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Social justice beyond bounded societies: unravelling statism within global supply chains?

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There is a rising sense within contemporary global politics that the advance of those processes of global interconnectedness that we bluntly refer to as globalisation brings with it increasing problems of injustice on a global scale, in the form of entrenched poverty, social exclusion and the abuse of power. For some observers, the capacity of populations in rich countries to help remedy such social ills at reasonable cost provides sufficient reason to underpin social justice obligations at a global level, extended to all on the basis of their shared humanity. For others, the problem is not simply the *existence* of global poverty and exclusion. Rather, concern focuses on intensified patterns of economic interdependence and dramatically expanded capabilities for transnational communication and social interaction, which are seen as contributing to global problems of poverty, exclusion and abuse of power in which populations in the rich world are directly *implicated*.¹

An increasing number of contemporary thinkers have sought to make sense of this second type of sentiment by theorizing obligations of justice as distinctively associative or 'practice-dependent' obligations, arising as a function of shared participation in social institutions and practices of special, morally significant kinds (James 2005; Ronzoni 2009; Sangiovanni 2007).² Within this 'practice-dependent' camp, there has been significant normative debate about what kinds of social interaction are morally significant in the relevant way. Of critical importance to this chapter, there has also been significant *empirical* controversy about whether relevant kinds of social relationships and institutions now extend globally, or remain bounded within nation states.

Despite the central importance of empirical argumentation in resolving competing practice-dependent claims about the scope of social justice, these debates have so far been dominated by normative scholars, with limited input by social scientists conducting empirical research on relevant forms of institutional practices. This chapter aims to contribute a small step in building such engagement, by critically evaluating—*on empirical grounds*—practice-dependent claims through which statist versus global views of social justice have been debated.

¹ (Bendell 2004, p.5) in his 'contemporary history of the corporate accountability movement' describes the rise of northern activism around issues of poverty in the following terms: "for many activists it was not just the oppressed who needed help but oppression itself was seen as a wrong to be righted, along with their own complicity in that oppression. The mentality of Western charity was being replaced by one of global solidarity", and as others call it, "global justice".

² Throughout the chapter, I assume that demands of justice are moral demands on the design and operation of social institutions, which are distinctive in the stringency of their demands. I take a broad view of the concept of social justice, encompassing non-distributive as well as distributive concerns. I do not take a substantive position on debates about specific principles of justice.

To facilitate a more focused empirical analysis, I evaluate evidence with reference to one specific class of transnational social relationships and institutions: *sectoral supply chain systems of production and trade*.³ Transnational institutions in the sphere of production have been invoked by several authors participating in these debates (eg. (Marion Young 2004; Nagel 2005; Ronzoni 2009)), yet little effort has so far been made by empirical scholars to critically evaluate such claims with reference to empirically rigorous research. My empirical analysis draws in particular on evidence from two specific sectors – the global garment and coffee industries – and one producing country (Nicaragua) characterised by extremely high levels of poverty among workers and producers in these sectors.⁴ My analysis encompasses two distinct types of social practices in the domain of global production. One involves the private markets and business systems through which global production is coordinated. The other consists of transnational institutions of private governance which are created to govern market and business systems from a more overtly political or justice-oriented perspective, such as non-governmental social certification and standards systems and corporate social responsibility codes and monitoring systems.

Although I do not wish to defend any substantive normative position regarding what characteristics of social relationships and institutions are relevant to grounding social justice obligations, I clearly need to adopt specific criteria around which empirical analysis can be organised. I focus on three main clusters of criteria that have been widely invoked as characteristics of social practices required for grounding social justice obligations.⁵

The first set of widely invoked criteria attributes special moral significance to particular kinds of ordered social cooperation, suggesting that principles of justice should govern only those social practices involving *social cooperation within relatively stable social rules*. The second set of criteria focuses on the extent to which social practices *impact pervasively on social conditions that underpin individual autonomy*, suggesting that only social practices with impacts of this kind should be regulated by principles of justice. Much empirical argumentation about the scope of justice obligations, from both statist and globalist perspectives, has focused on these two sets of criteria. Another cluster of arguments has interrogated the *feasibility of establishing effective and responsible social agency* for promoting and defending norms of social justice. On this view, it is only meaningful to assert the existence of justice obligations to the extent that it is possible to institute effective, responsible agency capable of discharging these obligations, and (for some writers) where such empowered agency can be established without unacceptable forms of coercion.

