in our will. What he doesn't agree with, nonetheless, is Nagel's disregard for the actual acceptance of the terms of cooperation. One has to have the real opportunity to exit the coercive system if she disagrees with the terms imposed on her, otherwise there can be no justification for the coercion. Julius' objections have to be placed in his wider account of the basic structure, which he has developed elsewhere (2003). For Julius, coercive institutions become instruments for influencing other people to serve their purposes. His conclusion is straightforward: one should not use other people to her benefit unless the purpose towards which one aims is compatible to a certain degree with those other people's objectives, or they have their own "reasons to want to come about" (2006: 188). This leads to a criterion that has to be satisfied by the institutions comprising the basic structure: they have to be justifiable to every other person which the choosers of the basic structure frame (2003: 334). More specifically, his view of the basic structure holds that "relations of interactive interdependence create the problem of distributive justice because it is only by reason of her entanglement in those relations that a person is required to justify her shaping of others' actions by appeal to a global distribution of goods" (2003: 344). Framing occurs especially at a transnational level, where citizens of rich countries benefit from the plight of those from poor, underdeveloped countries, who provide cheap labor force and raw materials. As such, we are entitled to speak of a global basic structure, which comprises those institutions through which the advantaged frame the disadvantaged.

We thus have 5 different operationalizations of the basic structure. All of them, if properly defined, can show that there is indeed a global basic structure. If that is the case, then even relational theorists should hold that there is a *prima facie* case for global justice. Nonetheless, I argue that we should go even further. In the next section, I intend to show that even if the antic cosmopolitan were right and there were no global basic structure, this should not preclude obligations of justice to arise at the global scale.

2. *Is there a duty to create just basic institutions at the global level?*

Under scenario B), there is no global basic structure yet in place. For Rawlsians, this is the end of discussion. Global justice becomes a mere mirage. However, what should be more important is that individuals have the natural duty to establish the institutions that could provide the resources necessary in order to achieve the ends of global justice. Ignoring this natural duty would be to have an incomplete conception of right (Rawls 1971: 333). One important *caveat*: in this section I do not discuss yet the matter of extending the site of justice. The arguments advanced for establishing a just basic structure even if this were not yet existent usually belong to the institutional family of cosmopolitan theories.²⁴

Kok Chor-Tan is adamantly against the idea that global justice can be achieved if we ignore the global institutional context within which countries interact. For him, if we stick with the humanitarian assistance view, we would treat only the symptoms of global poverty, leaving unchanged the structural causes. This is why we need better principles and institutions to regulate the growing interdependency, and “to distribute the burdens and benefits of globalization more equitably” (Chor-Tan 2004: 28–32). For him, a propensity to misinterpret Rawls has been translated into using the notion of the basic structure in order to suppress global justice initiatives. But, if considerations of global justice apply, they must apply regardless of the existing global cooperative scheme. Constraining the applicability of justice to whatever social arrangements we currently happen to have would be an arbitrary bias towards the status quo. If others are vulnerable to our actions or our failures to act, then they fall within the scope of our concern, irrespective of whether there is an established institutional scheme through which to exert our duties (Chor-Tan 2004: 59). Tan affirms that there is a Kantian dimension to this argument, since Kant has noted that considerations of justice come into play the moment our actions have influence on the other. Furthermore, “the degree of global

²⁴ Institutional views apply to institutional schemes, while interactional conceptions “postulate certain fundamental principles of ethics, first-order principles in that they apply directly to the conduct of persons and groups” (Pogge 1992: 48–50).

interdependency is such that even if we were to accept that there are no significant institutions that we are helping to impose on each other, domestic decisions regarding tax laws for businesses, consumption and the deployment of technologies that have environmental implications have potentially grave implications for others beyond the borders of the countries in which these decisions are made. The requirement of reciprocity would demand that such decisions be made only under conditions in which it would be reasonable for outsiders to accept these decisions, even if there were no global institutions mediating the interaction of countries” (Chor-Tan 2004: 173).

What anticospopolitans do not account for is the fact that “the discrepancy between the density of coercion at the domestic and international levels is not a natural fact about the world, but instead the result of distributive political conflict” (Pevnik 2008: 404). Disregarding the natural duty to establish just institutions at the global level leads to the absence of a just background against which interactions among citizens of different states occur. Pevnik is right to emphasize the fact that confining duties of justice to the national state allows “one’s moral status to depend on one’s preinstitutional power” (Pevnik 2008: 406). Maintaining the status quo as morally relevant is problematic, since it amounts to what Popper (1947: 60) called “ethical positivism”, the inappropriate reduction of norms to facts.

Ypi (2010) remarks that the debates on global justice are vitiated by the fundamental flaw of confusing ideal and non-ideal requirements. Although different contexts mean that the way principles are implemented is different, this occurs at the level of non-ideal theory, which should follow, not ground, ideal theory considerations.²⁵ Ypi acknowledges that aspects such as coercion, reciprocity, cooperation matter, but they should be of interest only after principles of justice are specified (Ypi 2010: 542). In order for anticospopolitans’ arguments to succeed, they should argue that “there are *no* circumstances of justice at the global level such that [distributive] principles could be required, or that no global relations could warrant a claim for global [distributive] justice” (Ypi 2010: 547).²⁶ Although she shows the necessity of creating institutions that ensure global basic justice, Ronzoni errs in this way by starting the discussion from non-ideal theory. She claims that empirical studies might be needed in order to ascertain whether the

²⁵ A similar contention can be found in Miklos (2011) where he holds that institutions play a constitutive role in determining the content of principles of justice, i.e. better specify what principles require and how they look like when effectively pursued in non-ideal circumstances (although he does not discuss in terms of ideal/non-ideal theory).

