

GLOBAL JUSTICE AND THE SPECTER OF LEVIATHAN¹

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I. NAGEL'S LEVIATHAN

In a recent article on “The Problem of Global Justice,”² Thomas Nagel argues that global socioeconomic justice presupposes a sovereign world state. I seek to undermine his arguments, which exemplify and give explicit voice to a widespread tendency in political philosophy to assign what I regard as excessive weight to the idea of the sovereign state with “a monopoly of force” (p. 115)—in other words, Leviathan. Nagel’s reasoning is worthy of attention in its own right and also because it is perhaps the most careful attempt to provide individualistic foundations for Rawls’s *Law of Peoples* thesis that requirements of distributive justice do not apply to the world as a whole.³

Nagel advances two main arguments for the claim that global socioeconomic justice is possible only within a sovereign world state. The first of these, which I discuss in section II, generalizes Hobbes’s state of nature argument for the view that “actual justice cannot be achieved except within a sovereign state” (p. 114) to “a wide range of conceptions of justice” (p. 115), including non-Hobbesian “conceptions [. . .] that are based on much more other-regarding motives” (p. 116).

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² Thomas Nagel, “The Problem of Global Justice,” *Philosophy and Public Affairs* 33 (2005): 113–47. Unless otherwise indicated, page references in my text apply to this article.

³ See John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard UP, 1999) 113–20. Rawls’s own justification of the thesis involves the non-individualistic assumption that peoples have moral status.

If this is correct, then global justice in terms of any of these conceptions of justice requires a world state. The second argument, which I discuss in section III, is a more Rawlsian argument to the effect that “independent of the specific standards of egalitarian justice found in Rawls’s theory” (p. 115), egalitarian distributive justice “is something that we owe through our shared institutions only to those with whom we stand in a strong political relation” (p. 121), and that its demands therefore “apply only within the boundaries of a sovereign state, however arbitrary those boundaries may be” (pp. 121–22). If so, then questions of egalitarian distributive justice do not arise with respect to the world as a whole in the absence of a world state.

Nagel’s arguments for the thesis that world justice requires a global Leviathan should be challenged not only because they are theoretically flawed, but also because of the danger that such arguments might be invoked to help legitimate a cynical realpolitik of resources on the part of the most powerful states. This possibility is suggested, perhaps unwittingly, by the chilling speculation with which Nagel closes his article:

Unjust and illegitimate regimes are the necessary precursors of the progress toward legitimacy and democracy, because they create the centralized power that can then be contested and perhaps turned in other directions without being destroyed. For this reason, I believe the most likely path toward some version of global justice is through the creation of patently unjust and illegitimate global structures of power that are tolerable to the interests of the most powerful current nation-states. Only in that way will institutions come into being that are worth taking over in the service of more democratic purposes, and only in that way will there be something concrete for the demand for legitimacy to go to work on (p. 146).

In my fourth and final section I offer a very brief sketch of a possible alternative to this vision.

Before turning to Nagel’s arguments, I would like to emphasize that the heart of my position is simply that questions of global socioeconomic justice can and do arise in the absence of a world state. Although I end with the suggestion that normative political theory should be more open to diverse, pluralist systems of governance, I do not think or mean to imply that any possible form of world government is suspect.

II. THE HOBBSIAN ARGUMENT

Hobbes argued that justice, which he understood as a form of collective self-interest,

cannot be realized by the independent motivation of self-interested individuals unless each of them has the assurance that others will conform if he does. That assurance requires the external incentive

provided by the sovereign [. . . since it] cannot be provided by voluntary conventions supported solely by the mutual recognition of common interest (p. 115).⁴

Nagel correctly insists that “the same need for assurance is present if one construes the principles of justice differently” (p. 116):

Even if justice is [also] taken to include [. . . egalitarian requirements] or [. . .] rights to liberty, the existence of a just order still depends on consistent patterns of conduct and persisting institutions that have a pervasive effect on the shape of people’s lives. Separate individuals, however attached to such an ideal, have no motive [. . .] to conform [. . .] without the assurance that their conduct will [. . .] be part of a reliable and effective system (p. 116).