What then does sustained empirical scrutiny of existing social practices in the field of global production reveal about the scope of these three clusters of characteristics, and correspondingly the scope of social justice obligations (thus conceived)? In the following discussion, I first examine the extent to which institutions of global production involve cooperation within stable social rules, and whether these practices impact pervasively on the social conditions for realization of social autonomy. I show that practices possessing these

³ In this sense, the approach taken by this paper can be interpreted as presenting an empirical analysis of one specific institutional subsystem (or ‘slice’) within the broader ‘global institutional order’.

⁴ Analysis draws on evidence collected during ten months of multi-sited field research, beginning in coffee and garment producing communities in Nicaragua, and following transnational supply chains through to consumption sites in the US and Europe. These cases are used here simply for illustrative purposes. For a more detailed account of the dynamics of change within structures of power and accountability in the global garment and coffee industries see (Macdonald 2007a, b).

⁵ For systematic reviews of widely invoked ‘practice-dependent’ criteria for determining the scope of social justice obligations, see (Barry and Valentini 2009).

two sets of morally relevant features are neither bounded within states, nor extended over a comprehensively global scope; rather, they are organized within a messy, multi-level configuration of overlapping transnational relationships.

I then examine the implications of these multi-level patterns of social interaction for the feasibility of establishing empowered, responsible agency to regulate social practices on the basis of social justice norms. Many advocates of feasibility-oriented criteria have drawn on these criteria to assert the distinctive moral properties of social relationships existing within nation states. I argue that although ideal-typical state institutions possess distinctive capacities to coordinate social activity on the basis of a consistently applied set of social norms, such feasibility-oriented statist arguments tend to seriously overstate the enduring distinctiveness of such state capacities. In practice, the unraveling of social relationships into transnational, multi-level configurations also generates serious problems for the feasibility of effective *state* agency as a vehicle for regulating social justice norms.

Emerging multi-level configurations of transnational social power and interconnection therefore appear to be creating a situation in which *neither* global *nor* statist justice norms can be given effective and consistent institutional protection. If feasibility critiques were taken too literally under these prevailing conditions, then statist as well as global demands for social justice would have to be surrendered. Accordingly, I conclude that *all* of those committed to overarching values of social justice—national or global—need to work much more seriously toward development of a theoretical and institutional project of multi-level transnational justice.

Ordered social cooperation

I begin by empirically evaluating the extent to which the social institutions through which global production is currently organized and governed comply with relevant dimensions of the first criterion of *ordered social cooperation*. I show that institutions of ordered social cooperation are neither bounded within states nor comprehensively ‘global’ in scope, but rather organized within a messy, multi-level configuration of transnational social cooperation.

Theorists of social justice have articulated varying versions of the view I cluster here under this broad criterion of ‘ordered social cooperation’ (Barry and Valentini 2009).⁶ I don’t attempt to consider all of these; rather, I focus on what seem to me to be some of the most important and relevant variants.

The core element of this criterion, which most variants share in common, is the requirement that social practices involve *social interaction against the background of a relatively stable set of common rules*. The claim that institutionalized social practices of this kind are occurring at the global level is perhaps one of the less controversial empirical claims made by advocates of global justice. Advocates of global justice have pointed to a range of stable sets of common rules at the global level that shape the terms of social cooperation beyond national societies, such as rules governing global trade and monetary arrangements, and underlying constitutive features of the modern state such as sovereign rights to fix

⁶ Often, authors specify additional conditions that must accompany ordered forms of social cooperation if they are to ground social justice obligations. Some seek to take some measure of the impact of the institutions on enabling or constraining the ability of individuals to lead fulfilling lives, while others relate to the efficacy of the institutions. I will consider some of these additional conditions below, and don’t want to conflate them into this first criterion.

membership, to control the use of natural resources within national territory, to commit national populations to agreements with other states, and so on (Barry and Valentini 2009; Pogge 2002). All of these are of direct relevance to enabling the transnational economic relationships through which global production is currently organised. Even the most insistent defenders of a statist view such as Thomas Nagel have acknowledged the widespread establishment of organised global institutions of this kind, (Nagel 2005) observing after a brief stock-take of such arrangements that: “We are clearly in some kind of institutional relation – legal and economic – with people the world over”.

It also seems relatively uncontroversial to observe that such stable patterns of social interactions are also sufficiently *complex* that what have been described as problems of background injustice could potentially arise (Ronzoni 2009). As I have explained in more depth elsewhere (Macdonald and Macdonald 2010), the institutional relationships around which global production systems are organized involve the significant diffusion of decision making control between a range of actors and institutional sites. Control is distributed within global markets and supply chains, as well as within social, labour and market relations at production sites. Decisions made at all of these levels interact in determining key outcomes relevant for social justice.⁷ This empirical observation is significant, because it makes it clear that relevant social interactions cannot be governed effectively simply by widespread observance of individual moral norms; that is, institutional norms of social justice of some kind are required if such transnational systems of ordered social cooperation are to be governed on a consistent moral basis.