²⁶ Ypi uses “egalitarian” instead of “distributive.” Most debates around global justice focus on the existence of egalitarian obligations of justice. Sangiovanni (2012) constitutes an exception in that he highlights that the distinction between “distributive obligations more demanding than humanitarianism” can also extend to sufficientarian or prioritarian principles.

global order raises problems regarding background justice (2009: 232). Though any practice-dependent account can be susceptible to committing this error, her view presents new arguments for establishing just global institutions. She criticizes the practice-dependent conceptions advanced so far, which erroneously “consider the existence of a basic structure as a necessary condition for some relevant obligations of socioeconomic justice to apply.” Arguing for a better understanding of practice-dependence, she stresses the importance of background justice: “a practice-dependent account must also be concerned with social scenarios where full-blown socioeconomic practices with clearly identifiable systems of rules are not in place but where their establishment is required in order to preserve the justice of other existing practices” (Ronzoni 2009: 234). Although her conclusion is that there should not necessarily be a plain extension of social principles at the global level, she makes an important case *for* the establishment of global institutions that ensure background justice. The views analyzed in the previous sections have disregarded this aspect, leading to some peculiar implications. For instance, the coercive view could not account for the fact that there could be non-coercive types of interaction between citizens that lead to similar consequences as coercive interaction and as such require justification (Pevnik 2008: 407) (such aspects can arise, *inter alia*, from externalities of state actions, or from some apparently consensual interactions which in fact are the result of the lack of existence of background justice).²⁷ As Barry (1982: 234) argues, relying on the status quo for guiding our considerations of justice would lead to freezing even grotesque allocations of rights.

Thus, if we take the importance of background justice seriously, we ought to strive to establish a just basic structure, even where the actual levels of cooperation/framing/coercion/pervasive impact/controlling influence are not as high in order to trigger in the present considerations of justice. This does not mean that our duties can be discharged only at an institutional level or that we have done our fair share if we contributed to achieving a just basic structure. Institutions matter, but, as I will argue in the next section, so does individual conduct outside of the institutional realm. What matters are not institutions *per se*, but the realization of our principles of justice. We should try, as it were, to achieve what Sen calls *comprehensive outcomes*, which account for consequences, as well as for the “significance of social processes, including the exercise of duties and responsibilities” (Sen 2009: 22). The next section is also of interest for those who reject the epistemic relevance of the concept of basic structure. By advocating an institutional-interactional account, I try to show that the existence of a global basic structure is in fact irrelevant from the standpoint of justice: scenario A has shown that all operationalizations of the basic structure lead to considerations

²⁷ The way the International Monetary Fund has treated the Asian financial crisis of 1997–8 is a well-known example in this sense. See Stiglitz (2002).

of justice; scenario B has argued that we have a natural duty to establish a global basic structure even if one is not in place for the moment; in the next section I try to show that realizing this natural duty is in fact a matter of efficiency and that by themselves institutions do not ground justice; they play only an instrumental role in discharging our duties. What matters is that, under circumstances where a global basic structure could not be established, or where institutions fail, our duties towards others remain intact. The next section thus argues for a hybrid version of cosmopolitan global justice, which transcends the arbitrary interactional-institutional cut. The fourth section will show that the duties mentioned throughout this paper belong to the family of sufficientarian duties of justice.

3. *Revisiting the site of distributive justice*

Throughout the previous sections, several functions of institutions have been mentioned or implied. Whether they exert a pervasive influence or controlling influence on individuals, whether they act as a warranty for pure procedural justice, or if they coerce individuals and as such require justification, institutions play an important role. But do they ground duties of justice? More importantly, do they exhaust the realm of justice?

Nussbaum holds that, although people are the ultimate bearers of moral duties, we have several reasons for which to uphold an institutional fulfillment of those duties. Collective action issues and the possibility that others might shirk from their duties lead her to argue for an institutional route to justice. This way, she argues, individuals are provided with “broad discretion about how to use their lives...Institutions impose on all, in a fair way, the duty to support the capabilities of all, up to a minimum threshold. Beyond that, people are free to use their money, time and other resources as their own conception of the good dictates. Ethical norms internal to each religious or ethical comprehensive doctrine will determine how far each person is ethically responsible for doing more than what is institutionally required. But the political task of supporting the capabilities threshold itself is delegated to institutions” (Nussbaum 2005: 213).

