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## REVIEW ESSAY

# Global justice: a cosmopolitan account

Gillian Brock, *Global justice: a cosmopolitan account* (Oxford: Oxford University Press, 2009), ISBN 978-0-19-923093-8 (Hbk), 978-0-19-923094-5 (Pbk), US\$110, 366 pages with index and bibliography (also available as electronic download @ US\$22).

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### Abstract

This is a review of Gillian Brock's new book, *Global justice: a cosmopolitan account* (Oxford: Oxford University Press, 2009) which sets out the central theses of the book and then offers a critical appraisal of its central arguments. My specific concern is that Brock gives an insufficiently robust account of human rights with which to define the nature of global justice and thereby leaves cosmopolitanism too vulnerable to the normative pull of local and traditional moral conceptions that fall short of the universalism that cosmopolitans should be able to embrace.

**Keywords:** *cosmopolitanism; human rights; global justice; Rawls; humanitarian intervention; global governance; liberal nationalism; democracy; equality; immigration*

## INTRODUCTION

There is an increasing literature today on cosmopolitanism and global justice in the disciplines of philosophy and international relations. *Global justice: a cosmopolitan account* consolidates and extends Gillian Brock's important contributions to this literature. While some sections are based on previously published essays, this book represents a reworking, application, and deepening of her ideas. In this review essay I offer an overview of the content of the book followed by brief critical appraisal of its central arguments. My specific concern is that Brock gives an insufficiently robust account of human rights with which to define the nature of global justice and thereby

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leaves cosmopolitanism too vulnerable to the normative pull of local and traditional moral conceptions that fall short of the universalism that cosmopolitans should be able to embrace.

## SUMMARY OF THE BOOK

The introduction presents the core thesis of the book: that the cosmopolitan vision, which sees the moral status of each individual globally as equal, can lead to a viable conception of, and program for, global justice. Brock draws several distinctions within cosmopolitanism. One is derived from Samuel Scheffler and distinguishes ‘extreme’ from ‘moderate’ cosmopolitanism. An extreme cosmopolitan thinks there is a single universally valid theory which can justify the cosmopolitan outlook, while a moderate cosmopolitan thinks that different cultural traditions can ground cosmopolitan policies upon their own moral premises. A second distinction is that between ‘weak’ and ‘strong’ cosmopolitanism where the former pursues a minimal standard of global justice while the latter seeks stronger forms of global egalitarianism. It will transpire that Brock is both a moderate and a weak cosmopolitan in these senses.

Chapter two offers a literature review centered on John Rawls’s *The Law of Peoples*.<sup>1</sup> Brock offers a brief overview of that book and rehearses the considerable debate which it has generated. She rightly points out that those familiar with debates around Rawls could skip this chapter. Yet it does serve to set up the problems that she goes on to deal with.

The thesis of the next chapter is that cosmopolitans should not support a globalized version of Rawls’s difference principle as derived from his *A Theory of Justice*, but should rather support a ‘minimum standard principle’ in which justice consists in the provision of social goods sufficient to allow even the poorest to live a life of simple human dignity by having their basic needs met. Brock imagines a ‘normative thought experiment’ not unlike Rawls’s original position in which delegates are randomly selected to attend a global conference ‘to flesh out what we can reasonably expect of one another in a way that avoids inappropriate partiality’ (48). She argues that it is a minimum standard principle that would be agreed to in such a scenario. She supports this with empirical research which shows that people in such situations do actually prefer the principle that, ‘The most just distribution of income is that which maximizes the average income only after a certain specified minimum income is guaranteed to everyone’ (55). The problem with the difference principle and that of equality of opportunity is that it is not easy to define the social goods in respect of which fair distributions or equality should obtain without appealing to culturally specific conceptions of such social goods. The issue of the goods which should be distributed justly cannot be overcome in a world marked by moral pluralism. Accordingly, it is better to focus on what is needed to live a decent life than on the ‘maximin’ principle or on equality. Without explaining exactly how, Brock suggests that a needs approach, like Martha Nussbaum’s capabilities approach, can undergird the justification of basic human rights. Indeed, she argues

that it is superior to, and more widely applicable than, a discourse on rights because the rights discourse is convincing only in the more liberal of the world's cultures. Moreover, the focus on needs helps us to imagine a realistic utopia. Rather than saying that a world order is just if it honors everyone's rights, Brock argues that a global distribution is just if it meets everyone's basic needs, where such needs are the conditions and provisions that are necessary for meaningful human agency.