Although the existence of complex and relatively stable systems of social rules beyond national societies is quite widely acknowledged, some have suggested that this alone is not sufficient to constitute ordered social cooperation of the relevant kind. Nagel for example has suggested that relevant forms of social cooperation must also involve some shared ‘exercise of will’, or in other words, relatively direct forms of societal authorship of the rules governing relevant cooperative practices.⁸ In Nagel’s words, the “active engagement of the will of each member of the society in its operation is crucial”; that is, it is morally significant that individuals and not simply states operate as core constituent units of relevant social institutions.

In elaborating this argument, Nagel makes explicit reference to transnational social interactions within global production systems, referring to ‘the economic relation in which I stand to Brazilian or Philippine workers’. In defending the view that these relationships do not give rise to obligations of social justice, he argues that if transnational institutions “are sustained by those individuals only through the agency of their respective governments or branches of those governments” then they do not create obligations of justice. In relation to traditional models of international organization based on treaties between states, and in relation to intergovernmental networks, Nagel makes the empirical observation that “individuals are not the constituents of such institutions”. In both cases, he suggests that these

⁷ (Marion Young 2004) makes a similar point.

⁸ Nagel’s notion of joint authorship – suggesting that rules need to be written ‘in the name of’ all individuals involved if their existence is to give rise to obligations of justice – has often been interpreted in a moralized sense. This has been criticised for its unduly conservative implications, operating to place beyond scrutiny some of the most morally questionable social practices. I do not consider this moralised notion of joint authorship further here. Rather, I focus on a less demanding interpretation of this criterion, which focuses on features of the social agency through which rules are written.

forms of state based governance have “a markedly indirect relation to individual citizens and ... this is morally significant”.

However, Nagel’s focus on the role of state-written ‘contracts and laws’ in sustaining transnational production relations neglects the significance of much of the empirical work that has accumulated in recent years documenting the significant role of *private* systems of governance in creating and enforcing the institutions and rules through which global production relations are facilitated. Such work has shown how systems of cooperation are sustained by individuals and the systems of rules they create and submit themselves to. It is certainly true that states often play an important role in facilitating the operation of these systems of rules, and could in many cases override such rules if they wished. In practice, however, much of the initiative and agency that creates and sustains these transnational rules is undertaken by private actors.

We can conceptualise such private systems of power and governance as operating at two levels. First, they encompass the networked and contractual systems of ‘supply chain governance’ through which production processes are coordinated (Gereffi et al, Macdonald). A large empirical literature has documented the ways in which large retailers and branded merchandisers based in industrialised countries (for example, ‘brands’ and retailers in the garment industry and roasting companies in coffee) coordinate and control many important aspects of the production process within ‘buyer-driven’ supply chains. Northern brands and retailers are able to control marketing and design activities, and this in turn enables them to wield extensive power over decision making throughout the global chain (Gereffi 1999).

Within these market based institutions and rules, ‘joint authorship’ of a democratic kind is certainly not present; power asymmetries between different participants in these processes of institution building and maintenance are stark. However, it is plainly not true that these institutions are created and sustained primarily via the agency of participating individuals’ respective governments or branches of those governments, as Nagel asserts.

The view that these production relations are facilitated and governed through the authorship or direct agency of citizens of different nations is further reinforced by the fact that these production systems are now typically governed not only through the private rules set by powerful companies, but also via various systems of social rules created by wider sets of social actors, with the explicit aim of subjecting transnational production relations to principles of social justice. In the coffee and garment industries that I refer to in this chapter, such initiatives include the Fair Trade system, corporate codes of supply chain social responsibility, and multi-stakeholder arrangements such as the CCCC (Common Code for the Coffee Community) or the Fair Labor Association.⁹

Importantly for arguments about the moral importance of direct societal authorship of social institutions, governments have played a negligible role in the creation and expansion of these private governance systems. Rather, they have been created as a result of direct initiative and collaboration between individuals and social organisations in countries in which products such as garments and coffee are both produced and consumed. Such collaboration has entailed direct and intensive forms of social interaction and communication among those involved.

⁹ I document and analyse these in much greater depth elsewhere (Macdonald 2007a, b); here, I simply sketch their most salient features for these purposes. In particular, the operation and impact of these initiatives is not discussed here, as I simply aim to draw out their normative logics; these aspects are discussed elsewhere.