I disagree. According to my conception of the nature of justice, individuals’ duties are not exhausted in institutions. Institutions, despite their advantages,²⁸ are contingent. Drawing from Ypi’s two-stage theorizing about justice, we could identify two prominent reasons why justice is not only about institutions. At the level of ideal theory, individuals have claims on one another prior to the existence of insti-

²⁸ The advantages depend of course on how we define institutions. Basically, the main advantages of institutions (which can be, *caeteris paribus*, be acknowledged by all major schools of neoinstitutionalism, i.e. sociological, constructivist, rational choice or historical), are that they reduce the transaction costs and uncertainty. On this, see North (1991).

tutions, and these are not deemed irrelevant or magically disappear when institutional schemes are established. At the level of non-ideal theory, there will always be deviations of the institutions from what is required in order to fulfill the ends of our preferred principles of distributive justice. There will always be situations which elude the grasp of institutions.

Let me repurpose one well-known example invoked against (some) prioritarrians (and (some) utilitarians), the tyranny of nonaggregation objection. This objection holds that a non-aggregative prioritarian would purportedly let Jones, who is trapped under an electrical equipment in the transmitter room of the World Cup, suffer, as long as rescuing him would bring no matter how trifle disadvantages to a very high number of spectators (Tungodden and Fleuerbaey 2007: 2). Individuals are not to wait for some institution to come in and solve the problem. They have to act, and this is a duty of justice, which can be settled differently according to various principles of justice.

Some, especially Rawlsians, would claim that this is not a matter of distributive justice, but of allocative justice (Rawls 1971: 88). Others would hold that such an example falls under duties of rescue or beneficence, but not under duties of justice. I do not deny the existence of these duties—I make the more limited claim that some apparent examples which purportedly trigger duties of rescue in fact should trigger considerations of justice. Suppose through public debate it is decided that sufficiency is an appropriate moral ideal and that capabilities are selected as the appropriate currency of justice. Suppose further that an institutional framework is established which aims at ensuring that each individual reaches a threshold of capabilities. The system is working smoothly, and most of the previously disadvantaged individuals are brought above the sufficiency threshold. Assume that Cassie is a highly successful businesswoman. She passes one day near Morland, who has recently lost his house.²⁹ Coincidentally, both Cassie and Morland suffer from a rare condition, which makes them forget at times important pieces of information. For instance, there exists an institution that offers temporary shelter to homeless persons, but neither of them recalls this particular information at the moment. If individuals did not have extra-institutional duties of justice, she could throw Morland some money and leave. However, if individuals have duties of justice, she ought to help him find a shelter, or finance him until he gets a job. This is not merely a duty of charity (which would have been fulfilled even if she had given him a small amount of money), but one of justice—ensuring that each individual reaches a relevant capability threshold. I further argue that she should be indifferent towards Morland's nationality. Of course, sufficiency has as an advantage the fact that it is concerned with absolute deprivation, not with relative standings of individuals. Anticosmopolitans usually endorse sufficien-

²⁹ For simplicity, I won't delve into the problem of responsibility here.

tarian distributive justice at the global level, though they ask for more demanding distributive principles at the level of the nation state (Sangiovanni 2007). This might count as an independent reason for endorsing a sufficientarian conception of global justice, though I won't explore this strategy here.

One more plausible interpretation of the role of institutions in a theory of justice is that offered by Andras Miklos. According to him, institutions constitutively determine the principles of justice. Political institutions "fill out" the substance of a theory of justice "by translating abstract principles of justice into specific rights and obligations for individuals by way of law-making and policy-making" (Miklos 2011: 169). Take rules governing property, he says, and the rule of the lack of legitimacy of transfers of property made under duress. What duress means, nonetheless, has to be interpreted by institutions: "in abstraction from existing institutions, the rule cannot have sufficient specificity" and it would not be easily generalizable. This is one of those instances where individual actions cannot, in the context of social interaction, settle the matter. Institutions that determine the content of justice are necessary here (Miklos 2011: 170).³⁰ Furthermore, since there are numerous ways that the outcomes suggested by a theory of justice could be obtained, it is up to political institutions to "determine a unique set of rules and provide assurance that they will be adhered to" (Miklos 2011: 173). This means that institutions play a *constitutive role* in theories of justice, determining how the principles of justice are translated in non-ideal contexts, "making the otherwise indeterminate requirements of justice sufficiently determinate by subjecting individual judgment to rules or directives" (Miklos 2011: 175).

It is important to note that Miklos' view on institutions does not represent a criticism to my argument that there are extra-institutional duties of justice. He explicitly mentions that he makes the more limited claim that "principles of justice do not yield a sufficiently determinate answer in the absence of working institutions" (Miklos 2011: 177). I agree, since this is a problem often encountered in non-ideal theory. His position is thus one that endorses neither statism nor cosmopolitanism, but upholds the idea that the *existing* nation-states do not necessarily limit the scope of justice. The global institutional scheme could be reformed "so as to become more sensitive to the demands of global justice" (Miklos 2011: 182). Miklos' arguments find strength when one

³⁰ He identifies such an indeterminacy in Rawls' theory when it comes to the rate of just savings, claiming that in the absence of regulations by institutions, there would be no possibility of knowing that rate or "meeting the requirements of justice prior to and independently of these institutions (171). Rawls holds only that "once the difference principle is accepted, it follows that the social minimum is to be set at that point which, taking wages into account, maximizes the expectations of the least advantaged group...each generation having to put aside in each period of time a suitable amount of real capital accumulation" (besides preserving its culture and ensuring the continuity of a just basic structure) (Rawls 1971: 285).

