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Source: *Ethics*, Vol. 103, No. 1 (Oct., 1992), pp. 48-75
Published by: The University of Chicago Press
Stable URL: http://www.jstor.org/stable/2381495
Accessed: 04-03-2015 07:31 UTC

Cosmopolitanism and Sovereignty*

Thomas W. Pogge

The human future suddenly seems open. This is an inspiration; we can step back and think more freely. Instead of containment or détente, political scientists are discussing grand pictures: the end of history, or the inevitable proliferation and mutual pacifism of capitalist democracies. And politicians are speaking of a new world order. My inspiration is a little more concrete. After developing a rough, cosmopolitan specification of our task to promote moral progress, I offer an idea for gradual global institutional reform. Dispersing political authority over nested territorial units would decrease the intensity of the struggle for power and wealth within and among states, thereby reducing the incidence of war, poverty, and oppression. In such a multilayered scheme, borders could be redrawn more easily to accord with the aspirations of peoples and communities.

INSTITUTIONAL COSMOPOLITANISM BASED ON HUMAN RIGHTS

Three elements are shared by all cosmopolitan positions. First, *individualism*: the ultimate units of concern are human beings, or persons[1]—rather than, say, family lines, tribes, ethnic, cultural, or religious communities, nations, or states. The latter may be units of concern only indirectly, in virtue of their individual members or citizens. Second, *universality*: the status of ultimate unit of concern attaches to every living human being equally[2]—not merely to some subset, such as men, aristocrats, Aryans, whites, or Muslims. Third, *generality*: this

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1. The differences between the notions of a person and a human being are not essential to the present discussion.

2. There is some debate about the extent to which we should give weight to the interests of future persons and also to those of past ones (whose deaths are still recent). I leave this issue aside because it is at right angles to the debate between cosmopolitanism and its alternatives.

special status has global force. Persons are ultimate units of concern for everyone—not only for their compatriots, fellow religionists, or such like.

Let me separate three cosmopolitan approaches by introducing two distinctions. The first is that between legal and moral cosmopolitanism. *Legal* cosmopolitanism is committed to a concrete political ideal of a global order under which all persons have equivalent legal rights and duties, that is, are fellow citizens of a universal republic.[3] *Moral* cosmopolitanism holds that all persons stand in certain moral relations to one another: we are required to respect one another's status as ultimate units of moral concern—a requirement that imposes limits upon our conduct and, in particular, upon our efforts to construct institutional schemes. This view is more abstract, and in this sense weaker than, legal cosmopolitanism: though compatible with the latter, it is also compatible with other patterns of human interaction, for example, with a system of autonomous states and even with a plurality of self-contained communities. Here I present a variant of moral cosmopolitanism, though below I also discuss whether this position mandates efforts to move from our global status quo in the direction of a more cosmopolitan world order (in the sense of legal cosmopolitanism).

The central idea of moral cosmopolitanism is that every human being has a global stature as an ultimate unit of moral concern. Such moral concern can be fleshed out in countless ways. One may focus on subjective goods and ills (human happiness, desire fulfillment, preference satisfaction, or pain avoidance) or on more objective ones (such as human need fulfillment, capabilities, opportunities, or resources). Also, one might relativize these measures, for example, by defining the key ill as being worse off than anyone need be, or as falling below the mean—which is equivalent to replacing straightforward aggregation (sum ranking or averaging) by a version of maximin or equalitarianism, respectively. In order to get to my topic quickly, I do not discuss these matters but simply opt for a variant of moral cosmopolitanism that is formulated in terms of human rights (with straightforward aggregation).[4] In doing so, I capture what most other variants likewise consider essential. And my further reflections can,

3. One recent argument for a world state is advanced in Kai Nielsen, "World Government, Security, and Global Justice," in *Problems of International Justice,* ed. Steven Luper-Foy (Boulder, Colo.: Westview, 1988).

4. I have in mind here a rather minimal conception of human rights, one that rules out truly severe abuses, deprivations, and inequalities while still being compatible with a wide range of political, moral, and religious cultures. The recent development of, and progress within, both governmental and nongovernmental international organizations supports the hope, I believe, that such a conception might, in our world, become the object of a worldwide overlapping consensus. Compare Thomas W. Pogge, *Realizing Rawls* (Ithaca, N.Y.: Cornell University Press, 1989), chap. 5.

in any case, easily be generalized to other variants of moral cosmopolitanism.

My second distinction lies within the domain of the moral. It concerns the nature of the moral constraints to be imposed. An *institutional* conception postulates certain fundamental principles of justice. These apply to institutional schemes and are thus second-order principles: standards for assessing the ground rules and practices that regulate human interactions. An *interactional* conception, by contrast, postulates certain fundamental principles of ethics. These principles, like institutional ground rules, are first order in that they apply directly to the conduct of persons and groups.[5]

Interactional cosmopolitanism assigns direct responsibility for the fulfillment of human rights to other (individual and collective) agents, whereas institutional cosmopolitanism assigns such responsibility to institutional schemes. On the latter view, the responsibility of persons is then indirect—a shared responsibility for the justice of any practices one supports: one ought not to participate in an unjust institutional scheme (one that violates human rights) without making reasonable efforts to aid its victims and to promote institutional reform.

Institutional and interactional conceptions are again compatible and thus may be combined.[6] Here I focus, however, on a variant of institutional cosmopolitanism while leaving open the question of its supplementation by a variant of interactional cosmopolitanism. I hope to show that making the institutional view primary leads to a much stronger and more plausible overall morality. Let us begin by examining how our two approaches would yield different accounts of human rights and human rights violations.

On the interactional view, human rights impose constraints on conduct, while on the institutional view they impose constraints upon

5. Interactional cosmopolitanism has been defended in numerous works. A paradigm example is Henry Shue, *Basic Rights* (Princeton, N.J.: Princeton University Press, 1980). Luban, another advocate of this position, puts the point as follows: "A human right, then, will be a right whose beneficiaries are all humans and whose obligors are all humans in a position to effect the right" (David Luban, "Just War and Human Rights," in *International Ethics,* ed. Charles Beitz et al. [Princeton, N.J.: Princeton University Press, 1985], p. 209). Robert Nozick's *Anarchy, State, and Utopia* (New York: Basic, 1974)—however surprising the rights he singles out as fundamental—is also an instance of interactional cosmopolitanism. For institutional cosmopolitanism, see Charles Beitz, *Political Theory and International Relations* (Princeton, N.J.: Princeton University Press, 1979), pt. 3, and "Cosmopolitan Ideals and National Sentiment," *Journal of Philosophy* 80 (1983): 591–600; and Pogge, *Realizing Rawls,* chap. 6.

6. This is done, e.g., by John Rawls, who asserts (i) a natural duty to uphold and promote just institutions and also (ii) various other natural duties that do not presuppose shared institutions, such as duties to avoid injury and cruelty, duties to render mutual aid, and a duty to bring about just institutions where none presently exist. See John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), pp. 114–15, 334.

shared practices. The latter approach has two straightforward limitations. First, its applicability is contingent, in that human rights are activated only through the emergence of social institutions. Where such institutions are lacking, human rights are merely latent and human rights violations cannot exist at all. Thus, if we accept a purely institutional conception of human rights, then we need some additional moral conception if we wish to deny that all is permitted in a very disorganized state of nature.