Chapter four discusses global governance. Brock distinguishes this from any form of global government which would extinguish national sovereignties. Rather, the issue is one of balancing the rights of sovereignty—which are already declining as a result of globalization—with the need for global cooperation in pursuit of global goals. The unfettered pursuit of the national interest on the part of states is inimical to global justice. But, says Brock following Thomas Pogge, if global governance is an instrument to secure justice, then it is currently a very poor one. In order to improve global governance, it should be made more responsive. One way that has been suggested for doing that is to make it more democratic. Brock reports on debates between David Held and Will Kymlicka on what social conditions are necessary to democratic participation. Brock doubts whether a shared collective identity is necessary for authentic democratic deliberation. Awareness of common problems, vulnerabilities and interdependence, determination to solve common problems, and minimal shared values may be sufficient.

For her part, Brock proposes a model of 'responsive democracy' (104) which is effective in attending to people's interests and accountable to the people affected. On this model agency could be given to suitable experts or delegates who are responsive to their constituencies. The International Criminal Court is offered as an example. She argues that we pursue global democracy not to enhance political agency but to meet people's needs and interests. The latter can be achieved by making institutions more responsive and by giving experts more of a say. Moreover, while future generations are not political agents they do have interests. Democracy should not be held hostage to current public opinion. It is accountability that is most important. Brock concludes that global governance must be effective and accountable, and responsive forms of democracy can fulfill these desiderata even if they are less than fully participatory.

Chapter five begins a series of chapters that make concrete proposals for making the world more just. It discusses Pogge's proposals for a global resources dividend and also his criticisms of the borrowing and selling privileges enjoyed by despotic governments, and goes on to propose a series of international taxes, including the Tobin Tax, that would discourage tax havens and dishonest accounting practices such as 'transfer pricing' so as to promote economic development in poorer countries. These proposals would be feasible, according to Brock, even without universal agreement or global implementation.

The next chapter discusses what steps need to be taken in order to protect the 'basic liberties' of the world's people. The focus is upon freedom of the press and on securing criminal justice. The press can be hampered in many ways but there are currently effective NGOs which seek to protect journalists and encourage press

freedom. For its part, the International Criminal Court is playing an important role in countering the ability of a culture of impunity to protect criminals in many countries—whether corrupt government officials, warlords or drug barons. Brock argues for the relevant liberties by once again using her normative thought experiment. In such a context, ‘reasonable people will care at least a little about enjoying some freedoms’ (152) and ‘delegates would, therefore, endorse freedom of conscience, speech, dissent, and exit’ (153).

The next chapter focuses almost exclusively on military forms of humanitarian intervention, and it is therefore not surprising that it endorses the use of just war principles in order to place limits on them. The central theoretical argument for justifying humanitarian intervention is drawn, once again, from Brock’s normative thought experiment. She argues that reasonable delegates to an original convention would endorse principles that would allow for humanitarian intervention because they would welcome interventions to protect their lives and basic needs if they were in the situation of the victims of oppression. Brock also cites the International Commission on Intervention and State Sovereignty (ICISS) report which extends the concept of sovereignty so that it includes responsibility for the internal protection of human rights. Not only is sovereignty the right not to be interfered with, but it is also the responsibility to protect the rights of citizens internally. Accordingly, a state that fails to protect its citizens forfeits its right to non-intervention because it forfeits its sovereignty.