The fair trade system serves as illustration of how such direct social authorship can unfold. The operation of 'fair trade' production and trading systems has created financially self-sustainable and relatively durable institutional structures along the transnational boundaries of its trading relations, thus creating a central institutional 'skeleton' with which other actors and organisations can then engage. These freestanding organisational architectures then often 'plug in' to existing institutional infrastructures at sites of consumption such as neighbourhood and municipal organisations, schools, universities, churches and wider informal social and civic networks. Relatively 'thick' forms of transnational communication have been enabled in this way via activities such as visits of Fair Trade producers to northern schools, universities and local communities as part of organised 'speaker tours', the integration of Fair Trade educational materials into school curricula, and the use of communicative structures within pre-existing civic networks to diffuse information and ideas regarding Fair Trade and wider issues of global economic justice (Linton et al. 2004). Throughout these processes, the participation of individual citizens in the creation of fair trade practices has been direct, intensive, and central to the initiation and survival of the system as a whole.

Of course, in all of this the question remains whether these kinds of social cooperation and institutional authorship are sufficient to fulfil relevant normative criteria. My key point is simply that on the basis of such criteria as they have been articulated so far in debates about the scope of social justice, relevant forms of joint authorship in writing social rules appear already to be in widespread existence in some spheres of global economic interaction. Overall then, the empirical evidence regarding social practices in the sphere of economic production seems strongly to support the view that—in contrast to statist claims—ordered social cooperation of relevant kinds already exists beyond the scope of national societies.

Importantly, however, the evidence does not seem to support the claim that we are now in relevant institutional relations encompassing "the world as a whole" (Caney 2001). Certainly, some of the institutions I have referred to above—such as recognition of sovereign legal rights, or certain features of global monetary arrangements—do appear almost comprehensively global in scope. However the private institutional systems through which production is organised and regulated do not even roughly approximate comprehensively global scope. Global production systems reach only into certain geographical locations, and involve limited direct participation by individuals in each relevant location. Their scope appears somewhat broader if we take into account those individuals who participate *indirectly* in global production processes, such as shareholders in relevant companies, individuals participating in labour markets whose dynamics are affected by relations of transnational production, and so on. Nevertheless, these systems remain far from comprehensive in scope.

The same is true of the social governance schemes that have emerged to regulate transnational supply chains. Such schemes explicitly invoke practice-dependent norms of transnational justice as the basis for their regulative norms, suggesting that northern consumers, companies and governments bear a special kind of responsibility to tackle poverty and labour exploitation among workers and producers to whom they are directly connected via sectorally-specific global production systems. These associational norms are reflected in the limited scope of the governance systems, which have tended to 'track' the transnational geographies of global supply chains. The highly uneven resources and organisational capacities of social actors involved in the creation of such schemes has tended to compound their highly uneven scope.

Ordered social relationships within the sphere of global production therefore appear now to be neither statist nor comprehensively global in scope. Rather, social practices of these kinds appear to be unfolding within transnational and multi-level configurations.

Impact on social conditions enabling the realization of individual autonomy

For many practice-dependent theorists, establishing the grounding of social justice obligations requires more than simply demonstrating the existence of institutionalised forms of ordered social cooperation. Rather, it is also necessary to establish that these interactions have some special moral significance for the basic needs, freedoms or wellbeing of individuals. Specifically, I focus here on evaluating the extent to which institutionalised social practices associated with global production influence society's capacity to achieve the *social conditions required for the realisation of individual autonomy*.

Global production systems can operate both as constraints on individual autonomy, and as means of enabling and sustaining the social conditions within which autonomy may be realised. The private governance systems described above impact pervasively on the wellbeing and autonomy of individual workers and producers participating within supply chain systems in a variety of ways, which differ to some extent between industries.

In the garment industry, dominant companies use their power within global supply chains to push down wages and increase workloads, with significant and direct implications for wellbeing of workers. Many workers complain that their wages fail to cover the basic cost of living – a claim that is unambiguously supported by official estimates of the basic basket of goods.¹⁰ Non-voluntary overtime is another common consequence of corporate demands for fast turnaround of production in response to changing consumer demand. In the coffee industry, major roasting companies in consuming countries, along with some large international trading companies operating in producing countries, have captured increasing shares of income generated across the supply chain, while farmer income has significantly declined. These corporate decisions are in turn influenced by the choices of consumers in wealthy countries. It is their preferences for fast turnaround time, high quality and low prices that creates the incentive and reward structures that are then reproduced throughout these transnational institutional systems, leading predictably and systematically to the violations of certain 'rights' and deprivations of certain forms of wellbeing experienced by marginalised workers and producers.