takes a closer look at history. In the period of Reconstruction that followed the end of the American Civil War the conservative Supreme Court interpreted the Fourteenth Amendment in such a way that a century had to pass that the Civil Rights Movement finish the actual Reconstruction. The Slaughterhouse Cases of 1873 distinguished between national and state citizenship, with the Court arguing that the Fourteenth Amendment protected “only those rights that owed their existence to the federal government...The *U.S. vs. Cruikshank* decision of 1876 argued that the amendments following the Civil War required that only violations of the blacks by the states were to be condemned at the federal level. Individual violations were a matter of state authority concern. This allowed the Ku Klux Klan to continue its acts of terror: “in the name of federalism, the decision rendered national prosecution of crimes committed against blacks virtually impossible, and gave a green light to acts of terror where local officials either could not or would not enforce the law (Foner 2002). The way legal institutions actually interpret principles is thus important, and Miklos is right that in the non-ideal world this is going to play a significant role in the way justice is really applied.

The shortcomings of institutions also show why we need to postulate individual positive duties. A similar case is made by Stemplowska (2009), who argues that there are *prima facie* reasons to do what our positive duties require, sometimes at the expense of the negative duty not to support harmful institutions. Contrast this with Pogge’s narrower insistence that only membership in a common institutional scheme imposes negative duties not to participate in an unjust institutional order. A purist institutional view “pays too much attention to duty-bearers and not enough to entitlement bearers, to the needy, the hungry and the sick” (Caney 2005: 107–114), that is, those below a relevant threshold. This fetishism of confining justice to an institutional framework can have counterintuitive effects (Murphy 1998: 274).

This emphasis on individual positive duties should not diverge attention from the necessity of establishing just institutions, whenever it is possible (and whenever this does not violate other moral values). There is a reason why a great deal of cosmopolitan writings has been institutional. In a recent paper, Scheffler (2014) presents several plausible reasons why global justice ought to pay attention to institutions. One reason is “normative and conceptual”, stressing the fact that “justice is concerned with rights, power and the control of resources”, not with acts of “individual beneficence.” There are instrumental reasons as well, the problems being too complex to be solved individually. The third reason he mentions is “diagnostic”, referring to the structural causes of global poverty, which require a “rewriting of fundamental terms of global political and economic interaction, a restructuring of the practices and institutions of the international order.”

However, this instrumental defense of institutional cosmopolitanism should not make us ignore what truly matters—improving the

prospects of the worse off.³¹ The position that I defend here is that the site of distributive justice ought to be extended so as to reflect both the efficiency of discharging one's duties through a just institutional scheme and the moral value of promoting a good state of affairs through one's own efforts. Institutional crafting should thus be done following two distinct *desiderata*: 1) fulfilling the ends of our preferred theory of justice; 2) allowing individuals to pursue their own reasonable conception of the good within that institutional framework. As Murphy notes, there is not a clear-cut distinction between the domain of morality and normative political theory (1998: 253). The conception that he advocates, monism, holds that the same principles should regulate institutional and individual conduct. Of course, the point of departure, as it will be emphasized in the next section, is that his is an egalitarian approach to justice, whereas I consider that the global distributive principles ought to be sufficientarian. One important distinction that should be introduced here is that between perfect and imperfect duties. I hold that individuals' obligations are imperfect, while institutional obligations can be easily specified as perfect. For instance, if we remain silent when we can do something to help one not fall under a threshold (for instance, take a non-controversial right, like the right to physical integrity), we would transgress our imperfect obligation to provide reasonable help (Sen 2009: 374–5). This allows us to account for the circumstances in which our actions take place. Had the cost to our own safety been too high, for instance, we would not have been morally required to intervene.³² Does the distinction between perfect/imperfect duties reintroduce the interactional/institutional cut that I have been arguing against?³³ No, because the nature of the duties remains the same, only the intensity with which different agents have to fulfill them differs. The same obligations befall on individuals as on institutions, the only difference being that, when it comes to the former, one should also account for other values, such as the possibility of leading a life of one's choice. Specifying individual duties as imperfect allows individuals to pursue their own conceptions of the good, within limits.

This latter point will prove to be important in the next section, where I focus on the problem of overdemandingness. Murphy writes that the dualist view on the nature of justice (that different principles apply to institutional and individual conduct) is well represented in literature mainly as a consequence of perceiving the monist view as too

³¹ With the caveat that we should focus on comprehensive outcomes (as Sen 2009 calls them).

³² Specifying individual duties as imperfect duties could soften criticisms such as Saladin Meckled-Garcia's (2008: 256–7) who claims that "it is unclear what coherent principle, primary or secondary, describing perfect duties individual agents could follow that continuously adjusts for fairness in distributive consequences." Under my conception, however, individual duties should only supplement, not replace, duties discharged through institutional action.