Second, the cosmopolitanism of the institutional approach is contingent as well, in that the global moral force of human rights is activated only through the emergence of a global scheme of social institutions, which triggers obligations to promote any feasible reforms of this scheme that would enhance the fulfillment of human rights. So long as there is a plurality of self-contained cultures, the responsibility for such violations does not extend beyond their boundaries.[7] It is only because all human beings are now participants in a single, global institutional scheme—involving such institutions as the territorial state and a system of international law and diplomacy as well as a world market for capital, goods, and services—that all human rights violations have come to be, at least potentially, everyone's concern.[8]

These two limitations do not violate generality. I have a duty toward every other person not to cooperate in imposing an unjust institutional scheme upon her, even while this duty triggers human-rights-based obligations only to fellow participants in the same institutional scheme. This is analogous to how the duty to keep one's promises is general even while it triggers obligations only vis-à-vis persons to whom one has actually made a promise.

We see here how the institutional approach makes available an appealing intermediate position between two interactional extremes: it goes beyond simple libertarianism, according to which we may ignore harms that we do not directly bring about, without falling into a utilitarianism of rights à la Shue, which commands us to take account of all relevant harms whatsoever, regardless of our causal relation to these harms.[9]

7. On the interactional approach, by contrast, any positive human rights would impose duties on persons anywhere to give possible aid and protection in specified cases of need.

8. These two limitations are compatible with the belief that we have a duty to create a comprehensive institutional scheme. Thus, Kant believed that any persons and groups who cannot avoid influencing one another ought to enter into a juridical state. See Hans Reiss, ed., *Kant's Political Writings* (Cambridge: Cambridge University Press, 1970), p. 73.

9. The second extreme I am here alluding to is consequentialism in ethics, i.e., any consequentialist view that applies directly to agents—be it of the ideal or real, of the act, rule, or motive variety. There are also noninteractional variants of consequentialism, such as Bentham's utilitarianism which applies to institutions.

Consider a human right not to be enslaved. On an interactional view, this right would constrain persons, who must not enslave one another. On an institutional view, the right would constrain legal and economic institutions: slavery must not be permitted or enforced. This leads to an important difference regarding the moral role of those who are neither slaves nor slaveholders. On the interactional view, such third parties have no responsibility vis-à-vis existing slaves, unless the human right in question involved, besides the negative duty not to enslave, also a positive duty to protect or rescue others from enslavement. Such positive duties have been notoriously controversial. On the institutional view, by contrast, some third parties may be implicated far more directly in the human rights violation. If they are not making reasonable efforts toward institutional reform, the more privileged participants in an institutional scheme in which slavery is permitted or even enforced—even those who own no slaves themselves—are here seen as cooperating in the enslavement, in violation of a negative duty. The institutional view thus broadens the circle of those who share responsibility for certain deprivations and abuses beyond what a simple libertarianism would justify, and it does so without having to affirm positive duties.

To be sure, working for institutional reform is doing something (positive). But, in the context of practices, this—as even libertarians recognize—does not entail that the duty in question is therefore a positive one: the negative duty not to abuse just practices may also generate positive obligations, as when one must act to keep a promise or contract one has made. Once one is a participant in social practices, it may no longer be true that one's negative duties require merely forbearance.

The move from an interactional to an institutional approach thus blocks one way in which the rich and mighty in today's developed countries like to see themselves as morally disconnected from the fate of the less fortunate denizens of the Third World. It overcomes the claim that one need only refrain from violating human rights directly, that one cannot reasonably be required to become a soldier in the global struggle against human rights violators and a comforter of their victims worldwide. This claim is not refuted but shown to be irrelevant. We are asked to be concerned about human rights violations not simply insofar as they exist at all, but only insofar as they are produced by social institutions in which we are significant participants. Our negative duty not to cooperate in the imposition of unjust practices, together with our continuing participation in an unjust institutional scheme, triggers obligations to promote feasible reforms of this scheme that would enhance the fulfillment of human rights.

One may think that a shared responsibility for the justice of the social institutions in which we participate cannot plausibly extend beyond

our national institutional scheme, in which we participate as citizens, and which we can most immediately affect. But such a limitation is untenable because it treats as natural or God-given the existing global institutional framework, which is in fact imposed by human beings who are collectively quite capable of changing it. Therefore at least we—privileged citizens of powerful and approximately democratic countries—share a collective responsibility for the justice of the existing global order and hence also for any contribution it may make to the incidence of human rights violations.[10]

The practical importance of this conclusion evidently hinges on the extent to which our global institutional scheme is causally responsible for current deprivations. Consider this challenge: "Human rights violations and their distribution have local explanations. In some countries torture is rampant, while it is virtually nonexistent in others. Some regions are embroiled in frequent wars, while others are not. In some countries democratic institutions thrive, while others bring forth a succession of autocrats. And again, some poor countries have developed rapidly, while others are getting poorer year by year. Therefore our global institutional scheme has very little to do with the deplorable state of human rights fulfillment on earth."

This challenge appeals to true premises but draws an invalid inference. Our global institutional scheme can obviously not figure in the explanation of local human rights violations, but only in the macroexplanation of their global incidence. This parallels how Japanese culture may figure in the explanation of the Japanese suicide rate or how the laxity of U.S. handgun legislation may figure in the explanation of the North American homicide rate, without thereby explaining particular suicides/homicides or even intercity differentials in rates. In these parallel cases the need for a macroexplanation is obvious from the fact that there are other societies whose suicide/homicide rates are significantly lower. In the case of global institutions, the need for a macroexplanation of the overall incidence of human rights violations is less obvious because—apart from some rather inconclusive historical comparisons—the contrast to observable alternative global institutional schemes is lacking. Still, it is highly likely that there are feasible (i.e., practicable and accessible) alternative global regimes that would tend to engender lower rates of deprivation. This is clear, for example, in regard to economic institutions, where the centrifugal tendencies of certain free-market schemes are well understood from our experience with various national and regional schemes. This supports a generalization to the global plane, to the conjecture that the current constitution of the world market must figure prominently in

10. Talk of such a contribution makes implicit reference to alternative feasible global regimes.

the explanation of the fact that our world is one of vast and increasing international inequalities in income and wealth (with consequent huge differentials in national rates of infant mortality, life expectancy, disease, and malnutrition). Such a macroexplanation does not preempt microexplanations of why one poor country is developing rapidly and why another is not. It would explain why so few are while so many are not.

Consider this further challenge to the practical moral importance of our shared responsibility for the justice of our global institutional scheme: "An institutional scheme can be held responsible for only those deprivations it establishes, that is (at least implicitly), calls for. Thus, we cannot count against the current global regime the fact that it tends to engender a high incidence of war, torture, and starvation because nothing in the existing (written or unwritten) international ground rules calls for such deprivations—they actually forbid both torture and the waging of aggressive war. The prevalence of such deprivations therefore indicates no flaw in our global order and, a fortiori, no global duties on our part (though we do of course have some local duties to see to it that our government does not bring about torture, starvation, or an unjust war)."

This position is implausible. First, it would be irrational to assess social institutions without regard to the effects they predictably engender. For an institutional change (e.g., in economic ground rules) might benefit everyone (e.g., by increasing compliance, or through incentive effects). Second, social institutions are human artifacts (produced and abolished, perpetuated and revised by human beings), and it would be unprecedented not to take account of the predictable effects of human artifacts. (We choose between two engineering designs by considering not merely their suitability for their particular purpose but also their incidental effects, e.g., on pollution and the like, insofar as these are predictable.) Third, we consistently take incidental effects into account in debates about the design of domestic institutions (incentive effects of penal and tax codes, etc.).[11]

These arguments reaffirm my broadly consequentialist assessment of social institutions, which leads us to aim for the feasible global institutional scheme that produces the best pattern of human rights fulfillment, irrespective of the extent to which this pattern is established or engendered. We thus consider the existing global institutional scheme unjust insofar as the pattern of human rights fulfillment it tends to produce is inferior to the pattern that its best feasible alternatives would tend to produce. This broadly consequentialist variant of institutional cosmopolitanism accords with how the concern for human

11. The supposed moral significance of the distinction between the established and the engendered effects of social institutions is extensively discussed in Pogge, *Realizing Rawls,* secs. 2–4.

rights is understood within the *Universal Declaration of Human Rights.* Section 28 reads: "Everyone is entitled to a social *and International* order in which the rights and freedoms set forth in this Declaration can be fully realised" (my emphasis).[12]

This result suggests a further difference between the interactional and institutional approaches, concerning the way each counts violations of certain human rights. It cannot reasonably be required of an institutional scheme, for example, that it reduce the incidence of physical assaults to zero. This would be impossible, and approximating such an ideal as closely as possible would require a police state. The institutional approach thus counts a person's human right to physical integrity as fully satisfied if her physical integrity is reasonably secure.[13] This entails that—even in the presence of a shared institutional scheme—some of what count as human rights violations on the interactional view (e.g., certain assaults) do not count as human rights violations on the institutional view (because the persons whose physical integrity was violated were reasonably well protected). Conversely, some of what count as human rights violations on the institutional view (e.g., inadequate protection against assaults) may not register on the interactional view (as when insufficiently protected persons are not actually assaulted).