Certainly, not all relevant constraints on the autonomy of marginalised workers and producers result from these transnational systems of decision making. The owners and managers of factories and farms also play a key role. On large-scale plantations, permanent workers generally live on farm property, and provision for housing, food, health care and other forms of social infrastructure is determined at the discretion of farm owners and managers, as are most other working conditions. In the garment industry, while variables such as wages and working hours are influenced very directly by decisions taken higher up the supply chain, working conditions such as disciplinary practices, freedom of association and some dimensions of health and safety are often controlled largely by decision makers at the factory or farm level. A broad range of variables within the wider local development

¹⁰ Despite this, wages received in the free trade zone are generally above legally mandated minimums, and are often higher than those received in other local jobs in similar industries.

context also play a key role in conditioning available choices for marginalised groups to pursue alternative livelihood strategies, and their ability to realise core entitlements.

Despite the enduring importance of these localised social and institutional influences, transnational systems of supply chain governance continue to have a pervasive impact on the social conditions within which autonomy of individual workers and producers is able to be realized.

Importantly, such transnational relationships are also far from comprehensively global in scope. The forms of institutional power wielded by brands and retailers, and the dimensions of individual autonomy impacted by such relationships, vary significantly between and within industries, depending on factors such as consumer preferences within specific market niches, dynamics of market competition, and the institutional forms (eg. arms length market transactions versus longer term business networks) through which supply chain relationships are coordinated. As observed above in relation to the criterion of ordered social cooperation, social relationships within institutions of global production therefore appear to be neither statist nor global in scope, but rather transnational and multi-layered.

Feasibility

Even to the extent that stable forms of social coordination with pervasive impacts on individual autonomy can be shown to exist beyond the boundaries of national societies, many statist theorists of social justice have insisted that this is still not sufficient to ground obligations of justice beyond the state, because of concerns about feasibility. As (Barry and Valentini 2009) observe:

“Driving this critique is the thought that, since ought implies can, any plausible normative ideal must fall within the limits of human possibility. The feasibility in question is not just a matter of immediate realizability but rather one of compatibility with the limits imposed by our best understanding of human nature and social institutions. As John Rawls puts it, philosophers must argue as best they can that the social world they envision is feasible and might actually exist, if not now at some future time under happier circumstances.”

Feasibility critiques of this kind have been developed from a number of angles, some of which overlap with the issues discussed above. I focus on three specific variants of this line of critique, of particular relevance to the governance of global production systems.

The first important feasibility-related concern that I address – associated in particular with Nagel – is the claim that obligations of social justice cannot be meaningfully asserted beyond the boundaries of the nation state in the absence of a sufficiently empowered agent or institutional structure for principles of justice to ‘go to work on’. In Nagel’s words:

“If we look at the historical development of conceptions of justice and legitimacy for the nation-state, it appears that sovereignty usually precedes legitimacy. First there is the concentration of power; then, gradually, there grows a demand for consideration of the interests of the governed, and for giving them a greater voice in the exercise of power. ... In thinking about the future, we should keep in mind that political power is rarely created as a result of demands for legitimacy, and that there is little reason to think that things will be different in this case.”

Certainly, it is true that there currently exists no ‘sovereign’ power of the kind that Nagel has in mind that principles of justice could go to work on at the global level. However, as the analysis above has demonstrated, there clearly do exist systems of stable social power in the form of market and business institutions through which supply chain governance is already organised, which could plausibly comprise the object of justice oriented reforms. Indeed, contesting the legitimacy of these forms of private power and instituting institutional reforms to enable such private systems of power to be regulated by norms of social justice, are precisely what social governance systems such as fair trade and other corporate responsibility schemes aim to do.

A second relevant variant of the feasibility critique is the concern that moving towards a more just global order from the status quo would in practice require morally costly forms of coercion (Barry and Valentini 2009; Buchanan 2004). (Barry and Valentini 2009) refer to the writings of John Rawls on this topic, citing his view that “only an intense process of socialization and awareness of participating in a common enterprise, such as those characterizing fellow citizens, can motivate persons’ continued support to a permanent scheme of economic redistribution.” On this view, just global institutions could only be implemented through coercion.

The above discussion of direct societal engagement in the construction of transnational social governance schemes such as fair trade poses a significant challenge in its own right to such declarations of impossibility. Such evidence suggests in contrast that pathways to the incremental construction of social relationships of reciprocity, solidarity and responsible agency are already proceeding along a relatively benign pathway – at least within some spheres of transnational social interaction. Although in rather embryonic form, the emergence of these transnational systems of ‘common enterprise’ seems to indicate the possibility of a more just global order via a ‘bottom-up’ path of transformation.