He then goes on to claim that

The *only* way to provide that assurance is through some form of law, with centralized authority to determine the rules and a centralized monopoly of the power of enforcement. This is needed even in a community most of whose members are attached to a common ideal of justice, because it doesn’t take many defectors to make such a system unravel (p. 116, emphasis added).

On the strength of this, Nagel concludes that justice requires a sovereign state.

Even if we allow for the fact that human beings have other-regarding motives, it is easy enough to grant that conformity by individuals is neither likely nor obligatory in the absence of sufficiently reliable expectations of conformity by others; that such expectations turn on the existence of significant external incentives; and that the state can and usually does play a crucial role in the provision of such incentives. But Hobbes leaves room for sources of external incentives other than a sovereign state. For he holds that the ultimate reason why conformity cannot be expected in a state of nature is that “the difference between man, and man, is not so considerable, as that one man can [. . .] claim to himself any benefit, to which another may not pretend, as well as he” (*Leviathan*, p. 80), with the result that “without a common power to keep them all in awe, they are in that condition which is called war; [. . .] wherein men live without other security, than what their own strength, and their own invention shall furnish them withal” (*Leviathan*, p. 82). This leaves open the possibility of powers other than a sovereign to keep them in awe and thereby promote conformity—and Hobbes himself explicitly recognizes that there are times “when the spiritual power [i.e., the church], moveth the

⁴ For the original presentation of this argument, see chs. 13–17 of Thomas Hobbes, *Leviathan, or the Matter, Forme and Power of a Commonwealth Ecclesiasticall and Civil*, ed. Michael Oakeshott (Oxford: Blackwell, 1946—originally published in 1651). This is cited as “*Leviathan*” in my text. For a careful exposition of Hobbes’s state of nature argument and appraisal of its application to international relations, see Charles R. Beitz, *Political Theory and International Relations* (Princeton, NJ: Princeton UP, 1979 and 1999) 27–50.

members of a commonwealth, by the terror of punishment, and hope of rewards” (*Leviathan*, pp. 215–16).⁵

As a result of political developments and massive technological advances that Hobbes could never have imagined, people today are at the mercy of numerous powers other than church and state. These include not only local and regional governments and more specialized regulative agencies, but also numerous other institutions, corporations, and other organizations which are pervasively interconnected, affect every aspect of people’s lives,⁶ and give them potent incentives to conform with various standards of conduct. Although stable national governments undoubtedly help to create circumstances in which such organizations develop and flourish, their powers greatly exceed anything that the state could guarantee—and they can and sometimes do survive, continue to have a major impact on human conduct, and help to promote conformity and stability in circumstances in which the state is ineffective or non-existent. Furthermore, the domestic power of the state is significantly constrained by the power of such organizations. This applies all the more in the case of weaker states that depend economically on transnational corporations and are subject to international treaties and institutions over which they have little influence. And it is hardly news that the domestic power of weaker states is also constrained by the international might of more powerful states.

Thus, although it is true that external incentives are needed to ensure that individuals will for the most part conform with standards of just or socially desirable conduct if others do, a state that is sovereign in the sense that it enjoys a *de facto* monopoly of force is not essential for these incentives, which could also arise from the powers and practices of a network of other institutions and organizations along with—and occasionally in place of—those of the state understood as a central authority with significant but still limited power.

It should also be clear from the perspective of the early 21st century that Hobbes’s exclusive emphasis on the state’s power of coercion is a consequence of his giving excessive weight to the threat of punishment as a source of motivation. For there is now considerable evidence that the method of prohibition and punishment is often much less effective at promoting conformity with standards of

⁵ Hobbes, of course, sees opposition between church and state as a “disease” (*Leviathan*, p. 215) that must “either overwhelm the commonwealth with oppression, or cast it into the fire of a civil war” (*Leviathan*, p. 216). But while civil war could easily lead to circumstances in which conformity could not be anticipated, the alternative of religious oppression is no more likely to do so than an oppressive totalitarian sovereign.