³³ I thank Kimberly Hutchings for urging me to clarify this aspect.

demanding: “the standard way of thinking about the problem of what are reasonable moral/political demands focuses on the cost or sacrifice imposed on complying agents. It is true that monistic nonideal theory, if it requires people to do as much as they can to promote equality or well-being seems to be extremely demanding—especially in a cosmopolitan version (Murphy 1998: 289). I will argue that Murphy’s own view, however, is too demanding—this is why we need to advocate sufficientarian principles. In order to better link the domains of morality and normative political theory, I will also present a particular version of the sufficiency view, *satisficing sufficientarianism*.

4. *Avoiding overdemandingness—towards a satisficing sufficientarian theory of global cosmopolitan justice*

Extending the site alongside the scope of justice exposes my project to the overdemandingness objection—do we ask too much from individuals if we posit both duties to uphold just institutions and to discharge their (imperfect) duties through personal actions? In order to show how this challenge can be met, I will argue in this section that the selected principles of justice ought to belong to the sufficientarian family of distributive principles.

Some methodological clarifications are in order. I will follow Murphy (2000: 12) in holding that a principle is too demanding when it limits the ability of an individual to live a life of her choice. This occurs at the second level of inquiry postulated by Lea Ypi, that of non-ideal theory. At this level, we have to “take seriously into account non-ideal agency, e.g. the coercive power of states or the associative conditions under which ideal principles of justice become feasible and agents are motivated to promote cosmopolitan initiatives” (Ypi 2010: 543). Allen Buchanan puts forward some plausible criteria for how the transition from ideal to non-ideal theory should be done. According to him, an ideal theory should be accessible, feasible and morally accessible. Feasibility is understood here more narrowly, as compatibility with “human capacities generally.” Accessibility refers to “the existence of a practical route from where we are now to at least a reasonable approximation of the state of affairs that satisfies the theory’s principles”, whereas moral accessibility could be linked to the idea of overdemandingness, in that it asks that there are is no unacceptable moral wrongdoing in the transition from our current states of affairs to the postulated ideal (Buchanan 2004: 61–2). I will focus here on moral accessibility, which I loosely interpret as a criterion whose fulfillment would show that a set of principles do not impose unreasonable moral costs on an individual and thus are not overdemanding.³⁴

³⁴ The reader might ask why I associate reasonableness (which, as mentioned above, I take to have almost the same understanding as in Rawls’ *Political Liberalism*; a slight change is done below) and overdemandingness. Rawls mentions

Let me now track how this objection may arise and whether it can be met. In his criticism of Rawls' lack of concern with the existence of an egalitarian ethos, Cohen mentions that his ideal society could be erroneously regarded as one in which "a person would have to worry about unfortunate people every time he made an economic decision", a feature which would be appalling to liberals (Cohen 1991: 316).³⁵ Any monist theory encounters this potential counterargument from liberalism. Rawls, for instance, mentions that a plausible political conception of justice has as a feature its applicability to the basic structure. Furthermore, one of the distinctions between a political conception and a comprehensive doctrine is that the latter "belongs to the background culture of civil society...applying to the daily life, and to its many associations" (Rawls 2005: 12–3).³⁶ To have a set of distributive principles that apply to the individual actions outside the institutional realm is anathema for liberal Rawlsians, which could interpret the requirements as demanding too much from the individuals.

In order to respond to this potential criticism, I have two main strategies. One, admittedly contentious strategy, is to show that Rawls' own account of political liberalism is too burdensome towards residents of well-ordered societies and towards individuals who under a slightly less stringent operationalization of the idea of reasonableness would be included in the legitimation pool.³⁷ The second is to sketch a theory of global sufficientarianism that is, in my opinion, a better candidate for a monist theory of distributive justice than any form of egalitarianism.

In his *Law of peoples*, Rawls argues that "a main task [...] is to specify how far liberal peoples are to tolerate nonliberal peoples. To tolerate means to recognize these societies as equal participating members in good standing of the society of peoples, with certain rights and obligations, including the *duty of civility*, requiring that *they offer other peoples public reasons appropriate to the society of peoples for their actions*" (Rawls 1999: 59). Notice here an important distinction from *Political liberalism*, where the moral duty of civility is considered to be the capacity of reasonable citizens to appeal to the ideal of public reason when engaging in activities which could alter constitutional es-

that "reasonable pluralism of [reasonable] comprehensive doctrines is not an unfortunate condition of human life" (2005: 37), whereas Murphy's interpretation of overdemandingness coincides with principles that ask of some individuals to give up on the life of their choice in order to fulfill a (maximizing) theory's ends. I will assume throughout that there is a moral loss only if those life conceptions are themselves reasonable.

³⁵ The passage that Cohen has in mind belongs to Nagel: "Most people are not generous when asked to give voluntarily, and it is unreasonable to ask that they should be...It is acceptable to compel people to contribute to the support of the indigent by automatic taxation, but unreasonable to insist that in the absence of such a system they ought to contribute voluntarily" (Nagel 1975: 145).

³⁶ On the possibility of an overlapping consensus on a set of monist principles see Murphy (1998: 255–6).