Let me close this more abstract part of my discussion with a sketch of how my institutional view relates to social and economic human rights and the notion of distributive justice. A man sympathetic to the moral claims of the poor, Michael Walzer, has written: "The idea of distributive justice presupposes a bounded world, a community, within which distributions take place, a group of people committed to dividing, exchanging, and sharing, first of all among themselves."[14] This is precisely the picture of distributive justice that Robert Nozick (among others) has so vigorously attacked. To the notion of dividing he objects that "there is no *central* distribution, no person or group entitled to control all the resources, jointly deciding how they are to be doled out."[15] And as for the rest, he would allow persons to do all the

12. Similarly also Rawls's first principle of justice: "Every person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all" (latest version, unpublished). In both cases the postulated entitlement or claim is clearly second order.

13. This notion is defined in probabilistic terms, perhaps by taking account of various personal characteristics. Thus it is quite possible that the human right to physical integrity is today fulfilled in the United States for middle-aged whites or suburbanites but not for black youths or inner-city residents.

14. Michael Walzer, "The Distribution of Membership," in *Boundaries,* ed. Peter Brown and Henry Shue (Totowa, N.J.: Rowman & Littlefield, 1981), p. 1. Compare the largely identical chap. 2 of Michael Walzer, *Spheres of Justice* (New York: Basic, 1983), p. 31.

15. Nozick, p. 149.

exchanging and sharing they like, but strongly reject any enforced sharing implemented by some redistribution bureaucracy.

The institutional approach involves a conception of distributive justice that differs sharply from the one Walzer supports and Nozick attacks. Here the issue of distributive justice is not how to distribute a given pool of resources or how to improve upon a given distribution but, rather, how to choose or design the economic ground rules, which regulate property, cooperation, and exchange and thereby condition production and distribution. (On the particular view I have defended, e.g., we should aim for a set of economic ground rules under which each participant would be able to meet her basic social and economic needs.) These economic ground rules—the object of distributive justice on the institutional approach—are prior to both production and distribution and therefore involve neither the idea of an already existing pool of stuff to be doled out nor the idea of already owned resources to be redistributed.

The institutional conception of distributive justice also does not presuppose the existence of a community of persons committed first of all to share with one another. Rather, it has a far more minimal rationale: we face a choice of economic ground rules that is partly open—not determined by causal necessity, nor preempted by some God-given or natural or neutral scheme that we must choose irrespective of its effects. This choice has a tremendous impact on human lives, an impact from which persons cannot be insulated and cannot insulate themselves. Our present global economic regime produces a stable pattern of widespread malnutrition and starvation among the poor (with some 20 million persons dying every year from hunger and trivial diseases), and there are likely to be feasible alternative regimes that would not produce similarly severe deprivations. In such a case of avoidable deprivations, we are confronted not by persons who are merely poor and starving but also by victims of an institutional scheme—impoverished and starved. There is an injustice in this economic scheme, which it would be wrong for its more affluent participants to perpetuate. And that is so quite independently of whether we and the starving are united by a communal bond or committed to sharing resources with one another, just as murdering a person is wrong irrespective of such considerations. This is what the assertion of social and economic human rights comes to within my institutional cosmopolitanism.

This institutional cosmopolitanism does not, as such, entail crisp practical conclusions. One reason for this is that I have not—apart from allusions to Rawls and the *Universal Declaration*—given a full list of precisely defined human rights together with relative weights or priority rules. Another reason is that this institutional cosmopolitanism bears upon the burning issues of the day only in an indirect way,

mediated by empirical regularities and correlations. This is so chiefly because of its broadly consequentialist character, that is, its commitment to take the engendered consequences of an institutional scheme as seriously, morally, as its established consequences. Whether an institutional scheme establishes avoidable deprivations or inequalities (such as slavery or male suffrage) can be read off from the (written or unwritten) ground rules characterizing this scheme. With regard to engendered deprivations and inequalities, however, we face far more complex empirical questions about how the existing institutional scheme, compared to feasible modifications thereof, tends to affect the incidence of human rights violations, such as rates of infant mortality, child abuse, crime, war, malnutrition, poverty, personal dependence, and exclusion from education or health care.

The intervention of such empirical matters, and the openness of the notion of human rights, do not mean that no conclusions can be drawn about the burning issues, only that what we can conclude is less precise and less definite than one might have hoped.

THE IDEA OF STATE SOVEREIGNTY

Before discussing how we should think about sovereignty in light of my institutional cosmopolitanism, let me define this term, in a somewhat unusual way, as a two-place relation: A is *sovereign* over B if and only if

1. A is a governmental body or officer ("agency"), and
2. B are persons, and
3. A has unsupervised and irrevocable authority over B
    a) to lay down rules constraining their conduct, or
    b) to judge their compliance with rules, or
    c) to enforce rules against them through preemption, prevention, or punishments, or
    d) to act in their behalf vis-à-vis other agencies (ones that do or do not have authority over them) or persons (ones whom A is sovereign over, or not).

A has *absolute sovereignty* over B if and only if

1. A is sovereign over B, and
2. no other agency has any authority over A or over B which is not supervised and revocable by A.

Any A having (absolute) sovereignty over some B can then be said to be an (absolute) sovereign (the one-place predicate).[16]

Central to contemporary political thought and reality is the idea of the autonomous territorial state as the preeminent mode of political

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16. It is quite possible, and not without historical justification, to define sovereignty the way I have defined absolute sovereignty. In that case the expression "distribution of sovereignty" would be an oxymoron.

organization. In the vertical dimension, sovereignty is very heavily concentrated at a single level; it is states and only states that merit separate colors on a political map of our world. For nearly every human being, and for almost every piece of territory, there is exactly one government with preeminent authority over, and primary responsibility for, this person or territory. And each person is thought to owe primary political allegiance and loyalty to this government with preeminent authority over him or her. National governments dominate and control the decision making of smaller political units as well as supranational decisions, which tend to be made through intergovernmental bargaining.[17]

From the standpoint of a cosmopolitan morality—which centers around the fundamental needs and interests of individual human beings, and of all human beings—this concentration of sovereignty at one level is no longer defensible. What I am proposing instead is not the idea of a world state, which is really a variant of the preeminent-state idea. Rather, the proposal is that governmental authority—or sovereignty—be widely dispersed in the vertical dimension. What we need is both centralization and decentralization, a kind of second-order decentralization away from the now dominant level of the state. Thus, persons should be citizens of, and govern themselves through, a number of political units of various sizes, without any one political unit being dominant and thus occupying the traditional role of state. And their political allegiance and loyalties[18] should be widely dispersed over these units: neighborhood, town, county, province, state, region, and world at large. People should be politically at home in all of them, without converging upon any one of them as the lodestar of their political identity.[19]

Before defending and developing this proposal by reference to my institutional cosmopolitanism, let me address two types of objection to any vertical division of sovereignty.