Claims about the motivational impossibility of global schemes of economic redistribution may be further challenged by closer interrogation of critics’ claims concerning some kind of strong link between motivation for compliance with justice norms, and the existence of strong associational norms and identities. The kinds of citizen engagement through which the fair trade system has been created and expanded internationally have relied importantly on discourses that explicitly invoke associational and solidaristic norms and identities.

The justificatory discourses surrounding initiatives such as fair trade challenge the established view of production and trading relations connecting northern consumers to marginalised producers as being anonymous and morally unproblematic acts of voluntary economic exchange. Instead, they ‘re-frame’ the nature and significance of such relations as representing social and political relationships in a global economy, introducing an *associative* and *relational* way of thinking about relationships of social reciprocity and obligation. For example, the Coffee Worker Alliance has invoked ideas of joint participation within cooperative schemes, making explicit reference to “citizenship rights based on participation in global wealth creation”. In this way, the class of institutional relationships linking producers, traders and consumers within global production systems is characterised as one of special moral significance which confers social entitlements and responsibilities *beyond* those owed by affluent populations to populations in developing countries as a whole.

Clearly, the construction of such transnational social identifications is a cumulative and gradual process, which is now only in its initial stages. The kinds of solidarity I am describing here are clearly of a much lesser intensity than those existing at the national level in most countries, and it need not follow from the above that such associative transnational norms are sufficient to be motivating in the relevant way, ie. sufficient to support a stable and non-coercive structure of just institutions. Nevertheless, those making strong claims of infeasibility based on assumptions about the role of solidaristic identifications in underpinning moral motivation clearly need to engage much more seriously than they have to date with transnational social practices of these kinds. At a minimum, such critical claims need to be supported by more elaborate theoretical accounts of relevant thresholds of solidaristic sentiment, and the presentation of robust empirical evidence regarding social identities and motivations at national versus transnational levels.

A third feasibility-based critique of arguments asserting the existence of global justice obligations questions *on functional grounds* the possibility of creating effective institutions at the global level with the capacity to uphold principles of justice (Mecklin-Garcia 2008). Such critiques rest centrally on claims about the distinctive enforcement and coordinating capabilities of nation states.

The distinct qualities of *coerciveness* of state institutions have received particularly widespread attention. Nagel for example asserts that the task of coordinating social interactions involving large numbers of people requires coercive capabilities of a particular kind: such coordination, he claims, “*cannot be achieved without law backed up by a monopoly of force.*” Few would dispute the suggestion that the monopoly of force possessed by states has some distinctive capacities in enabling ordered social coordination. However, the assumption that such capacities are either a sufficient or a necessary condition for securing compliance with regulatory norms is in fact highly controversial among empirical scholars. Literatures on private governance, as well as socio-legal research focused on interactions between legal and non-legal norms and incentives in bringing about social compliance, tell a much more complex story than that assumed by Nagel (Grabosky 1995; Snider 2009). Such bodies of research tend to suggest that while the capacity to legitimately deploy physical coercion is often very important as part of a wider regulatory strategy, it can also be a blunt and ineffective tool, the use of which is not always necessary or even desirable as a basis for securing compliance with regulatory norms.

Another set of claims concerning the distinctive functional qualities of state institutional agency focuses on the centralised or constitutionalised structure of an ideal-typical nation state. This idea is invoked in varying and often indirect ways with reference to the comprehensive, overarching and centralised features of state institutions. (Ronzoni 2009) for example refers to “*full-blown socioeconomic practices with clearly identifiable systems of rules*”. (Nagel 2005) talks of: ‘a *unified* sovereign power’ and a ‘*unified* nation state’. Nagel also refers to the importance of “*centralized authority to determine the rules and a centralized monopoly of the power of enforcement.*”

Certainly, not all the institutional strategies that states use to promote and protect principles of justice require centralized institutional structures. National governments protect and promote social equality via a combination of regulatory and programmatic tools, both of which can play an important role in promoting equality of access to core social

entitlements.¹¹ To some extent these functions can be performed in non-centralised ways by non-state institutions, as in the case of private governance schemes described above.

Nevertheless, there is another important role that states play in promoting principles of justice which it is much more difficult to replicate via decentred institutional structures. The multifunctional institutional character of a constitutionalised or centralised state enables state institutions to monitor and regulate interactions between the whole constellation of semi-autonomous spheres of social association and power. This potentially enables state agents to minimise the extent to which any given type of social interaction generates ‘spillovers’ that undermine equality of status between citizens within the society as a whole (Walzer 1984, 1985), and where necessary to make ‘side-payments’ between spheres via a clearly monitorable and effectively coordinated institutional mechanism (Cerny unpublished paper). In other words, centralised institutional capacities of this kind enable the important function of resisting and mitigating dynamics of *cumulative disadvantage*.