⁶ Among other things, such organizations hire and fire; build dwellings and manufacture goods; sell power, water, food, clothing, transportation, entertainment, and other goods and services; distribute news, information, and misinformation; attempt to manipulate our tastes and desires; supply and deny health care; and accept deposits, effect payments, maintain and reveal financial records, grant credit, and foreclose on debts.

social conduct than positive incentives and, even more significantly, the influence of social norms through mechanisms of identification and internalization.⁷ As they say outside the academy, “it’s mostly hearts and minds.” To illustrate, notwithstanding the threat of penalties, laws against the employment of illegal aliens are widely ignored in some regions by employers who feel that they are entitled to take advantage of the cheapest available labor; but very high levels of participation in recycling programs are achieved in some neighborhoods despite the complete absence of either negative or positive sanctions.⁸

In the theory of international relations, Joseph Nye has distinguished between *hard power*, or the force and resources on which a country can draw to pursue its goals through the incentives of positive and negative sanctions, and *soft power*, or its “ability [. . .] to structure a situation so that other countries develop preferences or define their interests in ways which are consistent with its own [. . . —an ability that draws on] such resources as cultural and ideological attraction as well as rules and institutions of international regimes.”⁹ A similar distinction applies to domestic circumstances, where hard power is the ability to coerce and reward, while soft power is the ability to shape human conduct indirectly by influencing social norms and individual attitudes. Given human nature, it is reasonable to suppose that soft power has almost always had some impact domestically.¹⁰ And, as in the international arena, the rapidly expanding channels of communication that characterize the information age have increased its influence dramatically. This is not to suggest that hard power is no longer important domestically, but only that it should not be emphasized to the exclusion of soft power. Moreover, the fact that it would be impossible for the state to enjoy exclusive access to domestic soft

⁷ See, e.g., Cass R. Sunstein, “A New Progressivism,” *Chicago Working Papers in Law and Economics (Second Series)* 245 (May 2005): esp. 13–32; and Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford UP, 1997) 215–19. (Although Pettit’s primary concern here is with the regulation of the conduct of state officials, his discussion of the dangers of “deviant-centered regulation” has much broader application.) For an overview of relevant background in social psychology, see, e.g., Eliot Aronson, *The Social Animal*, 7th ed. (New York: W. H. Freeman and Company, 1995) esp. ch. 2; and Lee Ross and Richard E. Nisbett, *The Person and the Situation: Perspectives of Social Psychology* (Philadelphia, PA: Temple UP, 1991). For a philosophico-economic study of the impact of esteem on human conduct, see Geoffrey Brennan and Philip Pettit, *The Economy of Esteem: An Essay on Civil and Political Society* (Oxford: Oxford UP, 2004).

⁸ Consider also the extent to which commuters in jam-packed Bombay trains are willing to “adjust” to allow more passengers to squeeze in. See Suketa Mehta, *Maximum City: Bombay Lost and Found* (New York: Alfred A. Knopf, 2004) 491–96.

⁹ Joseph S. Nye, Jr., “Soft Power,” *Foreign Policy* 80 (1990): 153–72; quotation appears on page 168. See also Joseph S. Nye, Jr., *Soft Power* (New York: Public Affairs, 2004) esp. ch. 1.

¹⁰ Hume recognizes as much when he argues in his essay “Of the First Principles of Government” (1741) that “It is [. . .] on opinion only that government is founded.” (David Hume, *Political Essays*, ed. Knud Haakonssen [Cambridge: Cambridge UP, 1994] 16).

power should help to make it clear that it does not require a monopoly of any kind of power in order to help create and maintain circumstances that promote conformity with reasonable standards of social conduct.