17. One promising exception to this is the European Parliament.

18. This includes the sentiments of patriotism, if such there must be. Beitz points out two respects in which patriotic allegiance to political units may be desirable: it supports a sense of shared loyalty ("Cosmopolitan Ideals," p. 599); and it allows one to see oneself as a significant contributor to a common cultural project: "Just as we can see ourselves as striving to realize in our own lives various forms of individual perfection, so we can see our countries as striving for various forms of social and communal perfection" ("Cosmopolitan Ideals," p. 600). Neither of these considerations entail that, say, Britain must be the sole object of your patriotic allegiance rather than some combination of Glasgow, Scotland, Britain, Europe, humankind, and perhaps even such geographically dispersed units as the Anglican church, the World Trade Union Movement, PEN, or Amnesty International.

19. Many individuals might, of course, identify more with one of their citizenships than with the others. But in a multilayered scheme such prominent identifications would be less frequent and, most important, would not converge: even if some residents of Glasgow would see themselves as primarily British, others would identify more with Europe, with Scotland, with Glasgow, or with humankind at large.

Objections of type 1 dispute that sovereignty can be divided at all. The traditional form of this objection rests on the belief that a juridical state (as distinct from a lawless state of nature) presupposes an absolute sovereign. This dogma of absolute sovereignty arises (e.g., in Hobbes and Kant) roughly as follows. A juridical state, by definition, involves a recognized decision mechanism that uniquely resolves any dispute. This mechanism requires some agency because a mere written or unwritten code (constitution, holy scripture) cannot settle disputes about its own interpretation. But so long as this agency is limited or divided—whether horizontally (i.e., by territory or by governmental function) or vertically (as in my proposal)—a juridical state has not been achieved because there is no recognized way in which conflicts over the precise location of the limit or division can be authoritatively resolved. A genuine state of peace requires then an agency of last resort—ultimate, supreme, and unconstrained. Such an agency may still be limited by (codified or uncodified) obligations. But these can obligate merely *in foro interno* because to authorize subjects, or some second agency, to determine whether the first agency is overstepping its bounds would enable conflicts about this question for which there would be no legal path of resolution.[20]

This argument, which—strictly construed—would require an absolute world sovereign, has been overtaken by the historical facts of the last two hundred years or so, which show conclusively that what cannot work in theory works quite well in practice. Law-governed coexistence is possible without a supreme and unconstrained agency. There is, it is true, the possibility of ultimate conflicts: of disputes in regard to which even the legally correct method of resolution is contested. To see this, one need only imagine how a constitutional democracy's three branches of government might engage in an all-out power struggle, each going to the very brink of what, on its understanding, it is constitutionally authorized to do. From a theoretical point of view, this possibility shows that we are not insured against, and thus live in permanent danger of, constitutional crises. But this no longer undermines our confidence in a genuine division of powers: we have learned that such crises need not be frequent or irresolvable. From a practical point of view, we know that constitutional democracies can endure and can ensure a robust juridical state.

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20. This dogma—prefigured in Aquinas, Dante, Marsilius, and Bodin—is most fully stated in chaps. 14, 26, and 29 of Thomas Hobbes, *Leviathan* (Harmondsworth: Penguin, 1981), who also introduces the idea of obligations *in foro interno*. For Kant's statements of it, see Reiss, ed., pp. 75, 81, 144–45. The dogma maintained its hold well into the twentieth century, when it declined together with the Austinian conception of jurisprudence. See Geoffrey Marshall, *Parliamentary Sovereignty and the Commonwealth* (Oxford: Oxford University Press, 1957), pt. 1; S. I. Benn and R. S. Peters, *Social Principles and the Democratic State* (London: Allen & Unwin, 1959), chaps. 3, 12; and Herbert L. A. Hart, *The Concept of Law* (Oxford: Oxford University Press, 1961).

This same point applies in the vertical dimension as well: just as it is nonsense to suppose that (in a juridical state) sovereignty must rest with one of the branches of government, it is similarly nonsensical to think that in a multilayered scheme sovereignty must be concentrated on one level exclusively. As the history of federalist regimes clearly shows, a vertical division of sovereignty can work quite well in practice, even while it leaves some conflicts over the constitutional allocation of powers without a legal path of authoritative resolution.

Objections of type 2 oppose, more specifically, a vertical dispersal of sovereignty: there are certain vertically indivisible governmental functions that form the core of sovereignty. Any political unit exercising these core functions must be dominant—free to determine the extent to which smaller units within it may engage in their own local political decision making, even while its own political process is immune to regulation and review by more inclusive units. Vertical distributions of sovereignty, if they are to exist at all, must therefore be lopsided (as in current federal regimes).

To be assessable, such a claim stands in need of two clarifications, which are rarely supplied. First, when one thinks about it more carefully, it turns out to be surprisingly difficult to come up with examples of indivisible governmental functions. Eminent domain, economic policy, foreign policy, judicial review; the control of raw materials, security forces, education, health care, and income support; the regulation and taxation of resource extraction and pollution, of work and consumption can all be handled at various levels and indeed are so handled in existing federal regimes and confederations. So what are the governmental functions that supposedly are vertically indivisible? Second, is their indivisibility supposed to be derived from a conceptual insight, from empirical exigencies, or from moral desiderata? And which ones?

Since I cannot here discuss all possible type 2 objections, let me concentrate on one paradigm case: Walzer's claim that the authority to fix membership, to admit and exclude, is at least part of an indivisible core of sovereignty: "At some level of political organization something like the sovereign state must take shape and claim the authority to make its own admissions policy, to control and sometimes to restrain the flow of immigrants."[21] Walzer's "must" does not reflect a conceptual or empirical necessity, for in those senses the authority in question quite obviously can be divided—for example, by allowing political units on all levels to veto immigration. It is on moral grounds that Walzer rejects such an authority for provinces, towns, and neighborhoods: it would "create a thousand petty fortresses."[22] But if smaller units are to be precluded from controlling the influx of new members,

21. Walzer, "Distribution," p. 10.
22. Ibid., p. 9.

then immigration must be controlled at the state level: "Only if the state makes a selection among would-be members and guarantees the loyalty, security, and welfare of the individuals it selects, can local communities take shape as 'indifferent' associations, determined only by personal preference and market capacity."[23] The asserted connection is again a moral one: it is certainly factually possible for local communities to exist as indifferent associations even while no control is exercised over migration at all; as Walzer says, "The fortresses too could be torn down, of course."[24] Walzer's point is, then, that the insistence on openness (to avoid a thousand petty fortresses) is asking too much of neighborhoods, unless the state has control over immigration: "The distinctiveness of cultures and groups depends upon closure. . . . If this distinctiveness is a value, . . . then closure must be permitted somewhere."[25]

But is the conventional model, with this rationale, really morally necessary? To be sure, Walzer is right to claim that the value of protecting cohesive neighborhood cultures is better served by national immigration control than by no control at all.[26] But it would be much better served still if the state were constrained to admit only immigrants who are planning to move into a neighborhood that is willing to accept them. Moreover, since a neighborhood culture can be as effectively destroyed by the influx of fellow nationals as by that of immigrants, neighborhoods would do even better, if they had some authority to select from among prospective domestic newcomers or to limit their number. Finally, neighborhoods may often want to bring in new members from abroad—persons to whom they have special ethnic, religious, or cultural ties—and they would therefore benefit from a role in the national immigration control process that would allow them to facilitate the admission of such persons. Thus there are at least three reasons for believing that Walzer's rationale—cohesive neighborhood cultures ought to be protected without becoming petty fortresses—is actually better served by a division of the authority to admit and exclude than by the conventional concentration of this authority at the level of the state.