That her hypothetical normative thought experiments might not be as unequivocal as one might hope is admitted by Brock in her chapter on immigration. She here concedes that individualist cosmopolitans in such a scenario may choose a policy of open borders from behind a veil of ignorance but that those of a more communitarian bent might endorse a more restrictive policy so as to preserve the cultural homogeneity of their societies. Rather than explore these issues more fully, however, Brock takes a consequentialist view and asks who benefits from migratory movements. She highlights the costs to developing countries when their trained people leave for more lucrative jobs in developed countries—especially in the health professions. She discusses solutions that include compensation from the developed countries to cover the costs of training such people and of restoring services that are compromised by their departure. Brock also discusses the benefits and problems that flow from the remittances that migrants send home to developing countries and which contribute substantially to those economies. The virtue of this chapter is that it shows that migration is not just a matter of justice for the individuals who migrate. It is also a matter of justice for the societies they leave behind and for future generations in those societies. Brock does not discuss problems of multiculturalism arising from migration or problems relating to refugees whose reasons for migration are not economic.

Chapter nine explores the possibilities for improving the lot of the poor by reforming international trade. Deriving her thought from a multitude of technical studies, she doubts that a simple liberalization of trade would always do so and argues that ‘special and differential treatment’ would often be necessary. Fair

international trade arrangements should allow for specific needs in order to attain the goals of global justice. Similarly, there should be reform of working conditions and wages throughout the world, and efforts to link such improvements to the conditions of trade should be encouraged. Although philosophers reading the book would not be able to assess the validity of these proposals on the basis of their expertise or on the basis of the amount of information provided in this chapter, it is valuable for them to be reminded of the need to link normative proposals to concrete institutional and programmatic reforms. There is a greater need for synergies between advocacy, philosophy, political science, and economics in order to develop workable solutions, and if Brock has extended her reach beyond her own discipline in this and preceding chapters, she should be applauded for doing so.

Chapter 10 returns the book to a more philosophical level of discussion. It critiques the ‘liberal nationalist’ position of such writers as Yael Tamir and David Miller which argue that our duties toward our co-nationals are stronger and more immediate than our duties to foreigners. Brock points out that both authors are inconsistent because they allow that universal and impartial considerations provide a normative backdrop and constraint on the degree to which we may favor members of our own groups. For her part, Brock argues that it is not the case that we are permitted to attend to international obligations only after we have secured national interests. ‘Rather, what we may permissibly do for co-nationals must operate within the bounds of respecting our international duties’ (262–3). This is especially true in relation to securing global justice. According to Brock, nations should secure global justice before they attend to the welfare of their own citizens. She goes on to use her normative thought experiment to suggest that delegates in an original position would agree to seeing to the needs of co-nationals only after the basic needs and liberties of all globally were secured and fair terms of cooperation across borders were established.

In a dense and complex section of the chapter, Brock goes on to refute some common objections to ‘impartialism.’ Do cosmopolitan duties devalue friends and family? Should we really save the philanthropist rather than our mother from the burning building in the classic example? Are we required to be ‘neutral’ in our actions? Brock admits that constitutive relationships are valuable and associative obligations binding but she appeals to a distinction Brian Barry makes between first and second order impartiality (267). First order impartiality requires not putting your own interests or those of your family or group members first, while second order impartiality requires adherence to just institutions. Critics of impartiality attack first order impartialism, but defenders defend second order impartialism. Brock argues that in an original position no one could object to the preference parents show to their children, but they would object to institutional arrangements that are partial to members of certain casts, ethnicities, or other identity-forming groups. Moreover, they would not endorse national or cultural allegiance as a basis for partiality because this would privilege specific conceptions of the good life. The specific conception of the good life that would be being assumed here is the communitarian/nationalist one promoted by Kymlicka, Tamir, and Miller. Brock’s point is that we should not seek

to adjudicate from a nationalist perspective between the claims of national partiality and cosmopolitan impartiality because that would be to beg the question. We must suspend nationalism by adopting her normative thought experiment. To illustrate this point, Brock says that we cannot ask whether it is fair to spend the national resources primarily on internal welfare before asking whether the national resources have been fairly obtained or justly retained. 'Nations should only distribute resources to their own members if those resources are defensibly to be used by the nation as it pleases, but we can only decide that matter if we have first determined what global justice requires of all people and nations, and what constitutes fair ownership of resources' (269). It is only by suspending the nationalist perspective that this broader question can be broached and the claims of global justice fairly considered.