Without these centralised capacities of principled coordination, private governance schemes seem to lack, by their very nature, a functional capacity of great importance for enabling the defence of global justice norms. In this sense at the very least, there appears to be a plausible empirical argument to suggest that states (or state-like institutional structures) have a significant functional advantage, to say the least, in consistently protecting justice norms across a designated population. This is especially true in relation to egalitarian norms of justice for which the ability to balance spillovers across the relevant population is of particular importance.

Nevertheless, if we take seriously this objection to the existence of justice obligations under empirical conditions described above (in which ordered systems of social cooperation with pervasive impacts on autonomy are configured within multi-level transnational patterns), claims that social justice obligations hold at the national level would also be seriously undermined – a very uncomfortable conclusion for ‘egalitarian critics of global egalitarianism’ (Barry and Valentini 2009).

The empirical evidence presented above in relation to transnational production systems demonstrates that the system of sovereign effective power that Nagel takes to play such a central role in the link between sovereignty and justice *is already* unravelling in important ways, undermining the capacity of state institutions to coordinate social activity on the basis of consistently enforced social norms. In this sense, the ideal-type image described above of the bounded, centralized state, capable of subordinating other forms of social power to the goal of protecting social justice – is rarely given concrete institutional embodiment in actually existing states.

It is easy to point to evidence of specific failures of government regulative capacity in relation to global justice norms. Certainly, there are many of these in the regulation of global production systems. To show that the functional failings of state institutional capacity are relevantly similar to weaknesses of decentred, non-state institutions, it is necessary to go

¹¹ For example, national governments are paradigmatically able to draw on privileged public powers in the form of a capacity to engage in authoritative processes of legal rule-making, as well as associated processes of monitoring, adjudication and enforcement, as a basis for undertaking regulatory governance functions. The state is also assigned extensive capabilities to mobilise and strategically deploy social resources via powers of taxation and control over elaborate infrastructures of public administration. These play an important role in underpinning programmatic governance functions.

further than this. We must show that actually existing nation states, as an institutional category, are structurally ill-equipped to perform the functions of enforcement and coordination required for protecting social justice, in the same way that non-centralised or constitutionalised institutional structures are so ill-equipped.

Critically, the structural capacity of nation states to perform the distinctive coordination and enforcement functions referred to above rests on their capacity to maintain the ‘separateness’ of national communities, with each nation state independently seeking both to protect and promote core needs and conditions for flourishing among their populations. In more concrete terms, this in turn depends upon a central empirical assumption about the bounded nature of *control* over the protection and promotion of core entitlements. As (Ronzoni 2009) puts it: “for the practice of social justice administered by states to be preserved, states need to have enough power to be able to secure internal socioeconomic justice. That is, they need to have both effective control over internal socioeconomic dynamics and reasonable freedom from external interference.”

In the case of global production systems, the evidence seems clearly to suggest that the supply chain systems of corporate power described above structurally undermine the effective control of many nation states over internal socioeconomic dynamics of kinds relevant to the realisation of social justice. The way in which such structural capacity constraints are manifested differs between industries.

In the *garment industry*, the constraints on the power of the government to shape outcomes for workers can be shown to result very directly from the supply chain power of transnationally mobile investors. According to the principles of the state-centred governance system, the direct power exerted by northern brands and retailers over southern workers should be regulated by each state within which affected workers are located. In fact, the high degree of territorial mobility of these buyer-driven production chains undermines the effectiveness of such state-based regulatory structures. As documented in more detail elsewhere (Macdonald 2007b), investors place pressure on host governments not only in relation to the overall legislative framework of the labour law, but also in the context of specific labour disputes.

Moreover, constraints on many developing country governments’ capacity to effectively regulate internal socio-economic dynamics relevant to social justice often result from resource constraints associated with the historical and structural position in the world economy of many producing countries. In many agricultural industries, such as coffee, further constraints result from the broader structure of liberalised global markets; the regulatory capacity of many governments has been significantly constrained in practice by the demands of competitiveness in the context of global markets, despite the absence of overt pressure from international investors such as that documented in the garment industry.

Significant forms of external interference can also undermine the capacity of national governments to protect norms of social justice within the scope of their own national jurisdictions. Of particular importance to social relationships within global production systems are power dynamics in the international donor system; extra-territorial power of this kind has been of particular importance in the coffee industry. Particularly in producing countries with high dependence on foreign aid, such as Nicaragua, the range of policy tools via which governments can shape rural development processes are often significantly constrained by external pressure to comply with orthodox policy prescriptions involving

broad based liberalisation policies. In many countries, this has led to a dramatic scaling down of state-provided rural credit, curtailment of technical assistance services and liberalisation of both input prices and foreign and domestic output markets. While much analysis tends to focus on problems of power asymmetries within *multilateral* donor agencies, both the garment and coffee industries have seen a central role for bilateral agencies such as USAID, which have importantly contributed to promoting market liberalisation in these sectors, and pushing export oriented regimes in which the influence of corporate and market actors has been systematically expanded.