³⁷ I've taken the notion of "legitimation pool" from Friedman (2003).

entials and matters of basic justice (Rawls 2005: 215–7).³⁸ Simplifying, matters such as who has the rights to vote, who benefits from fair equality of opportunity or what are the basic needs that ought to be met by the government (Rawls 2005: 214),³⁹ have to be settled by resorting to arguments from a political conception of justice, which is the matter of an overlapping consensus. That political conception constitutes “a common currency of discussion”, where citizens tap in for any arguments they put forward (Rawls 2005: 165). Later, Rawls relaxes this latter condition, and allows arguments to come from reasonable comprehensive doctrines, “provided that in due course proper political reasons are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support” (Rawls 1997: 784). According to Habermas, this Rawlsian proviso imposes heavy cognitive burdens on both reasonable non-religious citizens, who have to take into account the inputs into the public debate of religious citizens, and on reasonable religious citizens, who have to embrace the necessity of translating their arguments from comprehensive into political ones and to do this without “jeopardizing their own doctrine’s exclusive claim to truth” (Habermas 2008 [2005]: 137–144). This is one sense in which Rawls’ own theory would seem too demanding for the citizens of well-ordered societies, who have to conduct their behavior in certain circumstances according to a duty of civility from which citizens of decent hierarchical societies are exempted.

One could add to this the problem of a certain skewness in the concept of reasonability towards those citizens who already embrace the legitimacy of political organization (Simmons 2001: 151).⁴⁰ Indeed, Rawls offers several possibilities to contest the outputs of public debate: civil disobedience, conscientious refusal, witnessing. Rawls mentions that witnessing is a special case of contestation in which, citizens who usually endorse a reasonable political conception of justice, oppose a decision because of their comprehensive doctrines: “while they may think the outcome of a vote on which all reasonable citizens have conscientiously followed public reason to be incorrect, they nevertheless recognize it as legitimate law and accept the obligation not to violate it” (Rawls 1997: 787). By linking reasonableness to the acceptance of fair terms of cooperation among citizens of a closed society, Rawls “builds too much moral content” in the first concept (Simmons 2001: 151). Closer to the arguments put forward in this paper, one could ar-

³⁸ This idea is more clearly stated in Rawls (1997: 768–9).

³⁹ See Rawls (2001: 44), for the specification of a principle “requiring that basic needs be met, at least insofar as their being met is a necessary condition for citizens to understand and to be able fruitfully to exercise their basic rights and liberties”, and which is lexically prior to the first principle.

⁴⁰ “This conception of reasonableness should trouble us. It is not obviously unreasonable to prefer solitude and independence to cooperation. It is surely not unreasonable to prefer more limited or less coercive small scales of cooperation to states” (Simmons 2001: 151).

gue that Rawls puts *too little* moral content in reasonableness. Let's assume that Gordon is a cosmopolitan, but also considers interesting Rawls' ideas of accepting fair terms of cooperation with others and the burdens of judgment (an understanding of reasonableness that extends the scope to which the terms of cooperation apply). His position, nevertheless, would be excluded from public argumentation, since it would be considered unreasonable for denying that "political society should be a fair system of social cooperation for mutual benefit" (Quong 2004: 315). In order for his cognitive input to matter, Gordon would have to renounce at his cosmopolitan ideals. Had he been a member of a decent hierarchical society, he would not have been subject to such rigid norms, though his rights would have not been that secure.⁴¹ This is a second sense in which Rawls' own conception is overdemanding, in that it restricts the scope of conceptions of the good that would be reasonable under a not so narrow understanding of the concept.

One could wonder what is the connection between Rawls' legitimacy account and my overall concern with distributive justice. What unifies these two seemingly separate discussions is the overarching criterion of the possibility to lead the life of one's choice. According to such an evaluative dimension, we can judge both how Rawls' arguments drawn from his political liberalism fare and how my own distributive justice sketch of a theory fares. Following Sen, we could say that this overarching criterion corresponds to a prior principle strategy of argumentation (Sen 1979). Valentini (2012) who argues that both liberal conceptions of justice and accounts of legitimacy share the same fundamental commitment to equal respect and as such can be analyzed together, has endorsed a similar strategy.⁴²

I acknowledge the fact that at least one version of monist distributive principles would take a form that would contradict the criterion of moral accessibility. Murphy's endorsement of egalitarianism as a "supergoal" that is to be achieved through personal and institutional efforts has been criticized by Pogge on the grounds that it would ignore agent-relative goals. Full equality being an insatiable (Raz 1986: 235–244) ideal, "even under the best conceivable circumstances, a citizen is morally free to attend to what is important to herself if and only insofar as doing so happens to coincide with her pursuit for the supergoal" (Pogge 2000: 161). I agree that pursuing egalitarianism would be too demanding for individuals, leaving no room not only for agent-relative

⁴¹ Space limitations do not allow me to discuss this aspect here. Some arguments for my contention can be found in Buchanan (2006) and Macleod (2006).