Chapter 11 begins by refuting a number of further arguments for favoring co-nationals, including those that use the 'expanding circles' model to suggest that our obligations become less stringent as our relations to other people become more tenuous or more distant. It then returns to the argument that we have the responsibility to see that global justice criteria are met before we are morally permitted to favor co-nationals. Brock makes this point by revisiting her earlier material about the effects of migration on the provision of health care in third-world nations, along with several other cases, such as the adequate collection of taxes internationally. We can look after the needs of co-nationals, she says, provided all the necessary safeguards and provisions are in place to ensure justice for non-nationals.

Chapter 12 is a rather dense and cryptic chapter that raises a number of theoretical issues. The main thrust of it seems to be to ask about the content of global justice: in respect of what do cosmopolitans insist on equality? Brock had already argued that equality of wealth distribution or of opportunities for social position is not apposite, and she is also opposed to Rawls's difference principle. Her position is that everyone should have equal access to those conditions and resources that are required for living a minimally decent or dignified human life. This chapter adds more. Referring to the work of Elizabeth Anderson, Brock argues that recognition and the kind of status which allows one to participate in democratic decision making are the social goods which should be available equally to all. Egalitarians should secure conditions, norms, and institutions that would accord what Anderson calls 'democratic equality' which would ensure freedom from oppression and domination to all. Brock says that this ties in with her notion of responsive democracy. She argues that the community in which this ideal of equality should be realized is that of the whole world rather than specific states or cultural communities because the whole world is now a globalized economic system. The distribution of wealth or social goods is not what is of central importance to cosmopolitans, but rather the equal according of the kind of social respect and recognition that becomes concrete in the ability of all individuals to participate in democratic processes. The distribution of social goods and the meeting of basic needs are merely instrumental in relation to this fundamental value. An equitable distribution of social goods is a means of ensuring equality of respect. It is not the ownership of, or access to, social goods and opportunities that is of



fundamental value to cosmopolitans but the social recognition and democratic participation that these enable.

The last chapter addresses the ‘feasibility skeptics’ who think that meaningful change for the better is not possible. Brock reminds her readers of the many suggestions that she has made or reported on in the preceding chapters which show that change is possible.

## **CRITIQUE**

The book covers a wide range of important topics which range from theoretical issues to practical applications of cosmopolitan principles. However, I find the sequence of chapters a little unhelpful. That the more practical chapters occur in the middle of the book results in the needs to repeat some materials at the end when the feasibility of those proposals is discussed, while the central question of how national obligations stand to cosmopolitan duties should have been resolved earlier to as to prepare for the more concrete proposals that Brock makes. Moreover, these proposals extend the scope of the book beyond the remit of philosophy. To discuss these matters with the necessary rigor would require a degree of knowledge of economics and related social sciences that philosophers as such do not have. While I admire Brock for making such proposals, it would require social scientists and social activists operating at a number of fronts and using a wide range of expertise to decide which proposals are best and how they might be implemented. The general problem here is that of making utopian thinking more realistic and feasible and this is not a problem that philosophy, as such, is equipped to deal with.

What philosophy is equipped to deal with is the justification of the principles of justice which should provide the basis for such realistic utopian thinking and for responsible action to secure global justice. While the book embraces this task, I find that it falls somewhat short on its promise. There are a number of ways in which cosmopolitans can seek to justify and operationalize the principle of the equal moral status of every individual globally that is central to their outlook and to articulate what global justice might require in the light of this principle. The first of these is to apply Rawls’s difference principle globally in the way espoused by Charles Beitz and Thomas Pogge.<sup>2</sup> Brock rejects this approach although she uses a scenario very similar to Rawls’s original position, applied globally, to reach her own conclusions. A second way is to argue that basic human rights apply to everyone globally and that the obligation to honor those rights is incumbent on everyone globally as well—although those obligations can be fulfilled by various institutions including both national governments and transnational organizations. Brock flirts with this second approach but does not commit herself fully to it because of her preference for the discourse of needs.