Someone might object that I have been arguing against a straw man on the ground that Nagel's view that the sovereignty of the state is limited by "individual rights to liberty [. . .] and some condition of fairness or equality" (p. 118) suggests that he is operating with a normative conception of sovereignty in terms of which state sovereignty does not consist in a literal monopoly of force, but in preeminent authority to use it. I reply that on Nagel's understanding, state sovereignty involves both a non-normative "monopoly of the power of enforcement" (p. 116) and a normative "right to impose decisions by force" (p. 140).¹¹ Although both of these factors are in play in the Rawlsian argument (see, e.g., pp. 128–29), Nagel explicitly invokes only the non-normative factor in the Hobbesian argument.

Moreover, it would not help the Hobbesian argument to treat state sovereignty simply as preeminent authority to use force. Even in the most favorable case, viz., that in which a democratic state plays a predominant role in creating and maintaining the "consistent patterns of conduct and persisting institutions" (p. 116) required for domestic justice, it is doubtful that preeminent authority to use force is the decisive factor. What is crucially important, rather, is that citizens should perceive the state as having the more specific authority to establish and maintain appropriate institutions and to promote relevant standards of conduct using a variety of means, including the force needed to apprehend and punish those who are seriously delinquent. In stable constitutional democracies, the vast majority of citizens tend to support or accept the institutions and to conform substantially to the standards of conduct largely because, as a result of the operations of domestic soft power, they regard the state as exercising legitimate authority in the relevant domain. Direct inducements may sometimes play a contributory role, but it is implausible that the fear of punishment is a critical motivational factor for all but a small minority. From their perspective, the key consideration is much more likely to be the state's command of force than its authority to use it. Of course, the sustainability of this command of force may depend upon most citizens' accepting that the state has the authority to use constrained force in the circumstances in question, but this does not require them to concede it a general "right to impose decisions by force" (p. 140).

¹¹ The term "state sovereignty" is, if anything, used more often to express the view that, subject to certain limits, the state either is or should be the supreme authority over everyone and everything within its territory (which does not in itself imply that it has either a monopoly of force or an unlimited right to use force to impose its decisions). Although most of my article is not directly concerned with this view, my most important challenge to the Rawlsian argument (which is presented near the end of section III) places it under significant pressure.

Even if I am wrong about this particular case, it is undeniable that in our world Hobbes's standard of justice is widely satisfied beyond the confines of individual states. For the extensive international trade that is the hallmark of the global economy depends on the widespread honoring of indefinitely many transnational contracts. It would, therefore, not exist in the absence of sufficiently reliable worldwide conformity with Hobbes's third "law of nature," viz., "that men perform their covenants made" (*Leviathan*, p. 93), which he sees as "the fountain and original of justice" (*Leviathan*, p. 94). Encouraged and sometimes enforced by and through national governments and international agencies and treaties, this conformity holds across national borders despite the fact that we do not have a world state, let alone one that is sovereign in any sense.

Moreover, while it is arguable that the satisfaction of the most demanding standards of justice, like those specified by the two principles of Rawls's "Justice as Fairness,"¹² depends upon very extensive coordination that only a state could provide, there are standards of justice falling between those of Hobbes and Rawls that could be widely satisfied without one. Nagel himself insists that a strengthened and supplemented set of international institutions that falls far short of a state could serve "three types of [global] purpose: the protection of human rights, the provision of humanitarian aid, and the provision of global public goods that benefit everyone, such as free trade, collective security, and environmental protection" (p. 137).¹³ These could be the central requirements of socioeconomic justice according to a conception of justice which demands much more than that of Hobbes but much less than that of Rawls. Nagel counts them as "duties of humanity" (p. 118) rather than requirements of justice (see, e.g., pp. 118–19, 126–27, and 131), but his reasons concern the Rawlsian argument and are irrelevant to the Hobbesian argument.