SOME MAIN REASONS FOR A VERTICAL DISPERSAL OF SOVEREIGNTY

Having dealt with some preliminary obstacles, let me now sketch four main reasons favoring, over the status quo, a world in which sovereignty is widely distributed vertically.

1. *Peace/security.*—Under the current regime, interstate rivalries are settled ultimately through military competition, including the threat

23. Ibid.
24. Ibid.
25. Ibid., pp. 9–10.
26. Ibid., p. 9.

and use of military force. Moreover, within their own territories, national governments are free to do virtually anything they like. Such governments therefore have very powerful incentives and very broad opportunities to develop their military might. This is bound to lead to the further proliferation of nuclear, biological, chemical, and conventional weapons of mass destruction. And in a world in which dozens of competing national governments control such weapons, the outbreak of devastating wars is only a matter of time. It is not feasible to reduce and eliminate national control over weapons of mass destruction through a program that depends upon the voluntary cooperation of each and every national government. What is needed, therefore, is the centrally enforced reduction and elimination of such weapons—in violation of the prevalent idea of state sovereignty. Such a program, if implemented soon, is much less dangerous than continuing the status quo. It could gain the support of most peoples and governments, if it increases the security of all on fair terms that are effectively adjudicated and enforced.

2. *Reducing oppression.*—Under the current global regime, national governments are effectively free to control "their" populations in whatever way they see fit. Many make extensive use of this freedom by torturing and murdering their domestic opponents, censoring information, suppressing and subverting democratic procedures, prohibiting emigration, and so forth. This problem could be reduced through a vertical dispersal of sovereignty over various layers of political units that would check and balance one another as well as publicize one another's abuses.

3. *Global economic justice.*—The magnitude and extent of current economic deprivations—over 20 million persons die every year from poverty-related causes—calls for some modification in the prevailing scheme of economic cooperation. One plausible reform would involve a global levy on the use of natural resources to support the economic development in the poorest areas.[27] Such a levy would tend to equalize per capita endowments and also encourage conservation. Reforms for the sake of economic justice would again involve some centralization—though without requiring anything like a global welfare bureaucracy.

Global economic justice is an end in its own right, which requires, and therefore supports, a reallocation of political authority. But it is also important as a means toward the first two purposes. War and oppression result from the contest for power within and among political units, which tends to be the more intense the higher the stakes. In fights to govern states, or to redraw their borders, far too much is now at stake by way of control of people and resources. We can best

27. For further discussion of such a reform—backed perhaps by the idea that the world's resources should be owned or controlled by all its inhabitants as equals—see Beitz, *Political Theory*, pp. 136–43; and Pogge, *Realizing Rawls*, pp. 250–52, 263–65.

lower the stakes by dispersing political authority over several levels and institutionally securing economic justice at the global level.

This important point suggests why my first three considerations —though each supports some centralization—do not on balance support a world state. While a world state could lead to significant progress in terms of peace and economic justice, it also poses significant risks of oppression. Here the kind of multilayered scheme I propose has the great advantages of affording plenty of checks and balances and of assuring that, even when some political units turn tyrannical and op-pressive, there will always be other, already fully organized political units (above, below, or on the same level) which can render aid and protection to the oppressed, publicize the abuses, and, if necessary, fight the oppressors.

There are two further important reasons against a world state. Cultural and social diversity are likely to be much better protected when the interests of cultural communities at all levels are represented (externally) and supported (internally) by coordinate political units. And the scheme I propose could be gradually reached from where we are now (through what I have called second-order decentralization), while a world state—involving, as it does, the annihilation of existing states—would seem reachable only through revolution or in the wake of some global catastrophe.

4. *Ecology.*—Modern processes of production and consumption are liable to generate significant negative externalities that, to a large and increasing extent, transcend national borders. In a world of com-peting autonomous states, the internalization of such externalities is generally quite imperfect because of familiar isolation, assurance, and coordination problems. Treaties among a large number of very dif-ferently situated actors require difficult and time-consuming bargaining and negotiations, which often lead to only very slight progress, if any. And even when treaties are achieved, doubts about the full compliance of other parties tend to erode each party's own commitment to make good-faith efforts toward compliance.

Now one might think that this fourth reason goes beyond my institutional cosmopolitanism because there is no recognized human right to a clean environment. Why should people not be free to live in a degraded natural environment if they so choose? In response, perhaps they should be, but for now they won't have had a choice. The degradation of our natural environment ineluctably affects us all. And yet, most people are effectively excluded from any say about this issue which, in the current state-centric model, is regulated by national governments unilaterally or through intergovernmental bargaining heavily influenced by huge differentials in economic and military might.

This response suggests replacing *ecology* with a deeper and more general fourth reason, which might be labeled *democracy*: persons have

a right to an institutional order under which those significantly and legitimately[28] affected by a political decision have a roughly equal opportunity to influence the making of this decision—directly or through elected delegates or representatives.[29] Such a human right to political participation also supports greater local autonomy in matters of purely local concern than exists in most current states or would exist in a world state, however democratic. In fact, it supports just the kind of multilayered institutional scheme I have proposed.

Before developing this idea further, let me consider an objection. One might say, against a human right to political participation, that what matters about political decisions is that they be correct, not that they be made democratically by those concerned. But this objection applies, first of all, only to political choices that are morally closed and thus can be decided correctly or incorrectly. I believe that we should reject a view on which almost all political choices are viewed as morally closed (with the correct decision determined, perhaps, through utility differentials), but I have no space here to defend this belief. Second, even when political choices are morally closed, the primary and ultimate responsibility for their being made correctly should lie with the persons concerned. Of course, some other decision procedure—such as a group of experts—may be more reliable for this or that kind of decision, and such procedures (judges, parliaments, cabinets, etc.) should then be put in place. This should be done, however, by the people delegating, or abstaining from, such decisions. It is ultimately up to them, and not to self-appointed experts, to recognize the greater reliability of, and to institutionalize, alternative decision-making procedures.

28. The qualification "legitimately" is necessary to rule out claims such as this: "I should be allowed a vote on the permissibility of homosexuality, in all parts of the world, because the knowledge that homosexual acts are performed anywhere causes me great distress." I cannot enter a discussion of this proviso here, except to say that the arguments relevant to its specification are by and large analogous to the standard arguments relevant to the specification of Mill's no-harm principle.

29. I understand opportunity as being impaired only by (social) disadvantages— not by (natural) handicaps. This is plausible only on a narrow construal of "handicap." Although being black and being female are natural features, they reduce a person's chances to affect political decisions only in certain social settings (in a racist/sexist culture). Such reductions should therefore count as disadvantages. By contrast, those whose lesser ability to participate in public debate is due to their low intelligence are not disadvantaged but handicapped. They do not count as having a less-than-equal opportunity. The postulated human right is not a group right. Of course, the inhabitants of a town may appeal to this right to show that it was wrong for the national government, say, to impose some political decision that affects only them. In such a case, the townspeople form a group of those having a grievance. But they do not have a grievance as a group. Rather, each of them has such a grievance of not having been given her due political weight—just the grievance she would have had, had the decision been made by other townspeople with her excluded.

Given the postulated human right to political participation, the proper vertical distribution of sovereignty is determined by three sets of considerations. The first favor decentralization, the second centralization, while the third may correct the resulting balance in either direction.