⁴² "Either a set of institutions instantiates equal respect because its rule meets independent distributive standard, or it instantiates equal respect because its rule is democratically validated" (Valentini 2012: 597). This is an important theoretical claim, because Rawls has adamantly distinguished his account of legitimacy from his conception of justice. See Rawls (2005: 241) for how following the precepts of public reason might lead to results contrary to those preferred by a conception of justice.

goals, as Pogge says (since these could still be ensured through imposing some deontological constraints), but also for personal projects. Cohen's conception, especially, with his criticism of Rawls' focus on incentives, presents such a risk that would surely diminish the appeal of a conception of justice (Cohen 1991). On the other hand, less demanding principles of justice could be compatible with a monism conception. Though he does not endorse such a view, Pogge himself mentions that "monism could be more plausible if specified through a less ambitious goal, like the goal that all human beings have access to freedom and resources above some minimal threshold. Moreover, such goals, once reasonably well achieved, would not have the totalitarian implications of more ambitious supergoals and would not make crushing demands on culture and lifestyle, while leaving plenty of room for the pursuit of agent-centered goals. Under such a supergoal, it would also keep infrequent the occasions on which persons are required to violate just institutions" (Pogge 2000: 163).

The particular version of sufficientarianism that I have in mind is meant to alleviate the concerns that a interactional-institutional hybrid conception of global cosmopolitan justice would be overdemanding. *Satisficing sufficientarianism* appeals to two distinct kind of justification: 1) that it is rational for individuals to pursue good enough ends, and not optimality;⁴³ 2) that the moral imperatives do not require one to do more than enough, *i.e.* that it would be admirable, but supererogatory to perform actions above a certain threshold of value (Brink 2006: 384). The first corresponds to non-ideal theoretical considerations, while the latter to ideal theory.

More than half a century ago, Simon noticed that the classical view on the rationality of the "economic man" had little to do with reality. The classical view held that the economic man benefited from extensive information regarding the context of choice, a well-organized and system preference order, and "a skill in computation that enables him to calculate, or the alternative courses of action that are available to him, which of these will permit him to reach the highest attainable point on his preference scale (Simon 1978: 9). Simon argued that this account of substantive rationality was incomplete, and that we should look at procedural rationality, *i.e.* the "effectiveness, in light of human cognitive powers and limitations, of the procedures used to choose actions" (Simon 1978: 9). Real human beings do not search for all alternatives, they make cognitive errors, the informational inputs to the decision processes are incomplete and many times they select an alternative that is satisfactory, not optimal (Simon 1985: 295). As such, they are boundedly rational and pursue strategies of satisficing. Satisficing, as opposed to maximizing behavior, is not concerned with getting the most utility out of a situation, but with deriving a certain amount of

⁴³ See also Volacu (2017) for a discussion on consequentialist satisficing, bounded rationality and sufficientarianism.

utility: “In a satisficing model, search terminates when the best offer exceeds an aspiration level that itself adjusts gradually to the value of the offers received so far” (Simon 1978, 10). However, in order to understand the distinction between a maximizer and a satisficer, one has to understand *why* one stops the search. That is, maximizing and satisficing have different *stopping rules*: a maximizer stops because the costs of continuing the search exceed the expected benefits, whereas a satisficer stops because the option he settles with is good enough for her (Schmidtz 1992: 446–7).

Michael Slote has adopted the notion of satisficing and employed it in the model of consequentialist ethics. According to Slote, an act is morally right if it has good enough consequences (Slote 1984: 140). Slote holds that the idea of satisficing consequentialism is anticipated by Popper’s negative utilitarianism, where Popper emphasizes that “we have a moral duty to minimize suffering and evil, but no general duty to maximize human happiness” (Slote 1984: 152).

Sufficientarian theories hold that what distributive justice requires is that individuals have enough of some currency or metric.⁴⁴ According to Casal (2007: 297–8) the sufficiency view comprises two theses: a positive one, emphasizing the moral importance of people living above a threshold, and a negative thesis, denying the relevance of additional distributive requirements. The sufficiency view has been proposed initially as a counterpart to economic egalitarianism by Harry Frankfurt (1987). In Frankfurt’s view, the point of morality is that “each should have enough... If everyone had enough, it would be of no moral consequence whether some had more than others” (1987: 21). However, Shields (2012) has recently argued that sufficientarianism could also be specified as a distributive pattern that “shifts” the urgency of responding to individuals’ claims after a certain threshold has been reached.

In this paper, I make the limited claim that the principles that ought to apply at a global level have to belong to the sufficientarian family. I propose the satisficing sufficientarian version as a plausible example of how we could think about cosmopolitan justice, but there are many other conceptions that embody the moral value of sufficiency (Benbaji 2005; Benbaji 2006; Huseby 2010; Shields 2012).

Two-threshold satisficing sufficientarianism: It is morally required to reduce the number of people who are below a minimal threshold. Thus, absolute priority is to be given to those below the minimal threshold. The following disclaimer applies: absolute priority is to be given through institutional action. When it comes to individual action, absolute priority is to be given only if the agents who make the allocation are above the maximal threshold. This is the input from satisficing consequentialism. Between thresholds, strong prioritarian considerations apply: if there are sufficiently numerous people, benefiting them is more important than raising an inferior number of people over the superior

⁴⁴ The term “currency” has first been used by G.A. Cohen (1989).

threshold. This holds only if there is reasonable expectation that they can in the future be raised over the threshold, taking into account the scarcity of resources and a just savings principle which stipulates that future generations ought to have the opportunity to be above the minimal threshold. Above the superior threshold, the view remains silent. Throughout, Pareto optimality considerations apply, with two exceptions: the absolute priority given to those below the threshold, which trumps trivial losses of those between thresholds and considerable losses of those above the maximal threshold; second, a sufficiently large number of people with the prospect of being raised over the maximal threshold trumps a trivial loss of those above the maximal threshold, and, if the number is sufficiently high, considerable losses. I understand the Pareto principle here in a weak sense: a distribution is weakly Pareto superior to another if there is at least one individual better and no individual worse off in the former than in the latter. Since good and bad off are given by individuals' positioning in respect to the thresholds, this prevents at all times the possibility of one individual falling below a sufficiency threshold. Applied to individuals, the exceptions hold only when it comes to trivial losses—that is, we ought to discharge our imperfect, individual duties of justice only if we do not incur considerable costs—this comes once again from the satisficing consequentialism view.