Let me first say why I am concerned about Brock’s reliance on her ‘normative thought experiment.’ Although I have compared it to Rawls’s original position, it is important to see that Rawls does not apply his scenario globally. One reason for this



is that he sees a domestic society as a more or less self-enclosed system of cooperation that grounds reciprocal duties of justice which do not cross the borders of that society. But a more profound reason is that he understands his scenario as an articulation of liberal assumptions about how a reasonable participant in political institutions would think in the context of an idealized decision procedure. By suspending all knowledge of how the specific interests of participants might be realized in the society that those participants are designing, they cannot but act in an impartial manner and pursue goals which any other participant could endorse. The original position constitutes them as free and equal moral persons. In this context they constitute idealized liberal political subjects who cannot but agree on institutional arrangements that are fair. In this way, Rawls sees himself as explicating the notion of an ideal liberal political participant—a notion which he assumes his readers share—and as spelling out the principles which such a participant would be rationally committed to endorsing. It is precisely because he recognizes that his model is liberal to its very core in this way that he thinks it cannot be applied globally to societies which are not liberal. It is applicable only to well-ordered societies in which the political capacities of impartiality and a sense of justice are developed so as to constitute political participants as ideal liberal subjects.

But in Brock's use of an analogous scenario she asks us to speculate as to what principles and practices would be endorsed by randomly chosen and reasonable delegates who could come from any cultural or political background. The veil of ignorance in this context would lead delegates to think in impartial terms because they would have to consider the impact of the decision upon themselves if they were to end up in the least favored position. Accordingly, any arrangement that would be so chosen would be considered by them to be fair and just. In this version, the experiment is being used to establish what global justice demands or to test arrangements as to whether they could be accepted as just by anyone at all. And then it transpires that the arrangements endorsed in such a scenario take on a liberal, individualist, and democratic hue. Rather than assuming liberalism as a background for the original position, as Rawls does, Brock seems to use her normative thought experiment to establish it.

The problem with this variation on Rawls's idea is that it cannot be assumed that participants are ideal liberal subjects who would endorse liberal outcomes. A randomly chosen delegate might be a cardinal of the Roman church, a Hindu renouncer, a Brahmin, an Imam, or an uneducated Afghan woman who had no conception of democracy. Would such delegates agree with arrangements that were fundamentally liberal in tenor? Insofar as he holds moral views with deep conviction, could the Brahmin seriously agree that an 'untouchable' should receive the same respect and social recognition as Brahmins, for example? Even if he imagined himself in the position of the untouchable, would he not suppose that, as an untouchable, it would be unthinkable for him to aspire to anything except the job of cleaning away human waste? If a delegate were an Afghan woman of traditional upbringing and no education, would she not think it impossible, even for herself, to participate in democratic processes that may involve disobeying her husband?

Brock fails to see that her normative thought experiment will not inevitably promote fundamentally liberal or cosmopolitan values. Delegates are asked to consider how they themselves would react if the arrangements they agreed to yielded an outcome not acceptable to the least favored and if they were themselves those least favored. There is no allowance made for the possibility that delegates might see themselves as spokespersons for their groups and may endorse conditions which, while they would not welcome them for themselves, they consider to be necessary to the living of the good life which their tradition teaches them to accept and to endorse for their constituents. So a male delegate may endorse a restriction on a woman's rights because he thinks that he would or should accept it if he were a woman. At the time of writing this review there were reports in the newspaper of a young woman in Malaysia who had been condemned by judges in a Sharia court to six lashes of the cane for drinking alcohol. She is reported to have said that if this punishment were the will of Allah and if it would provide a salutary example to other Muslims, then she would be happy to accept it. This would seem to imply that if she were presented with this scenario in Brock's normative thought experiment, she would think such a punishment was fair and appropriate. There were reports also of interviews with Afghan women living in Australia who said that they could not understand why it would be worthwhile for them to vote in the Afghan elections if they were still living in that country because, according to them, voting and politics are men's responsibilities.<sup>3</sup> In this way a traditionally minded delegate may think it fair to accept illiberal restrictions on basic liberties in Brock's normative thought experiment. Someone who genuinely believes that adulterers should be stoned would imagine themselves accepting such a stoning in institutions set up to create social and sexual order. They would regard it as unfair, even from the victim's point of view, to escape from such a punishment—a punishment that will have been made to seem natural and just by years of indoctrination into the ways of the tradition. A traditional moral conception may override the self-centered quest for autonomy which liberals imagine would motivate any reasonable person at all. This point might also apply to Brock's arguments about humanitarian intervention. Some delegates may have such strong nationalist views that they would reject intervention even if it was their own individual rights which would be protected by such a violation of sovereignty. One could well imagine contemporary Chinese nationalists thinking in this way.

