

Global Justice and What We Owe One Another: A Response to Jon Mandle and Janna Thompson

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1. *Introduction*

Jon Mandle and Janna Thompson have provided stimulating commentary on the work begun in *Global Justice*.¹ I am grateful for their reflective and considered challenges, and the opportunity to respond to these here. In this article I try to address some of the major challenges raised by each author. There are a few common lines of criticisms and in the space allocated I focus on those. In the first section I address concerns related to my normative thought experiment. The second section clarifies my view about what we owe one another and the role of equality in the account. The third section aims to explain the role of some of my examples in illustrating the nature of feasibility in global justice matters. The fourth section grapples with the common problem they identify concerning the observation that the global justice problems that face us are ones of collective failure of will rather than lack of vision.

2. *The normative thought experiment revisited*

Janna Thompson expresses some doubts about the way I use the experiments of Frohlich and Oppenheimer. She wonders what the thought experiments show exactly. She also indicates that appealing to Frohlich and Oppenheimer's experiments cannot be a decisive reason for favouring the result I do. For one thing, maybe participants in the thought experiments would choose a more demanding conception of global justice, something that approaches a more robustly egalitarian conception of what we owe one another. She notes, however, that the thought experiments have at least one important function and that is "it forces people to think as cosmopolitans

¹ *Global Justice: A Cosmopolitan Account* (Oxford: Oxford University Press, 2009).

and thus recognises that satisfying basic needs of the world's people is a priority"² rather than something to be deferred until they have ensured a high standard of welfare for themselves. As she correctly notes, much of my discussion is aimed at showing how existing institutions can become more accountable to the world's people, more just and more effective at securing justice. She says: "What is needed, it seems to me, is more attention to developments that might encourage people to think more like the delegates in her thought experiment. Is the development of a global 'civil society' likely to have this result? And if so, how? Can the internet make a contribution, or the growth of non-governmental organizations? Or do we need a democratic politics that transcends national borders?"³

Like Thompson and several other critics, Mandle is also doubtful that the empirical work of Norman Frohlich and Joe Oppenheimer should carry much weight against the Difference Principle. The fact that subjects in an experiment choose a principle of justice different from the one Rawls suggests they would is, he concedes, some evidence of the choice people consider to be rational, however it is not decisive. Mandle also notes that the participants in the experiment seem to have a mistaken view of how entitlements and incentives operate in the context of discussion over whether to choose the Difference Principle or some other principle when asked to choose the principles of justice to operate in their societies.

I agree that it is only against an institutional background that individuals come to have determinate entitlements. The Difference Principle does not conflict with entitlements; rather it serves to inform what the entitlements in a society should be, so it is a fundamental confusion to suggest that there is some kind of conflict between entitlements and the Difference Principle. I agree with Mandle about all of this. The purpose of raising the issue of the sorts of considerations that came up in the discussions is to show that the kind of reasoning deployed is very different from the kind Rawls uses. Instead of discourse about what it might be most rational to choose, the participants rather demonstrate that they recognise the salience of several competing considerations: needs, entitlements, and incentives. They consider several factors to be salient and grapple with how to balance these when considering the principles of just distribution that should operate in that society. Making things best for the worst off does not feature as an important consideration. Rather, balancing multiple considerations takes centre stage. An appreciation of what kinds of burdens this might place on those who might be funding the allocations is also thought to be relevant. I raise these issues as they demonstrate a striking departure from the reasoning

² Janna Thompson "On Brock's Account of Global Justice" in this volume, p. 295.

³ Janna Thompson "On Brock's Account of Global Justice" in this volume, p. 296.

offered by Rawls and dominant figures in the literature, and in matching many people's ways of thinking about justice matters, seem to contain some insight that deserves attention. I find the considerations that come up in these discussions compelling, and the fact that they match ordinary people's ways of thinking through what justice requires should not be dismissed. After all, the principles will need to be publicly justified so this correspondence could be something of an advantage in that process. Also, I believe that the experiments yield an important conclusion that has relevance for both the domestic and the international context. What we owe our compatriots and non-compatriots is substantially the same, though the ways in which we might discharge the duties or distribute the responsibilities for satisfying the duties might be different.