First, decision making should be decentralized as far as possible. This is desirable in part, of course, in order to minimize the decision-making burdens upon individuals. But there are more important reasons as well. Insofar as decisions are morally closed, outsiders are more likely to lack the knowledge and sensitivities to make responsible judgments—and the only practicable and morally acceptable way of delimiting those who are capable of such judgments is by rough geographical criteria. Insofar as decisions are morally open, the end must be to maximize each person's opportunity to influence the social conditions that shape her life—which should not be diluted for the sake of enhancing persons' opportunities to influence decisions of merely local significance elsewhere. At least persons should be left free to decide for themselves to what extent to engage in such exchanges. The first consideration does not then rule out voluntary creation of central decision-making mechanisms (even though their structure—dependent upon unanimous consent—would tend to reflect the participants' bargaining power). Such centralization may be rational, for example, in cases of conflict between local and global rationality (tragedy-of-the-commons cases: fishing, grazing, pollution) and also in regard to desired projects that require many contributors because they involve coordination problems or economies of scale, for example, or because they are simply too expensive (construction and maintenance of transportation and communication systems, research and technology, space programs, and so forth).

The second consideration favors centralization insofar as this is necessary to avoid excluding persons from the making of decisions that significantly (and legitimately) affect them. Such decisions are of two—possibly three—kinds. Inhabiting the same natural environment and being significantly affected by what others do to it, we have a right to participate in regulating how it may be used. And since the lives each of us can lead are very significantly shaped by prevailing institutions—such as marriage, reproduction and birth control, property, money, markets, and forms of political organization—we have a right to participate in their choice and design. These two kinds of decision arise directly from Kant's point that human beings cannot avoid influencing one another: through direct contact and through their impact upon the natural world in which they coexist. A right to participate in decisions of the third kind is more controversial. There are contexts, one might say, in which we act as a species and thus should decide together how to act. Examples might be our conduct toward other

biological species (extinction, genetic engineering, cruelty), ventures into outer space, and the preservation of our human heritage (ancient skeletons and artifacts, great works of art and architecture, places of exceptional natural beauty). In all these cases it would seem wrong for one person or group to take irremediable steps unilaterally.

The significance of the second consideration depends heavily upon empirical matters, though it does so in a rather straightforward and accessible way. It is obvious upon minimal reflection that the developments of the past few centuries have greatly increased the significance of this consideration in favor of centralization. This is so partly because of rising population density, but much more importantly because of our vastly more powerful technologies and the tremendously increased level of global interdependence. Concerning technologies, the fact that what a population does within its own national borders—stockpiling weapons of mass destruction, depleting nonrenewable resources, cutting down vegetation essential for the reproduction of oxygen, emitting pollutants that are destroying the ozone layer and cause global warming—now often imposes very significant harms and risks upon outsiders brings into play the political human rights of these outsiders, thereby morally undermining the conventional insistence on absolute state autonomy. Global interdependence is best illustrated by the emergence of truly global capital and commodity markets (as dramatically illustrated by the stock market crash of October 1987): a change in Japanese interest rates, or a speculative frenzy of short-selling on the Chicago Futures Exchange, can literally make the difference between life and death for large numbers of people half a world away—in Africa, for example, where many countries depend upon foreign borrowing and cash crop exports. Such interdependence is not bad as such (it can hardly be scaled back in any case), but it does require democratic centralization of decision making: as more and more persons are significantly affected by certain institutions, more and more persons have a right to a political role in shaping them. The possibility of free bargaining over the design of such institutions does not satisfy the equal-opportunity principle, as is illustrated in the case of commodity markets by the fact that African populations simply lack the bargaining power that would allow them significantly to affect how such markets are organized. (This argument withstands the communitarian claim that we must reject supranational democratic processes for the sake of the value of national autonomy. Such rejection does indeed enhance the national autonomy of the advantaged First World populations. But their gain is purchased at the expense of poorer populations who, despite fictional or de jure state sovereignty, have virtually no control over the most basic parameters that shape their lives—a problem heightened by the fact that even their own, rather impotent governments face strong incentives to cater to foreign interests rather than to those of their constituents.)

The first two considerations by themselves yield the result that the authority to make decisions of some particular kind should rest with the democratic political process of a unit that (i) is as small as possible but still (ii) includes as equals all persons significantly and legitimately affected by decisions of this kind. In practice, some trading-off is required between these two considerations because there cannot always be an established political process that includes as equals all and only those significantly affected. A matter affecting the populations of two provinces, for example, might be referred to the national parliament or might be left to bargaining between the two provincial governments. The former solution caters to (ii) at the expense of (i): involving many persons who are not legitimately affected. The latter solution caters to (i) at the expense of (ii): giving the persons legitimately affected not an equal opportunity to influence the matter but one that depends on the relative bargaining power of the two provincial governments.

The first two considerations would suffice on the ideal-theory assumption that any decisions made satisfy all moral constraints with regard to both procedure (the equal-opportunity requirement) and output (this and other human rights). This assumption, however, could hardly be strictly true in practice. And so a third consideration must come into play: what would emerge as the proper vertical distribution of sovereignty from a balancing of the first two considerations alone should be modified—in either direction—if such modification significantly increases the democratic nature of decision making or its reliability (as measured in terms of human rights fulfillment). Let me briefly discuss how this third consideration might make a difference.

On the one hand, one must ask whether it would be a gain for human rights fulfillment on balance to transfer decision-making authority "upward" to larger units—or (perhaps more plausibly) to make the political process of smaller units subject to regulation and/or review by the political process of more inclusive units. Such authority would allow the larger unit, on human rights grounds,[30] to require revisions in the structure of the political process of the smaller one and/or to nullify its political decisions and perhaps also to enforce such revisions and nullifications.

Even when such interventions really do protect human rights, this regulation and review authority has some costs in terms of the political human rights of the members of the smaller unit. But then, of course, the larger unit's regulation and review process may itself be unreliable and thus may produce human rights violations either by overturning

30. Though not in defense of other procedural or substantive constraints to which the smaller unit may have chosen to commit itself. Compare here the situation in the United States, where federal courts may review whether laws and decisions at the state level accord with superordinate federal requirements, but not whether they accord with superordinate requirements of that state itself.

unobjectionable structures or decisions (at even greater cost to the political human rights of members of the smaller unit) or by forcing the smaller unit to adopt structures and decisions that directly violate human rights.

On the other hand, there is also the inverse question: whether the third consideration might support a move in the direction of decentralization. Thus one must ask to what extent the political process of a larger unit is undemocratic or unreliable, and whether it might be a gain for human rights fulfillment on balance to transfer decision-making authority "downward" to smaller units—or to invest the political process of such subunits with review authority. Such an authority might, for example, allow provincial governments, on human rights grounds, to block the application of national laws in their province. This authority is justified if and only if its benefits (laws passed in an undemocratic manner or violating human rights are not applied) outweigh its costs (unobjectionable laws are blocked in violation of the political rights of members of the larger unit).

How such matters should be weighed is a highly complex question, which I cannot here address with any precision. Let me make two points nevertheless. First, a good deal of weight should be given to the actual views of those who suffer abridgments of their human rights and for whose benefit a regulation and/or review authority might thus be called for. If most blacks in some state would rather suffer discrimination than see their state government constrained by the federal government, then the presumption against such an authority should be much weightier than if the opposition came only from the whites. This is not to deny that victims of injustice may be brainwashed or may suffer from false consciousness of various sorts. It may still be possible to make the case for a regulation and/or review authority. But it should be significantly more difficult to do so.

Second, commonalities of language, religion, ethnicity, or history are strictly irrelevant. Such commonalities do not give people a claim to be part of one another's political lives, nor does the lack of such commonalities argue against restraints. The presence or absence of such commonalities may still be empirically significant, however. Thus suppose that the members of some smaller unit share religious or ethnic characteristics that in the larger unit are in the minority (e.g., a Muslim province within a predominantly Hindu state). Our historical experience with such cases may well support the view that a regulation and review authority by the larger unit would probably be frequently abused or that a review authority by the smaller unit would tend to enhance human rights fulfillment overall. The relevance of such information brings out that the required weighings do not depend on value judgments alone. They also depend on reasonable expectations about how alternative arrangements would actually work in one or another concrete context.