An international system that is not structurally very different from the prevailing order could even promote and help protect global levels of fairness and equality that go far beyond those required for the three purposes Nagel mentions. This would apply in a world in which a level of egalitarian justice and fair employment practices prevailed within individual nation states and the international institutions and treaties regulating global trade and finance did not favor the rich and powerful as much as they now do.¹⁴ Global economic inequalities could be reduced even more by other means that do not require a world state.

¹² See John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard UP, 1971 and 1999) ch. II, esp. §11.

¹³ In this context, the human rights that Nagel seems to have in mind are "negative rights like bodily inviolability, freedom of expression, and freedom of religion" (p. 127).

¹⁴ See, e.g., Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002) 15–20, 96–100, and 112–16.

These include more equitable international labor standards, the coordinated liberalization of immigration policies to permit an increased flow of labor across national borders, and various international fiscal measures to fund economic development, stabilize world financial markets, and shift some of the burdens of negative externalities like pollution to those who are responsible for producing them.¹⁵ Again, Nagel does not see the levels of global fairness and equality that might be achieved within an international system as requirements of justice. But, as before, his reasons concern the Rawlsian argument rather than the Hobbesian argument.

Of greater relevance to the Hobbesian argument is Nagel's suggestion that self-interest on the part of prosperous nations and their citizens will inevitably undermine the possibility of an international system that promotes substantial global fairness and equality. He cites "the U.S. refusal to join the Kyoto Treaty on atmospheric emissions and the International Criminal Court" (p. 136) and "questions [. . .] over who is to determine the policies of the International Monetary Fund and the World Bank, and over the authority of the United Nations in matters of international peace and security" (p. 137). However, other prosperous nations have conceded greater authority and influence to international and transnational institutions (and even, to a limited extent, to developing states), and it is not implausible that in the long run the U.S. might become more willing to do so, albeit very cautiously, especially if there is a change in the domestic political climate. But even if this is incorrect, it is still quite clear that a sovereign world state is not essential for the level of conformity required for global socioeconomic justice according to any possible standard.

III. THE RAWLSIAN ARGUMENT

The core of Nagel's Rawlsian argument is as follows. Properly understood, socioeconomic justice is a virtue of institutions which aims at "eliminating or reducing morally arbitrary sources of inequality in people's life prospects" (p. 127). It applies only within a sovereign state because the state "is not a voluntary association" (p. 128) but "a collective enterprise of coercively imposed legal and political institutions that generates such arbitrary inequalities" (p. 128):

Without being given a choice, we are assigned a role in the collective life of a particular society. The society makes us responsible for its acts, which are taken in our name [. . .]; and it holds us

¹⁵ See, e.g., Allen Buchanan, *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (Oxford: Oxford UP, 2004) ch. 4, esp. 193–94; A. B. Atkinson (ed.), *New Sources of Development Finance* (Oxford: Oxford UP, 2005) esp. chs. 1 and 3–6; and Pogge (2002): esp. ch. 8.

responsible for obeying its laws and conforming to its norms, thereby supporting the institutions through which advantages and disadvantages are distributed. Insofar as those institutions admit arbitrary inequalities, we are [. . .] responsible for them, and we therefore have standing to ask why we should accept them. This request has moral weight even if we have in practice no choice but to live under the existing regime. The reason is that its requirements claim our active cooperation, and this cannot be legitimately done without justification—otherwise it is pure coercion (p. 129).

Thus, “Justice applies [. . .] only to a form of organization that claims political legitimacy and the right to impose decisions by force” (p. 140). This does not include the world order as it now exists.¹⁶

One problem with this argument is that it relies on assumptions about the extent to which the state depends on coercion which we have already found reason to doubt. It is clear, however, that Nagel thinks the crucially important factor here is that the state is an involuntary association (see, e.g., pp. 128, 133, 140), because involuntary associations “must offer terms of membership that meet a higher standard” (p. 133). This makes good sense. Coercion gets into the picture only because Nagel identifies involuntary associations with those that are “coercively imposed” (p. 128). We should reject this identification on the ground that someone’s not having a choice about belonging may be due to an absence of effective alternatives rather than any attempt to coerce. At the same time, we could strengthen the Rawlsian argument by reformulating it in terms of involuntary membership instead of coerced membership.