Next I try to explain further what is relevant about the experiments in which real people's views are tested. I also explain why these are not straightforwardly empirical results that are being appealed to. Rather, they are experimental results derived from modelling the impartial situation of the original position. They aim to test the accuracy of Rawls' predictions. So that, coupled with the fact that Rawls viewed the experiments as a good test of his theory gives them substantial normative weight.

Which rules would we choose to govern the basic structure as rational people in the original position? The original position is designed to produce a fair agreement among free and equally situated individuals when bargaining advantages and disadvantages which would distort deliberation are removed. What connection, if any, is or should there be between the arguments made for what it is rational to choose in the original position and empirical evidence derived from experiments conducted by Norman Frohlich and Joe Oppenheimer that aim to model the original position (which yield numerous interesting results, such as that the Difference Principle is chosen in only 1 percent of cases, whereas the most popular choice is a mixed principle that guarantees a social minimum, which is endorsed in almost 80 percent of cases)?⁴ Mandle suggests that there is no connection. Empirical evidence cannot undermine normative arguments for what one ought rationally to choose in the original position. Broadly speaking, there are two possible ways to interpret the results. First, if people do not choose as we reason they should, then it might show defects with their reasoning, that people do not reason rationally. Alternatively and second, it might cast doubt on our account of what it is rational to choose, perhaps prompting us to re-evaluate whether what we assumed to be rational was really straightforwardly so. For instance, it might reveal some feature that we have overlooked in considering what we take to be rational or it might expose alternative ways in which we can choose rationally – perhaps there is more than one rational choice. I am

⁴ These experiments are discussed more fully in *Global Justice*, Chapter 3.

suggesting that we might learn something of the second kind – it might teach us something about the nature of rationality. In particular, when deliberating, the delegates are balancing several important considerations and, mindful of the force of competing considerations, they are not looking to maximize or minimize any one of these. Rather they are looking to balance many salient considerations and, if anything, are using a strategy involving optimization. This brings a useful insight to discussions overly dominated by “maximin” as the decision-making strategy.⁵

There are many other ways in which the experiments might be revealing. Rawls’s normative theory has to be consistent with human nature (as Rawls himself recognizes and stresses). Of course, that is no uncontroversial matter. However, performing the experiments in a variety of cultures (some socialist, some capitalist, for instance) suggests that there might be something cross-culturally robust about the findings that can give us some insights about pervasive features of how we are constituted. It is no good if Rawls gives us a theory for saints if human beings, as actually constituted, could never realize the utopia presented. So I do not think that these experiments are irrelevant. They give us some important insights about what is a realistic utopia for beings like us, which is Rawls’s expressed goal as well.

There is yet another important way in which the experiments can be thought useful. For Rawls, justification is always second-personal; it is necessarily justification to someone.⁶ If others do not accept the premises of the justification there is no justification. Justification must be made to someone. We have data to suggest that when people understand the Difference Principle and the case for it, they choose it in only 1% of cases. Does that not suggest that the justification for the Difference Principle at least needs some revamping given that, when the case is made to people, they reject it so resoundingly?

There are numerous ways to phrase our central question for consideration in the original position. Here are two: (i) What principles of justice might we agree to if we are ideally rational, in ideal conditions that model a fair bargaining situation? (ii) What principles of justice might we agree to given the way we are now constituted – our human nature, as a short hand – which includes multiple and complex motivations, in ideal conditions that model a fair bargaining situation? Arguably, the second question can provide the most compelling answer to why one should feel the normative force of any of the agreements made. After all, why should I care about what an ideally rational creature might choose? I am quite a long way from being that

⁵ Participants in fact show that compromise is a dominant feature of the discussion. Individual’s first preference and the eventual group preference endorsed is often quite different.

⁶ Rawls, *A Theory of Justice* (Belknap: Harvard University Press, 1971), 506-514.

creature. Rather, I am a flawed and imperfect human being. A case can be made that this second question helps provide the most persuasive answer to someone who wonders about why one ought to translate the insights of ideal theory on global justice into prescriptions for what one ought to do here and now to bring about more global justice. Indeed, there are some important precedents for appreciating the value in asking this second kind of question.⁷ Arguably, this is the question I need most to answer in providing compelling replies to the feasibility and pro-nationalist skeptics, who are a central focus of my attention in the book.