The third consideration must also play a central role in a special case: the question of where decisions about the proper allocation of decision making should be made. For example, should a dispute between a provincial parliament and a national legislature over which of them is properly in charge of a particular decision be referred to the provincial or the national supreme court? Here again one must present arguments to the effect that the preferred locus of decision making is likely to be more reliable than its alternative.

Nothing definite can be said about the ideal number of levels or the exact distribution of legislative, executive, and judicial functions over them. These matters might vary in space and time, depending on the prevailing empirical facts to be accommodated by my second and third considerations (externalities, interdependence; unreliabilities) and on persons' preferences as shaped by the historical, cultural, linguistic, or religious ties among them. The human right to political participation also leaves room for a wide variety, hence regional diversity, of decision-making procedures—direct or representative, with or without political parties, and so on. Democracy may take many forms.

THE SHAPING AND RESHAPING OF POLITICAL UNITS

One great advantage of the proposed multilayered scheme is, I have said, that it can be reached gradually from where we are now. This requires moderate centralizing and decentralizing moves involving the strengthening of political units above and below the level of the state. In some cases, such units will have to be created, and so we need some ideas about how the geographical shape of new political units is to be determined. Or, seeing that there is considerable dissatisfaction about even the geographical shape of existing political units, we should ask more broadly: What principles ought to govern the geographical separation of political units on any level?

Guided again by the cosmopolitan ideal of democracy, I suggest these two procedural principles as a first approximation:

1. The inhabitants of any contiguous territory of reasonable shape may decide—through some majoritarian or supermajoritarian procedure—to join an existing political unit whose territory is contiguous with theirs and whose population is willing—as assessed through some majoritarian or supermajoritarian procedure—to accept them as members.[31] This liberty is con-

31. I won't try to be precise about "reasonable shape." The idea is to rule out areas with extremely long borders, or borders that divide towns, integrated networks of economic activity, or the like. Perhaps the inhabitants in question should have to be minimally numerous; but I think the threshold could be quite low. If a tiny border village wants to belong to the neighboring province, why should it not be allowed to switch? The contiguity condition needs some relaxing to allow territories consisting of a small number of internally contiguous areas whose access to one another is not controlled by other political units. The United States of America would satisfy this

ditional upon the political unit or units that are truncated through such a move either remaining viable (with a contiguous territory of reasonable shape and sufficient population) or being willingly incorporated, pursuant to the first clause, into another political unit or other political units.

2. The inhabitants of any contiguous territory of reasonable shape, if sufficiently numerous, may decide—through some major-itarian or supermajoritarian procedure—to form themselves into a political unit of a level commensurate with their number. This liberty is subject to three constraints: there may be subgroups whose members, pursuant to their liberty under 1, are free to reject membership in the unit to be formed in favor of membership in another political unit. There may be subgroups whose members, pursuant to their liberty under 2, are free to reject membership in the unit to be formed in favor of forming their own political unit on the same level.[32] And the political unit or units truncated through the requested move must either remain viable (with a contiguous territory of reasonable shape and sufficient population) or be willingly incorporated, pursuant to the first clause of 1, into another political unit or other political units.

It will be said that acceptance of such principles would trigger an avalanche of applications. It is surely true that a large number of existing groups are unhappy with their current membership status; there is a significant backlog, so to speak, that might pose a serious short-term problem. Once this backlog will have been worked down, however, there may not be much redrawing activity as people will then be content with their political memberships, and most borders will be supported by stable majorities.

Moreover, as the advocated vertical dispersal of sovereignty is implemented, conflicts over borders will lose much of their intensity. In our world, many such conflicts are motivated by morally inappropriate considerations—especially the following two. There is competition over valuable or strategically important territories and groups because their possession importantly affects the distribution of international bargaining power (economic and military potential) for the indefinite future. And there are attempts by the more affluent to interpose

relaxed condition through secure access among Puerto Rico, Alaska, Hawaii, and the remaining forty-eight contiguous states.

32. What if minority subgroups are geographically dispersed (like the Serbs in Croatia)? In such cases, there is no attractive way of accommodating those opposed to the formation of the new political unit. My second principle would let the preference of the majority within the relevant territory prevail nevertheless. This is defensible, I think, so long as we can bracket any concern for human rights violations. Where justice is not at stake, it seems reasonable, if legitimate preferences are opposed and some must be frustrated, to let the majority prevail.

borders between themselves and the poor in order to circumvent widely recognized duties of distributive justice among compatriots.[33] Under the proposed multilayered scheme—in which the political authority currently exercised by national governments is both constrained and dispersed over several layers, and in which economic justice is institutionalized at the global level and thus inescapable—territorial disputes on any level would be only slightly more intense than disputes about provincial or county lines are now. It is quite possible that my two principles are not suitable for defining a right to secession in our present world of excessively sovereign states.[34] But their plausibility will increase as the proposed second-order decentralization progresses.[35]

Finally, the incidence of applications can be reduced through two reasonable amendments. First, the burden of proof, in appealing to either of the two principles, should rest with the advocates of change, who must map out an appropriate territory, organize its population, and so forth. This burden would tend to discourage frivolous claims. Second, it may be best to require some supermajoritarian process (e.g., proponents must outnumber opponents plus nonvoters in three consecutive referenda over a two-year period). Some such provision would especially help prevent areas changing back and forth repeatedly (with outside supporters moving in, perhaps, in order to tip the scales).

Let me briefly illustrate how the two principles would work in the case of nested political units. Suppose the Kashmiris agree that they want to belong together as one province but are divided on whether this should be a province of India or of Pakistan. The majority West Kashmiris favor affiliation with Pakistan, the East Kashmiris favor affiliation with India. There are four plausible outcomes: a united Kashmiri province of Pakistan (P), a united Kashmiri province of India (I), a separate state of Kashmir (S), and a divided Kashmir belonging partly to Pakistan and partly to India (D). Since the East Kashmiris can, by principle 2, unilaterally insist on D over P, they enjoy some protection against the West Kashmiri majority. They can use this protection for bargaining, which may result in outcome S (if this is the second preference on both sides) or even in outcome I (if that is the

33. See Alan Buchanan, *Secession* (Boulder, Colo.: Westview, 1991), pp. 114–25; and Thomas W. Pogge, "Loopholes in Moralities," *Journal of Philosophy* 89 (1992): 79–98, pp. 88–90.

34. That topic is extensively discussed by Buchanan. While he takes the current states system for granted and adjusts his theory of secession accordingly, I am arguing that a more appealing theory of secession would be plausible in the context of a somewhat different global order. I thereby offer one more reason in favor of the latter.