The problem is that when we are asked to imagine what delegates would agree to in Brock's version of the original position, we inevitably imagine them thinking as if they were liberals such as ourselves. Because our acculturation has been broadly liberal we could not imagine ourselves agreeing to what we would see as unjust and discriminatory institutions. And so we could not imagine anyone else doing so. Although Brock does back up her rejection of Rawls's difference principle by appealing to what was actually agreed to in a series of staged psychology experiments, by creating a hypothetical scenario in which we are asked to imagine what others *would* agree to without adequate empirical evidence as to what they actually do agree to, we can only fall back upon our own intuitions and hypotheses about what *we* would agree to. But most of us are liberals in some broad sense. It therefore becomes

inevitable that the arrangements we can imagine being agreed to in the experiment are liberal arrangements. Brock's argument commits the fallacy of begging the question. The aim of the argument is to establish that liberal cosmopolitan principles, practices, and institutions would be fair. But it then relies on the intuitions of liberal cosmopolitans to distinguish outcomes that would be fair from those which would not be. In a world of moral pluralism there are people whose ways of thinking and scales of value are simply incomprehensible to those of us who are of a modernist and liberal persuasion. The fact is that we cannot imagine how such people would decide on issues in Brock's normative thought experiment, and hence we cannot know what they would agree to.

Perhaps it is to overcome this problem that delegates in the normative thought experiment or their decisions are described as having to be 'reasonable.' But this specification merely exacerbates the problem. Who is to count as reasonable from our point of view? Inevitably, we would only count as reasonable people who think broadly in the way that we do. We would not count the Brahmin or the Afghan woman as reasonable because we cannot recognize the cogency of their thinking. But this really means that to be deemed reasonable in the experiment it is necessary to think in broadly liberal terms just as we do. Once again, we have created a condition for the normative thought experiment which results in the argument begging the question. It is inevitable that reasonable people will agree to liberal principles if to count as reasonable one must already be a liberal.

What this shows is that a genuinely cosmopolitan theory of justice needs to dig deeper. It cannot just be a specification of what would count as criteria for justice in the view of people who already think in modernist, individualist, and liberal terms. It is one thing to say what makes a situation or an arrangement just (for example, that it secures a minimum standard of provision necessary for living a life of simple human dignity, or that it fulfills Rawls's maximin criteria, or that it secures equality in the distribution of some specifiable social good), but it is another to say what justice is, or what is good about justice. We can ask the classic Socratic question here: is a situation just because it would be endorsed in an original position, or would it be endorsed in an original position because it is just? The first of these options is unhelpful for reasons just explained. The second option requires us to develop an account of what makes a situation just so that it would be endorsed in an original position.

It might help to explain this in negative terms. A person who suffers an injustice suffers a harm. But what is the harm that constitutes the injustice? To help us understand this question let us compare two cases. First, suppose a person loses her home because it is washed away in a tsunami which no one could have reasonably warned her of or prevented. This is a harm because she has need of a home and she now does not have one. Second, suppose a person loses her home because a powerful developer bribed a local official to remove her from it so that he could acquire the land and build a beach-side resort. In both cases the woman suffers the harm of losing the home that she needs. In both cases her needs are not met. But in the second case she also suffers an injustice. (There might be those who think she suffers

an injustice in the first scenario, but they would require a pre-modern theory in which natural disasters are seen as violating some form of cosmic justice.) So in the second case she suffers two harms: the need for a home not being met, and the injustice. This shows that, contrary to what is implied by Brock's view, this injustice does not consist simply in the need not being met. What sense are we to make of this injustice, then? In what does this injustice consist? Would we have explained the injustice if we were to say that, in Brock's normative thought experiment, the woman would not have endorsed any principle, practice, or institution that would allow her home to be taken away from her in this way? No, this adds nothing. It is merely another way of saying that it was unjust. Perhaps it adds that we would agree, from our liberal vantage point, that it is unjust. But what it does not tell us is what the extra harm is that she has suffered. There is some hint of an answer in Brock's suggestion that injustice involves a lack of social recognition and respect, but then it is not clear how this woman has had her capacity for democratic participation compromised. According to Brock, it is because democratic participation matters that social recognition and respect are important.