Rawls knew about Frohlich and Oppenheimer's experiments and saw some preliminary results. In personal communication, including at workshops where the experiments were discussed, Rawls said that the simulation was very useful and interesting, and the results "are indeed challenging and instructive". Rawls believed the work was crucial and that "as we empirically approach the ideal of a veil of ignorance, there should be convergence with the theoretical argument as to what would happen behind the veil. This assumption of 'continuity' was morally relevant and needed for any theory of justice to have political meaning".⁸ Rawls believed that the kinds of results being produced "would force him (and justice theorists) very seriously to reconsider the distributive justice part of his theory. Indeed, he thought he may have to reformulate the theory".⁹ Norm Frohlich also recalls Rawls saying that it may mean that the Difference Principle "cuts across the grain of human nature".¹⁰

Indeed, in Rawls's later works, we notice that he is much more tentative about the status of the Difference Principle and he often presents it as only one suggestion of what might be agreed to among other possible options.¹¹ Also, it is quite clear that in *Justice as Fairness* Rawls considers the option that the experiments reveal people in fact choose around 80% of the time, to be the strongest rival to the Difference Principle. There is therefore important evidence that Rawls took quite seriously the possibility that principles similar to the ones I endorse are not implausible interpretations of what equally situated parties might select as principles of global justice.

⁷ James Fishkin's extensive program of conducting Deliberative Polls is one example. See, for instance, James Fishkin *The Voice of the People* (New Haven: Yale University Press, 1997); James Fishkin and Peter Laslett "Introduction" *Journal of Political Philosophy* 10 (2002): 125-128; Bruce Ackerman and James Fishkin "Deliberation Day" in *Journal of Political Philosophy* 10 (2002): 129-152.

⁸ Joe Oppenheimer, personal communication.

⁹ Joe Oppenheimer and Norman Frohlich, personal communication.

¹⁰ Norman Frohlich, personal communication.

¹¹ See for instance John Rawls *Justice as Fairness: A Restatement* (Cambridge: Belknap Press, 2001), p. 49.

3. *The content of what we owe one another and scope for concern with inequality*

Let us turn next to examine more closely my account of what we owe one another at both state and global level. There is considerable space for concern with inequality on my account of Global Justice and in this section I elaborate on this theme so we can appreciate when equality matters. I agree that on the usual conception of what our basic needs are, simply meeting this bare minimum standard, as it is usually understood, would be inadequate for an account of global justice. But my account endorses a much higher threshold of what is required for a decent life than this standard interpretation.

In *Global Justice* I develop a cosmopolitan model of global justice that takes seriously the equal moral worth of persons, yet leaves scope for defensible forms of nationalism along with other legitimate identifications and affiliations. What can we reasonably expect of one another in the domain of justice? An alternative Rawlsian-style normative thought experiment offers a systematic and vivid way for thinking through such issues (though the arguments stand alone as well).¹² The main issue delegates to a hypothetical conference must entertain concerns what *basic* framework governing the world's inhabitants we can reasonably expect to agree on as fair.¹³ After considerable argument about what that entails, I endorse the following position: Global justice requires that all are adequately positioned to enjoy prospects for a decent life, which requires we attend especially to

¹² In arguing for what we are all owed as human beings, I argue for what our reasonable expectations of one another should be, especially in situations of ongoing cooperation. The set-up of a normative thought experiment simply aims to make this more vivid to us, but the basic idea can be argued for independently of that framework. When properly set up, such thought experiments are a good way to flesh out what we can reasonably expect of one another in a way that avoids inappropriate partiality: if people do not know what positions they might find themselves in during the lottery of life, they will pay more attention to what would constitute fair arrangements.

¹³ I will not be able to cover the details of the normative thought experiment here, but I can give a brief sketch of some of the main moves. An easy way to enter the thought experiment is to imagine that a global conference has been organized. You have been randomly selected to be a decision-making delegate to this conference. You are to participate in deciding what would be a fair framework for interactions and relations among the world's inhabitants. Though you have been invited to the decision-making forum, you do not know anything about what allegiances you have (or may have after the conference concludes), but you do know that decisions made at this conference will be binding. It may turn out that you belong to a developing nation, occupy a territory with poor natural resources, and so forth. Given these sorts of possibilities, you are provided with reasons to care about what you would be prepared to tolerate in a range of different circumstances.

enabling need satisfaction, protecting basic freedom, ensuring fair terms of cooperation in collective endeavours, and social and political arrangements that can underwrite these important goods are in place.