35. For example, as European states will increasingly become subject to global and regional constraints—regarding military might, pollution, exploitation of resources, treatment of its citizens, etc.—the importance of whether there is one state (Czechoslovakia) or two states (one Czech, one Slovak) would tend to decline: for the Slovaks, for the Czechs, and for any third parties in the vicinity.

second preference of the West Kashmiris while the East Kashmiris prefer D or S over P).[36]

The conventional alternatives to my cosmopolitan view on settling the borders of political units reserve a special role either for historical states and their members (compatriots) or for nations and their members (fellow nationals). The former version is inherently conservative, the latter potentially revisionist (by including, e.g., the Arab, Kurdish, and Armenian nations and by excluding multinational states like the Soviet Union or the Sudan). The two key claims of such a position are: (*a*) Only (encompassing) groups of compatriots/fellow nationals have a right to self-government. (*b*) Such government may be exercised even over unwilling geographical subgroups of compatriots/fellow nationals (who at most have a liberty of individual emigration).[37] Those who hold such a conventional position are liable to reject my cosmopolitan view as excessively individualist, contractarian, or voluntaristic. Examples of this sentiment are easy to find: "The more important human groupings need to be based on shared history, and on criteria of nonvoluntaristic (or at least not wholly contractarian) membership to have the value that they have."[38] Insofar as this is an empirical claim—about the preconditions of authentic solidarity and mutual trust, perhaps—I need not disagree with it.[39] If indeed a political unit is far more

36. Obviously, this story is not meant to reflect the actual situation on the Indian subcontinent.

37. While the precise definition of 'nation' and 'nationality' is not essential to my discussion, I do assume that nationality is not defined entirely in voluntaristic terms (e.g., "a nation is a group of persons all of whom desire to constitute one political unit of which they are the only members"), in which case the two claims would become trivial. The definition may still contain significant voluntaristic elements, as in Renan's proposal: "A nation is a grand solidarity constituted by the sentiment of sacrifices which one has made and those one is disposed to make again. It supposes a past" (quoted in Brian Barry, "Self-Government Revisited," in *The Nature of Political Theory,* ed. David Miller and Larry Siedentop [Oxford: Clarendon, 1983], p. 136). So long as some non-voluntaristic element is present, at least one of the two claims can get off the ground: those who want to belong together as one political unit may be prevented from doing so when they lack an appropriate history of solidarity and sacrifices.

38. Avishai Margalit and Joseph Raz, "National Self-Determination," *Journal of Philosophy* 57 (1990): 439–461, p. 456.

39. Though one should ask how this claim squares with the history of the United States, in the nineteenth century, say. Those who enjoyed the rights of citizenship were highly heterogeneous in descent and upbringing, and they came as immigrants, through sheer choice. I do not believe these facts significantly reduced the level of solidarity and mutual trust they enjoyed, compared to the levels enjoyed in the major European states of that period. A careful study of this case might well show that people can be bound together by a common decision to follow the call of a certain constitution and ideology as well as the promise of opportunities and adventure. If so, this would suggest that what matters for solidarity and mutual trust is the will to make a political life together and that such will is possible without unchosen commonalities. This result would hardly be surprising, seeing how easily the closest friendships we form transcend such commonalities of facial features, native language, cultural background, and religious convictions.

valuable for its members when they share a common descent and upbringing (language, culture, religion), then people will recognize this fact and will themselves seek to form political units along these lines. I don't doubt that groups seeking to change their political status under the two principles would for the most part be groups characterized by such unchosen commonalities.

But would I not give any other group, too, the right to change its political status, even if this means exchanging a more valuable for a less valuable membership? Margalit and Raz ridicule this idea through their examples of "the Tottenham Football Club supporters," "the fiction-reading public," and "the group of all the people whose surnames begin with a 'g' and end with an 'e.'"[40] Yet these examples—apart from being extremely farfetched—are ruled out by the contiguity requirement, which a "voluntarist" can and, I believe, should accept in light of the key function of government: to support shared rules among persons who cannot avoid influencing one another through direct interaction and through their impact upon their common environment. A more plausible example would then be that of the inhabitants of a culturally and linguistically Italian border village who prefer an (*ex hypothesi*) less valuable membership in France over a more valuable membership in Italy. Here I ask, Do they not, France willing, have a right to err? Or should they be forced to remain in, or be turned over to, a superordinate political unit against their will?

This example brings out the underlying philosophical value conflict. My cosmopolitanism is committed to the freedom of individual persons and therefore envisions a pluralist global institutional scheme. Such a scheme is compatible with political units whose membership is homogeneous with respect to some partly unchosen criteria (nationality, ethnicity, native language, history, religion, etc.), and it would certainly engender such units. But it would do so only because persons choose to share their political life with others who are like themselves in such respects—not because persons are entitled to be part of one another's political lives if and only if they share certain unchosen features.

One way of supporting the conventional alternative involves rejecting the individualist premise that only human beings are ultimate units of moral concern.[41] One could then say that, once the moral claims of states/nations are taken into account alongside those of persons, one may well find that, all things considered, justice requires institutional arrangements that are inferior, in human rights terms, to feasible alternatives—institutional arrangements, for example, under which the interest of Italy in its border village would prevail over the expressed interest of the villagers.

40. Margalit and Raz, pp. 443, 456.
41. For an example, see Brian Barry, "Do Countries Have Moral Obligations?" in *The Tanner Lectures on Human Value,* vol. 2, ed. S. M. McMurrin (Salt Lake City: University of Utah Press, 1981), pp. 27–44.

This justificatory strategy faces two main problems. It is unclear how states/nations can have interests or moral claims that are not reducible to interests and moral claims of their members (which can be accommodated within a conception of human rights). This idea smacks of bad metaphysics[42] and also is dangerously subject to political/ ideological manipulation (as exemplified by Charles de Gaulle who was fond of adducing the interests of *la nation* against those of his French compatriots). Moreover, it is unclear why this idea should work here, but not in the case of other kinds of (sub- and supranational) political units, nor in that of religious, cultural, and athletic entities. Why need we not also take into account the moral claims of Catholicism, art, or baseball?

These problems suggest the other justificatory strategy, which accepts the individualist premise but then formulates the political rights of persons with essential reference to the state/nation whose members they are. This strategy has been defended, most prominently, by Michael Walzer, albeit in a treatise that focuses on international ethics (interactions) rather than international justice (institutions). Walzer approvingly quotes Westlake: "The duties and rights of states are nothing more than the duties and rights of the men who compose them," adding "the rights . . . [to] territorial integrity and political sovereignty . . . belong to states, but they derive ultimately from the rights of individuals, and from them they take their force. . . . States are neither organic wholes nor mystical unions."[43]

The key question is, of course, how such a derivation is supposed to work. There are two possibilities. The direct route would be to postulate either a human right to be governed by one's compatriots/ fellow nationals[44] or a human right to participate in the exercise of sovereignty over one's compatriots/fellow nationals. The former of these rights is implausibly demanding upon others (the Bavarians could insist on being part of Germany, even if all the other Germans wanted nothing to do with them) and would still fail to establish *b*, unless it were also unwaivable—a duty, really. The latter right is implausibly demanding upon those obligated to continue to abide by the common will merely because they have once (however violently) been

42. Rawls makes this point: "We want to account for the social values, for the intrinsic good of institutional, community, and associative activities, by a conception of justice that in its theoretical basis is individualistic. For reasons of clarity among others, we do not want to . . . suppose that society is an organic whole with a life of its own distinct from and superior to that of all its members in their relations with one another" (p. 264).

43. Michael Walzer, *Just and Unjust Wars* (New York: Basic, 1977), p. 53; cf. Walzer, "The Moral Standing of States," in Beitz et al., eds., p. 219.

44. Walzer suggests this tack: "Citizens of a sovereign state have a right, insofar as they are to be ravaged and coerced at all, to suffer only at one another's hand" (*Wars*, p. 86).

incorporated into a state or merely because they have once shared solidarity and sacrifices.

The indirect, instrumental route would involve the empirical claim that human rights (on a noneccentric definition) are more likely to be satisfied, or are satisfied to a greater extent, if there is, for each person, one political unit that decisively shapes her life and is dominated by her compatriots/fellow nationals. This route remains open on my cosmopolitan conception (via the third consideration), though the relevant empirical claim would not seem to be sustainable on the historical record.

Supposing that this sort of argument fails on empirical grounds, my institutional cosmopolitanism would favor a global order in which sovereignty is widely distributed vertically, while the geographical shape of political units is determined by the autonomous preferences of situated individuals in accordance with principles 1 and 2.