In cases such as these, the state's capacity to back its coercive enforcement efforts with the use of physical force is often of little practical importance because of strong external pressures not to deploy those coercive instruments at its disposal. These pressures result in turn from the state's structural positioning within wider transnational systems of social interaction and interdependence, and thus the state's limited capacity to protect and promote core needs and conditions for flourishing among their populations independently of choices made by states and populations elsewhere. This structural constraint, together with more generic resource, motivational and informational constraints on the state's regulative capacity, means that in practice, many actually existing states now lack the distinctive regulatory powers asserted by statist.

As a result, many states appear not to be capable of protecting the requirements of justice without support from transnational governance systems. Even when weakened state governance is put together with private transnational governance, as in the current situation, the multi-level institutional arrangements that result are far from being able to deliver on the requirements of *either* national *or* global justice. As long as deeply integrated systems of global production continue to characterise how societies around the world organise their economic relationships, the problem of creating capacities to protect national social justice, and that of creating capacities to protect transnational or global justice appear inextricably linked, as (Ronzoni 2009) has suggested.

Unravelling statism: the shared fate of national and global justice?

Practice dependent statist have staked their empirical claims on the distinctiveness of salient features of social relationships existing at the level of nation states. This chapter has illustrated that many of the most widespread arguments to support statist claims about the boundaries of social justice obligations rest on very shaky empirical ground. In particular, empirical evidence regarding criteria of stable social cooperation and pervasive social impacts on autonomy suggest that such conditions are clearly met beyond the boundaries of nation states.

Importantly, however, empirical evidence presented in this chapter also challenges claims by some globalists that patterns of stable social cooperation and pervasive impacts on individual autonomy apply to 'the world as a whole'. Although relevant kinds of social relationships are now 'stretched' well beyond the boundaries of nation states, they certainly do not extend evenly or comprehensively over a 'global' scale. Instead, a picture emerges of uneven, multi-level configurations of morally relevant institutional relationships.

Empirical interrogation of 'feasibility' arguments about the distinctiveness of state capacity also reveals a rather complex picture in which the special functional qualities of ideal-type state institutions are being structurally eroded. Arguments about the distinctiveness of state

institutions have often been based on idealized notions of state agency. Although these idealized characterizations of state agency have always been an approximation of actually existing states, the plausibility of such approximations has been significantly weakened by contemporary patterns of global economic interdependence, which have undermined the capacity of states to achieve centralized forms of principled coordination, able to consistently enforce social justice norms on the basis of equality.

If feasibility arguments are taken seriously, the evidence therefore paints a bleak picture for the prospects of *both* global *and* statist approaches to social justice. According to Nagel, it is an institutional system's *capacity to be just* that determines whether we can meaningfully judge it to be just or unjust (on the assumption that ought implies can). If the requirements for this evaluation are defined in too demanding a way, then we would have to conclude that it is not meaningful to judge *either* global *or* state institutions as either just or unjust. If we took this view seriously in present conditions, the whole project of social justice – within as well as between national societies – would be in serious trouble.

Many defenders of social justice would wish to argue, on the contrary, that in the case of national societies our capacities are at least sufficient that we can work to make them systematically less unjust, and that to this extent the demands arising from principles of justice are still meaningful. In this case, such relaxation of the feasibility critique must also be extended to the imperfect institutional capacities we currently possess as means of promoting principles of justice at the global level. At present, it seems that institutional capacities do exist beyond the nation state that enable us at least to begin progressively tackling injustices, even though such institutions fall well short of what would be required to transport us directly to an egalitarian utopia. But perhaps that's all institutional agents of social justice can ever realistically aspire to do.

The emergence of a multi-level social constellation beyond the nation state presents serious challenges to the project of social justice. This chapter has tried to suggest that these challenges are not conducive to straightforward point scoring by either statist or globalists. Rather, the institutional 'unraveling' of bounded and centralized states is giving rise to the inextricable entanglement of challenges of social and global justice. If the overarching project of social justice is to be salvaged within these prevailing social conditions, the normative and institutional challenges posed by the emergence of highly uneven, multi-level structures of social power and cooperation must be more seriously confronted by those committed to social justice norms of all kinds.

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