All four of these components constitute the basis for grounding claims of entitlement. The detail of which claims they ground is begun by considering five domains in which our entitlements can be specified in more particular terms, concerning global poverty, taxation, liberty protections, humanitarian intervention, immigration, and the global economic order. There is no easy or straightforward way to move from the four categories that describe the contours of a decent life to obligations to secure these for others. Moving from items on the list of what is needed to secure a decent life to obligations requires some significant discussion of empirical theories dealing with causes, contributory factors, and obstacles to the realisation of goals listed. It also requires discussion of mechanisms available for protecting the goods enumerated, for enforcing obligations, and the like. Sometimes appropriate mechanisms to secure elements may not be straightforward or obvious, as is the case when we consider the role freedom of the press has in securing adequate protection for basic liberties. Similarly, when we consider our taxation and accounting regimes we see much scope for reforms that would better protect and secure countries' abilities to assist their citizens in meeting basic needs.

How does equality matter in my account of global justice? In virtue of the four central components, equality can matter in significant ways. Recall that global justice requires that all are adequately positioned to enjoy prospects for a decent life, which entails that we attend especially to (i) enabling need satisfaction, (ii) protecting basic freedom, (iii) ensuring fair terms of cooperation in collective endeavours, and (iv) social and political arrangements that can underwrite the important goods outlined in (i) - (iii). The four central components of the basic account of global justice can all have implications for equality. Consider, for instance, that one of our basic needs is for autonomy, which means we must be vigilant for ways in which autonomy can be undermined by conditions conducive to domination. When inequality gives rise to such opportunities, such situations become a matter of normative concern. It is also important to emphasize that the commitment to fair terms of cooperation in collective endeavours will often entail a concern for equality. In addition to the basic account, I endorse a number of other views that have a bearing on how demanding this account is, and also how equality matters in it. For instance, I am also committed to an ideal of democratic equality. This requires that we promote standing in relations of equality with one another, notably those that promote equal respect, recognition, and power.¹⁴

¹⁴ I argue for these views in *Global Justice*, Chapter 12.

To illustrate how all of this works in favour of a concern for equality within societies, let us start with a specific form of the worry about inequality: is it permissible to provide an adequate but unequal (and inferior) education to girls in a particular society, when boys within that society receive a much better education? If a good is being provided to boys, there is much in my account that would support the view that it should be equally provided for girls. Consider the idea that democratic equality requires standing in relations of equality with one another. Standing in relations of equality with others in the same society requires equal provision of certain goods, such as voting and education. We also have a basic need for autonomy, which requires that we are vigilant for ways in which features of our societal arrangements might promote domination. Insofar as boys' superior education fosters such opportunities, further support can be marshaled against the idea of endorsing adequate but inferior education for girls. Support for equal provision can also be derived from the commitment to fair terms of cooperation in collective endeavours. (Can we really find a thoroughly compelling rationale that unequal provision of educational resources is consistent with fair terms of co-operation?) The fourth central criterion that seeks social and political arrangements that promote the preceding three important goods would require this as well (at least in virtue of the need for autonomy and fair terms of cooperation). Unequal provision would not be consistent with a background social and political culture that appropriately expresses our equal moral worth, a commitment to promotion of our equal basic liberties or equal promotion of needs-fulfillment, fair terms of co-operation, and the like.

Concerns with relational equality, non-domination and fair terms of co-operation that often yield a concern for more equality within states attract parallel attention in the global sphere. Indeed, there is a significant need for improved global regulation as an effective and neglected way of honoring our global justice commitments. As we see then, fostering *relational equality* is the goal and distributional issues are important to that goal, but they do not and should not exhaust our concern with equality. By looking at where unequal provision does undermine standing in relations of equality with one another and where it does not, and, importantly, where other factors not related to individual holdings undermine standing in relations of equality, we are able to come up with a more nuanced account of when and how our equality matters. The argument has to be made in domain- and good-specific terms. For certain goods, equality is part of adequacy. Education and voting would seem to be paradigm cases. But equal provision need not be important for all goods. Equal provision of housing may be one example. Moreover, in many cases, relevant concern with equality should guide us towards a focus on improved regulation rather than distribution per se, since

what blocks the possibility of standing in relations of equality is the exercise of unequal power. Improved regulation in the areas of taxation and accounting, securing public goods, promoting press freedom, better protecting the architecture of international justice and promoting a culture of accountability are the sorts of reforms which would have a more profound effect on promoting the kind of equality to which we should aspire.¹⁵