A second problem with the Rawlsian argument as I have presented it by selective quotation is that it depends excessively on the personification of the state. However, Nagel’s figurative talk about what the state claims of citizens and holds them responsible for, and about their entitlement to request reasons from it, may be understood (in part) as suggesting that the state is legitimate only if it is reasonable to expect citizens to accept the inequalities to which it gives rise—or something of that ilk, supplemented with appropriate qualifications to shield their judgment from self-regarding prejudice.¹⁷ This is in line with Nagel’s acknowledged “debt to the social contract tradition” (p. 126) as well as with the fact that the figurative version of the Rawlsian argument would be totally ineffective if the

¹⁶ Nagel is careful to note that he finds the choice between “the political conception” (p. 120) of justice, which the Rawlsian argument is meant to support, and the alternative cosmopolitan conception “difficult” (p. 126). To avoid distracting qualifications, I write as if Nagel is totally committed to the Rawlsian argument, as he himself does most of the time. It is also worth noting at this point that I fully endorse and do not wish to challenge Nagel’s background assumption that questions of socioeconomic justice apply only to institutions. The issue is whether they are restricted to sovereign states.

¹⁷ Although I will draw significantly on this general contractualist idea, I am not wedded to and do not depend on any particular way of unpacking it.

imperious state were entitled to give unreasonable answers in response to citizens' requests for justifications.¹⁸

In any event, it is easy to agree that, because a state is an involuntary association that has "a pervasive effect on the shape of people's lives" (p. 116), its citizens are entitled to enjoy some of the benefits it yields and not to bear a disproportional share of the burdens required to produce them. Thus, whatever the details of these entitlements, a state is legitimate only if it satisfies significant standards of socio-economic equality, for which we may now reserve the term "justice."¹⁹ However, it clearly does not follow that these standards, whatever they may be, do not apply to anything other than states. In fact, it is possible to argue that in the global era they also apply to the whole world order—as constituted by both states and institutions of transnational and international governance—for broadly similar reasons. For there can be no doubt that the people of the world are involuntarily subject to this world order and that it has a pervasive impact on their life prospects. So it seems to follow that its legitimacy requires that standards of socioeconomic justice be satisfied on a world scale.

Although Nagel indicates that the Rawlsian argument is meant to be "independent of the specific standards of egalitarian justice found in Rawls's theory" (p. 115), someone who is committed to Rawls's very demanding standards of justice might well balk at this global variant of the argument because of the massive institutional changes and redistributions that would be required to satisfy the demands of his Difference Principle²⁰ on a global scale, and the devastating effect that they would have on the lives of the inhabitants of prosperous states. But those who hold that socioeconomic justice is very much less demanding, including some social minimalists,²¹ could easily buy into the argument—as could those who think that its standards may vary with the burdens and benefits of the institutions concerned (and other related factors), which seems quite plausible.

¹⁸ I postpone consideration of Nagel's account of the ground of citizens' entitlements against the state for a few paragraphs.

¹⁹ In Rawls's terms, they are standards of distributive justice because they do not have "a target and a cutoff point" after which they no longer apply (Rawls 1999, p. 119), but may require an ongoing system of redistribution to limit inequalities and ensure that everyone involved benefits from the relevant involuntary association.

²⁰ See Rawls (1971 and 1999): ch. II, §13.

²¹ For a brief defense of one form of social minimalism that is intended to apply to both particular states and the world as a whole, see pp. 45–46 and pp. 50–51 of Michael Pendlebury, "Individual Autonomy and Global Democracy," *Theoria* 103 (2004): 43–58 (Durban, South Africa). According to this position, the social minimum prescribed by justice is determined by reasonable requirements for individual autonomy, which vary with circumstances. Thus, this form of social minimalism qualifies as a distributive principle in Rawls's terms (see fn. 19).