I would suggest that the extra harm is that her right to her home has been violated. The tsunami did not violate her right to her home, even though it did result in her losing her home, but the developer's action did violate her right to her home. There were legal arrangements by virtue of which she was entitled to her home and the action of the developer circumvented these arrangements and resulted in her loss. Introducing the notion of a right here serves to introduce another relevant notion as well: namely, that of obligation. Whenever anyone has a right, someone else has an obligation. This might be an obligation to provide some good to which the recipient is entitled or it might be an obligation to desist from some harmful action. Many such positive and negative obligations are established by laws and contracts. In the case before us, there is an obligation on the part of everyone to honor the property rights of others and this obligation is a logical counterpart of the property right in question. Our developer has not fulfilled his obligation to honor the property right of the beach-side home owner and it is for this reason that she has suffered an injustice. What this example shows is that the harm of having her need for a home frustrated that is suffered by this woman is not just a result of bad luck—as it would have been had her home been destroyed by the tsunami—but is an example of injustice. And this is because her right to her home was violated by the developer who failed to fulfill his obligation to adhere to the law. Along with the harm she suffers in losing her home, the injustice she suffers is the violation of her right to her home.

Of course, this shifts the focus of the argument into the nature and basis of rights. If her normative thought experiment cannot do the work that Brock wants it to, then it had better be done by a robust theory of human rights. Brock offers no such theory but does go close to it when she speaks of human needs and capabilities. She needs to go that one step further in order to show that what we need for a life of basic human dignity we also have a right to. I myself have used Brock's earlier work and some ideas

from Martha Nussbaum<sup>4</sup> to develop such an argument.<sup>5</sup> The argument has the following structure:

1. Describe human nature in terms of what would give dignity and worth to a human life by fulfilling that nature through the exercise of essential human capabilities.
2. Note that this description is normative for all human beings.
3. Conclude from 1 and 2 that all people should be enabled to exercise the human capabilities given in that description.
4. Assert that people need the resources to exercise those capabilities rather than just wanting them (and need them even when they do not express a want for them).
5. Conclude from 3 and 4 that social institutions and individuals should not prevent the exercise of the listed human capabilities and should provide whatever assistance or resources that are needed for such exercise. This step derives obligations from needs without specifying who carries those obligations. It is open to different cultures and societies to meet them in differing ways.
6. Note that obligations and rights are symmetrical.
7. Conclude from 5 and 6 that all human beings have a right to the freedom and the necessary resources to exercise the capabilities central to human dignity. Insofar as there is an obligation—not yet allocated to anyone in particular—to meet the needs of people so that they can exercise the capabilities described and so live a human life of minimal dignity, so all people have a right to have those needs met.

It is clear, however, that Brock does not want to rely on a theory of rights. In Chapter six, for example, she uses a terminology of ‘basic liberties.’ Why does Brock not use the language of basic political and civil rights in this context? Why does she not use Nussbaum’s terminology of capabilities or her own preferred discourse of human and social needs? The concept of liberties seems vague and its relation to that of rights needs to be spelt out. Moreover, to speak of liberties is, once again, to import too much of the liberal outlook (although Brock does allow for the liberty to form non-liberal associations).