This version of sufficientarianism will ensure that our positive duties towards other individuals are discharged differently when it comes to individual and institutional action. The conception remains monist, in that it specifies the same principles both for individual interactions and for institutional actions. However, it incorporates the concerns for the overdemandingness objection, and it accounts for the fact that as individual agents we can have only imperfect obligations of justice (reflecting Ypi's and Miklos' emphasis on agency-related problems at the level of non-ideal theory). I believe that such a sufficiency view can allow individuals to pursue their own conceptions of the good without sacrificing for this the necessity of fulfilling the obligations of justice. As mentioned above, the view is justified at a normative level by Slote's satisficing consequentialism and at a positive level by perceiving individuals as rational satisficers. As it is, the conception highlights the fact that whether or not a basic structure exists is irrelevant from the standpoint of justice- obligations to raise worse off individuals over a threshold of a preferred currency remain even in the absence of an institutional framework. Institutions should be seen as playing an instrumental-constitutive part in a conception of justice, and not as necessary conditions for considerations of justice to arise.⁴⁵

⁴⁵ There remains to be seen how my proposal fares in comparison with other accounts of sufficientarian global justice. I cannot pursue this comparison here, but I can point the reader to the (limited) number of writings that employ sufficientarian distributive principles at the global level: Satz (2010), Kuo (2014), Miller (2009), Laborde (2010).

Conclusions

I have argued in this paper that the basic structure is morally irrelevant, *i.e.* that it does not ground considerations of justice. In the first section I argued that a case can be made that under each five competing operationalizations (coercion, framing, cooperation, pervasive impact and controlling influence) the basic structure is global. In the second section I endorsed the Rawlsian natural duty to establish just institutions, in order to show that, even if there is no global justice, this does not entail that we do not have duties of justice towards residents of other countries. In the third section I argued for extending the site of justice to individual conduct outside of the institutional realm, while in the fourth section I tried to show that the view I put forward is not overdemanding. The institutional-interactional hybrid of global cosmopolitan justice that I propose ought to have as a distributive principle a member of the sufficientarian family. In this paper I argued for a particular version of sufficientarianism, *satisficing sufficientarianism*, which embodies a monist conception of justice, but which is discharged differently: 1) by specifying imperfect duties at the level of individual conduct and 2) by establishing perfect duties at the level of the institutional framework. I have also argued that institutional crafting should be done following two distinct *desiderata*: 1) fulfilling the ends of our preferred theory of justice; 2) allowing individuals to pursue their own reasonable conception of the good within that institutional framework.

Some additional concerns remain. By asking individuals to respect the principles of sufficientarian justice, am I not imposing a certain conception of the good? That is, my view could favor only those individuals who already employ a particular conception of the good, which would be a form of satisficing consequentialism.⁴⁶ My response would be that this risk is diminished by the fact that both the distributive rule (sufficientarian) and the ethical conception justifying it (satisficing consequentialism) impose just minimal standards, and could easily be supplemented. Remember that satisficing consequentialism considers any action which goes beyond its minimal specifications to be supererogatory. As such, individuals who hold more demanding ethical conceptions, such as maximizing consequentialism, or various forms of virtue ethics, could easily satisfy the minimal requirements imposed by satisficing sufficientarianism. By focusing on comprehensive outcomes, the view is also compatible with deontological constraints. Thus, following Rawls, satisficing consequentialism could be perceived as a “module, an essential constituent part that fits into and can be supported by various reasonable comprehensive doctrines” (Rawls 2005: 12). Neither does my view exhaust the realm of morality—under certain circumstances, we must intervene according to (sufficientarian) principles of justice. Nevertheless, duties of assistance or morality continue to exist outside this more limited framework.

⁴⁶ I thank Emil Archambault for this provocative question.

One last *caveat* is that I have only sketched the satisficing sufficientarian theory of global cosmopolitan justice. Much more needs to be done in order to have a proper theory of justice. One of the most important challenges will be to specify the currency of justice, a problem aggravated by the existence of two thresholds. For the moment, I can only point the reader to the vast literature on the problem of a threshold in the literature on sufficientarianism (Arneson 2000; Arneson 2006; Widerquist 2010; Casal 2007). Once again, my case against the basic structure argument ought to be distinguished from my arguments for an institutional-interactional hybrid theory of global justice and also from my arguments for a satisficing sufficientarian distributive principle. One could accept one, two or all three parts, but rejecting one of them does not automatically lead to the repudiation of the others.

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