Nagel does not pursue these two possibilities,²² but rejects the idea that the world order is subject to socioeconomic justice on the ground that

Current international rules and institutions [...] do not ask for the kind of authorization by individuals that carries with it a responsibility to treat all those individuals in some sense equally. Instead, they are set up by bargaining among mutually self-interested sovereign parties [...] and] do not act in the name of individuals but in the name of the states or state instruments and agencies that have created them (p. 138).

This traces back to Nagel's earlier claim that the state is characterized by "a special involvement of agency or the will that is inseparable from membership in a political society" (p. 128). In other words, citizens, as members of a state, "are all participants in the general will" (p. 128) who share responsibility for its institutions (see p. 129). Thus, in a nutshell, the difference between a state and the world order which Nagel treats as decisive is that, while the citizens of a state are its members, the people of the world are not members of the world order.

This faces the overwhelming problem that it implies that socioeconomic justice does not apply to a state in relation to inhabitants who are not citizens, because the state's actions are not carried out in their name and do not involve their agency. If so, then the inhabitants of a state that acts in the name of an authority other than the people, e.g., a theocracy, have no rights to socioeconomic justice, and the same applies to slaves in a state that acts in the name of the free, women in states that act in the name of men, and Blacks in states that act in the name of Whites. This is preposterous. The obvious way to avoid the problem is to insist that the demands of socioeconomic justice apply to a state in relation to all its inhabitants because the *legitimacy* of any state requires that (give or take a bit) they all have the status of citizens who share responsibility for its acts because they are entitled to a say in what it does. It could then be argued that socioeconomic justice does not apply to a world order that is structurally like the current international system because it cannot be a condition of the legitimacy of such a system that all the people of the world be citizens, or members, of the system. This could in turn be defended on the ground that it is not even possible to make sense of the idea of all the people of the world having the status of members of the world order, because the world order is not a unitary association but a complex, heterogeneous collection of numerous nation states and institutions of transnational and international governance with a variety of responsibilities, jurisdictions, and forms and degrees of authority.

²² The second is *not* equivalent to the relativistic possibility which Nagel mentions, viz., "that there is a [...] spectrum of degrees of egalitarian justice that we owe to our fellow participants in [...] collective structures in proportion to our degrees of joint responsibility for and subjection to their authority" (p. 141). I agree with Nagel's view that this would not provide an adequate basis for the claim that some level of socioeconomic justice applies to the world as a whole.

This raises the question of what sort of world order would be required to allow for the possibility of the kind of membership that could, in Nagel's terms, underwrite the demands of socioeconomic justice. A world state that is sovereign on socioeconomic matters in the sense that it has supreme authority over the institutions that govern them would obviously be sufficient. Nagel thinks that nothing less would do, as is clear from his assertion that the demands of justice "apply only within the boundaries of a sovereign state" (pp. 121–22). Something approaching this position is, I think, an almost inevitable result of the thesis that the claims of justice are ultimately grounded in legitimate terms of membership in a common involuntary association, which pretty much requires a "centralized power [. . .] for the demands of legitimacy to go to work on" (p. 146).

We should, however, reject this thesis. For even in the case in which the criterion of possible membership is most obviously useful, viz., the state, the importance of membership is not ultimate, but derives from something else. I refer, of course, to the liberal-democratic ideal of government for and by the people, according to which the legitimacy of government depends somehow upon the authority of the governed—which is where their agency really matters. However this ideal is to be cashed out, I see no warrant for restricting its application to general terms of citizenship in a state. It is clearly possible to apply the ideal to other things, including actions and instruments of the state, particular institutions of international governance, and the whole complex, diverse, messy system of world governance as it now exists. For it is easy enough to ask whether it would be reasonable to expect the people who are, ultimately, regulated by the action, instrument, institution, or system in question to accept the terms of that regulation; and it is possible to come up with rational, albeit contestable, answers on the basis of the extent to which it influences their life prospects, the benefits it produces, the burdens it imposes, and the ways in which it distributes these benefits and burdens—exactly as in the case of general terms of citizenship in a state. It is also possible for them to have a much greater voice in the relevant decision-making processes, even though the world has yet to develop satisfactory mechanisms for realizing this possibility. Finally, to deny that the ideal of government on the authority of the governed has application to these other things is simply to assume that the ideal can be realized only within the context of a nation-state, which is question-begging.