4. Some final thoughts: Feasibility and failures of collective will

Mandle correctly notes that I introduce several examples of developments aimed at showing what is happening around the world to progress towards global justice. He interprets my introduction of examples as illustrations of what can be achieved for all. For instance he remarks that while several countries have already enacted a carbon tax, something I observe, other countries have not, including the two countries responsible for more than 40% of the carbon dioxide emitted into the atmosphere annually, the United States and China. This should therefore give us pause about how feasible some of my policy recommendations really are. I want to clarify next the point of introducing the examples of current taxation practices and reforms, how they bear on the issue of feasibility, and indeed clarify what I take the concept of feasibility to be. As Mandle rightly points out, it is not my job to predict success. As he also notes, I am keen to show what we can do today in making some welcome changes: there are many steps that are feasible in making important progress towards a more globally just world. Failing to move in the indicated directions is something of a collective failure of will, rather than ideas.

It is possible that judging feasibility may require different criteria in different domains. Perhaps a generalisable account may not work for all domains: giving an account of psychological feasibility may involve a different set of useful criteria than giving an account of (say) a feasible tax proposal. At any rate, as an example, let us consider the issues of feasibility in the area of taxation arrangements in order to draw out some of the criteria that will determine feasibility in public policy proposals.

Throughout Chapter 5 of *Global Justice*, I suggest various considerations are relevant to whether a tax should be considered feasible. These include: (1) *Support*: (i) there is good public support for the tax, at least in good pockets well positioned to influence implementation decisions, or (ii) there is strong backing from influential figures well placed to make progress in advancing tax proposals; (2) *Administrative ease*: the tax can be collected easily, which can ensure administrative simplicity (and also good compliance); (3)

¹⁵ I argue for all of this in much detail in *Global Justice*, especially Parts 2 and 3.

Precedent: how many other similar kinds of tax proposals have already met with success, showing that similar taxes work reasonably well in other domains; and, relatedly, (4) *Institutional assistance*: that there are already existing, or partially existing, institutional mechanisms that could facilitate compliance or enforcement. Of these, (1) is probably the most important, since if there is good support, institutional structure and administration of the tax can easily be created. Using these kinds of criteria one can show (for instance) that air-ticket taxes (taxes on the sale of air tickets) or Tobin taxes (taxes on currency conversions) are *feasible*, since all of (1)-(4) are relevantly present. Note that even in the absence of meeting (1)-(4), a tax policy might be considered feasible, because momentum is building towards generating the relevant support, or some such. The criteria are not individually necessary but rather, when satisfied *can be jointly sufficient to indicate feasibility*. Though feasibility comes in degrees, the presence of all of (1)-(4) indicates that a sufficiency threshold has been reached to demonstrate that a particular policy can be considered feasible.

It is also important to note that my account differentiates sharply between “feasibility” and “likelihood of success” (or anything else concerning predicting outcomes). To say something is feasible is to make a very different claim from one about likelihood of implementation success -- it is a judgment about whether something is *capable of being carried out*, not whether it is reasonably likely that it will succeed. “Capable of being enacted” is used not in the sense of “mere possibility”, but rather means to convey the idea that *a proposal could be implemented, here and now, given a conjunction of factors working in its favour*.

Finally, both Mandle and Thompson note that we demonstrate a failure of will rather than a lack of vision when we fail to make significant progress towards global justice. I think this is correct and important. But it is important also to note that the responsibility to move towards instantiating more global justice in the world we inhabit is not evenly distributed. Those who have more capacity to make changes, who have also benefited more from global injustices, and those who are more deeply implicated in perpetuating harm, or failing to reform institutions or practices of a harmful nature, would seem to have greater responsibilities to generate the collective will required. And so the questions posed about how to move forward in the face of spectacular failure of collective will should be especially pressing for those of us who reside in affluent, developed countries.