Perhaps the reason that Brock has chosen not to go down the path toward a robust theory of justice based on the universal value of human rights is that it would make her an ‘extreme’ cosmopolitan. In her twelfth chapter, Brock returns to the classifications of cosmopolitanism from her introduction and says, ‘I am happy to take a pluralistic line on the sources of value [of cosmopolitanism]. And on the question of whether or not multiple fundamental principles of justice might exist, I remain open-minded to the possibility there might be such, though I have not come across particularly robust arguments for these yet’ (316). This is revealing. What it shows is that Brock does not have a theory about what makes an unjust situation unjust. Using an original scenario tells us what people would choose and so gives us criteria for what situations might be classified as just or unjust, but it does not tell us why they are unjust. For this one needs a substantive theory. A theory of human

rights is such a theory, but Brock avoids this in favor of her discussion of needs and capabilities.

An extreme cosmopolitan theory of justice based on universal human rights would also help Brock in her arguments about humanitarian intervention in Chapter seven. I reported that the argument she relies on to justify such interventions is that reasonable delegates to her normative original position would agree to such interventions if they imagined their needs not being met because of tyrannical and oppressive regimes. She also mentions the ICISS principles that, first, a state which violates the rights of its citizens forfeits its sovereignty and that, second, such violations can constitute 'just cause' under the criteria for just war. These ICISS principles clearly show that the concept of rights plays a crucial role in this context. But the concept of rights is superior to Brock's appeal to needs for a further reason. Using the principles of just war as both Brock and the ICISS do runs the risk of conceiving military humanitarian interventions as acts of war. In the context of the Westphalian system of mutually aggressive states, the concept of sovereignty is logically tied to that of war in that statehood relies on the ability to defend the state's borders. Accordingly, war is primarily seen as a violation of state sovereignty. The paradigm case of a war is an invasion. Humanitarian interventions should not be thought about in this framework. It would be much better if they were thought of as police actions directed at the violators of human rights. To do this we need to use the human rights discourse rather than the vague discourse of basic needs which Brock uses. I have argued that her normative thought experiment cannot be used to establish how justice is constituted. Accordingly, if needs not being met were to be considered by delegates in the original scenario to justify interventions, this will be because of humanitarian considerations rather than considerations of justice. It will be motivated by a desire to meet the needs of victims (or by imagining what it would be like to be such a victim) rather than the determination to punish their oppressors. What the human rights discourse gives us is the ability to justify sanctions for violations. Henry Shue has offered an argument for the legitimacy of foreign intervention based on the premise that talk of human rights is empty unless we are prepared to police their observance.<sup>6</sup> Accordingly, the concept of policing is tied to that of human rights. Talk of human rights obliges us to provide for the protection of those rights and for the punishment of those who violate them. This is a matter of upholding international law. If military humanitarian interventions were described as police actions they would be more readily understood as attempts to back up the global human rights regime than as invasions on the part of one state or group of states into the territory of another even if it were for humanitarian reasons such as the meeting of needs. This way of thinking would require an extreme form of cosmopolitanism that we should not shy away from.

Brock has gone a long way towards elucidating a cosmopolitan foundation for the norms of global justice. However, in committing herself to being only a moderate cosmopolitan she has failed to provide a robust and universally applicable theory



of justice. The fact of global moral pluralism should not be allowed to deter cosmopolitans from developing such a theory.

## NOTES

1. John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999).
2. Charles Beitz, 'International Liberalism and Distributive Justice: A Survey of Recent Thought', *World Politics* 51, no. 2 (1999): 269–96. Thomas Pogge, *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989). See also, Brian Barry, 'Humanity and Justice in Global Perspective', in *Nomos XXIV: Ethics, Economics and the Law*, eds. J. Roland Pennock and John W. Chapman (New York: New York University Press, 1982), 219–52.
3. Carolyn Webb, 'Of Rights and Men: for Local Afghan Women Democracy still a Concept out of Their World'. *The Age* (August 21, 2009), 1.
4. Martha C. Nussbaum, 'Women and Cultural Universals' in her *Sex and Social Justice* (Oxford: Oxford University Press, 1999), 29–54, 41. Nussbaum has put forward a newer version of her list of capabilities in her, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Harvard University Press, 2006), 76–77.
5. Stan van Hooft, *Cosmopolitanism: A Philosophy for Global Ethics* (Chesham, UK: Acumen, 2009), 79.
6. Henry Shue, 'Conditional Sovereignty', *Res Publica* 8, no. 1 (1999): 1–7.