It is of course true that up till now the broadest and most effective realization of the ideal has occurred within nation-states that are constitutional democracies. However, the rising tide of globalization makes it increasingly difficult for national governments to regulate the economic forces that affect the life prospects of their citizens, thereby reducing the capacity of nation-states to approximate the ideal. This gives us good reason to wonder whether they are indeed the best vehicle for its future realization, and to be wide open to alternative possibilities.

IV. JUSTICE WITHOUT LEVIATHAN

Near the beginning of his article, Nagel quite rightly remarks that “the need for workable ideas about [. . . global justice] presents political theory with its most important current task” (p. 113). He goes on to characterize the challenge as follows:

However imperfectly, the nation-state is the primary locus of political legitimacy and the pursuit of justice, and it is one of the advantages of domestic political theory that nation-states actually exist. But when presented with the need for collective action on a global scale, it is very unclear what, if anything, could play a comparable role (pp. 113–14).

I take it that my criticisms of the Hobbesian and Rawlsian arguments provide reasons for thinking not only that the emphasis on the sovereign state in mainstream political theory may be excessive,²³ but that it could be an error to suppose that the possibility of global justice requires anything to play a comparable role with respect to the world as a whole.

James Tully²⁴ has challenged the idea that authority within a state should be organized in a regular, well-ordered tree structure in which the national government, the seat of absolute sovereignty, occupies the dominant node and lower authorities at the same level all have the same powers within their own domains on the ground that it cannot accommodate just demands of cultural recognition given the extent of cultural diversity, the degree of inter-penetration between cultures, the shifting cultural horizons of individuals as they move through different aspects of their lives, and ongoing cultural change. Instead, Tully advocates a “diverse federalism”²⁵ that permits far more complex, overlapping, heterogeneous divisions of authority that are better modeled by the irregularities of an ancient city than the neat lines of a centrally planned town. It could turn out that the most effective way to realize the liberal-democratic ideal at a global level involves similarly complex, irregular, overlapping divisions of authority that include not only nested territorial authorities with broad power spectra (like cities, counties, provinces, states, and regional unions) but also functionally oriented authorities with narrow power spectra to deal with transnational and global matters that polities cannot handle successfully.²⁶

²³ It makes little difference at this point whether we follow Nagel’s understanding of state sovereignty in terms of coercive power or the alternative understanding in terms of general authority (see fn. 11).

²⁴ See James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge: Cambridge UP, 1995) esp. chs. 2 and 5.

²⁵ *Ibid.*: 140.

²⁶ Most of this paragraph is a rearrangement of material drawn (largely *verbatim*) from Pendlebury (2004): 49 and 52–53, in which I argue for global democracy without a world state.

Many of the kinds of structures that I have in mind either exist or are developing within the emerging world order. Thus, we already have the beginnings of “something concrete for the demand for legitimacy to go to work on” (p. 146) and do not need to await the development of “patently unjust and illegitimate global structures of power” (p. 146) for there to be “institutions [. . .] that are worth taking over in the service of more democratic purposes” (p. 146).²⁷ Although a diverse, pluralist system may not suit the tastes of theorists who are driven by simplicity and neatness, it may yet prove to be the best alternative to the specter of Leviathan.

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²⁷ For important groundwork on political legitimacy in a global context, see Buchanan (2004): Part 2, esp. ch. 7.