REFRAMING JUSTICE IN A GLOBALIZING WORLD*
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Globalization is changing the way we argue about justice. Not so long ago, in the heyday of social democracy, disputes about justice presumed what I shall call a "Keynesian-Westphalian frame". Typically played out within modern territorial states, arguments about justice were assumed to concern relations among fellow citizens, to be subject to debate within national publics, and to contemplate redress by national states. This was true for each of two major families of justice claims, claims for socioeconomic redistribution and claims for legal or cultural recognition. At a time when the Bretton Woods system of international capital controls facilitated Keynesian economic steering on the national level, claims for redistribution usually focused on economic inequities within territorial states. Appealing to national public opinion for a fair share of the national pie, claimants sought intervention by national states in national economies. Likewise, in an era still gripped by a Westphalian political imaginary, which sharply distinguished "domestic" from "international" space, claims for recognition generally concerned internal status hierarchies. Appealing to the national conscience for an end to nationally institutionalized disrespect, claimants pressed national governments to outlaw discrimination and accommodate differences among citizens. In both cases, the Keynesian-Westphalian frame was assumed. Whether the matter concerned redistribution or recognition, class differentials or status

hierarchies, it went without saying that the unit within which justice applied was the modern territorial state.[1]

To be sure, there were always exceptions. Occasionally, famines and genocides galvanized public opinion across borders. And some cosmopolitans and anti-imperialists sought to promulgate globalist views.[2] But these were exceptions that proved the rule. Relegated to the sphere of "the international", they were subsumed within a problematic that was focused primarily on matters of security, as opposed to justice. The effect was to reinforce, rather than to challenge, the Keynesian-Westphalian frame. That framing of disputes about justice generally prevailed by default from the end of the Second World War through the 1970s.

Although it went unnoticed at the time, the Keynesian-Westphalian frame gave a distinctive shape to arguments about social justice. Taking for granted the modern territorial state as the appropriate unit, and its citizens as the pertinent subjects, such arguments turned on *what* precisely those citizens owed one another. In the eyes of some, it sufficed that citizens be formally equal before the law; for others, equality of opportunity was also required; for still others, justice demanded that all citizens gain access to the resources and respect they needed to be able to participate on a par with others, as full members of the

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[1] The phrase "Keynesian-Westphalian frame" is meant to signal the national-territorial underpinnings of justice disputes in the heyday of the postwar democratic welfare state roughly 1945 through the 1970s. In this period, struggles over distribution in North America and Western Europe were premised on the assumption of state steering of national economies. And national Keynesianism, in turn, was premised on the assumption of an international state system that recognized territorial state sovereignty over domestic affairs that included responsibility for the citizenry's welfare. Analogous assumptions also governed disputes about recognition in this period. The term "Westphalian" refers to the Treaty of 1648, which established some key features of the international state system in question. However, I am concerned neither with the actual achievements of the Treaty nor with the centuries-long process by which the system it inaugurated evolved. Rather, I invoke "Westphalia" as a political imaginary that mapped the world as a system of mutually recognizing sovereign territorial states. My claim is that this imaginary undergirded the postwar framing of debates about justice in the First World. For the distinction between Westphalia as "event", as "idea/ideal", as "process of evolution", and as "normative scoresheet", see Richard Falk. "Revisiting Westphalia, Discovering Post-Westphalia." *Journal of Ethics* 6, 4 (2002): 311–352.

[2] It might be assumed that, from the perspective of the Third World, Westphalian premises would have appeared patently counterfactual. Yet it is worth recalling that the great majority of anti-colonialists sought to achieve independent Westphalian states of their own. In contrast, only a small minority consistently championed justice within a global frame – for reasons that are entirely understandable.

political community. The argument focused, in other words, on *what* should count as a just ordering of social relations within a society. Engrossed in disputing the "what" of justice, the contestants apparently felt no necessity to dispute the "who". With the Keynesian-Westphalian frame securely in place, it went without saying that the "who" was the national citizenry.

Today, however, the Keynesian-Westphalian frame is losing its aura of self-evidence. Thanks to heightened awareness of globalization, and to post-Cold War geopolitical instabilities, many observe that the social processes shaping their lives routinely overflow territorial borders. They note, for example, that decisions taken in one territorial state often impact the lives of those outside it, as do the actions of transnational corporations, international currency speculators, and large institutional investors. Many also note the growing salience of supranational and international organizations, both governmental and non-governmental, and of transnational public opinion, which flows with supreme disregard for borders through global mass media and cybertechnology. The result is a new sense of vulnerability to transnational forces. Faced with global warming, the spread of AIDS, international terrorism, and superpower unilateralism, many believe that their chances for living good lives depend at least as much on processes that trespass the borders of territorial states as on those contained within them.

Under these conditions, the Keynesian-Westphalian frame no longer goes without saying. For many, it is no longer axiomatic that the modern territorial state is the appropriate unit for thinking about issues of justice. Nor that the citizens of such states are the pertinent subjects. The effect is to destabilize the previous structure of political claims-making – and therefore to change the way we argue about social justice.

This is true for both major families of justice claims. In today's world, claims for redistribution increasingly eschew the assumption of national economies. Faced with transnationalized production, the outsourcing of jobs, and the associated pressures of the "race to the bottom", once nationally-focused labor unions look increasingly for allies abroad. Inspired by the Zapatistas, meanwhile, impoverished peasants and indigenous peoples link their struggles against despotic local and national authorities to critiques of transnational corporate predation and global neoliberalism. Finally, WTO protestors directly target the new governance structures of the global economy, which have vastly strengthened the ability of large corporations and investors to escape the regulatory and taxation powers of territorial states.

In the same way, movements struggling for recognition increasingly look beyond the territorial state. Under the umbrella slogan "women's rights are human rights", for example, feminists throughout the world are linking struggles against local patriarchal practices to campaigns to reform international law. Meanwhile, religious and ethnic minorities that face discrimination within territorial states are reconstituting themselves as diasporas and building transnational publics from which to mobilize international opinion. Finally, transnational coalitions of human-rights activists are seeking to build new cosmopolitan institutions, such as the International Criminal Court, which can punish state violations of human dignity.

In such cases, disputes about justice are exploding the Keynesian-Westphalian frame. With disputes no longer addressed exclusively to national states or debated exclusively by national publics, claimants no longer focus solely on relations among fellow citizens. Thus, the grammar of argument has altered. Whether the issue is distribution or recognition, disputes that used to focus exclusively on the question of *what* is owed as a matter of justice to community members now turn quickly into disputes about *who* should count as a member and *which* is the relevant community. Not just "the what" but also "the who" is up for grabs.

Today, in other words, arguments about justice assume a double guise. On the one hand, they concern first-order questions of substance, just as before: How much economic inequality does justice permit, how much redistribution is required, and according to which principle of distributive justice? What constitutes equal respect, which kinds of differences merit public recognition, and by which means? But above and beyond such first-order questions, arguments about justice today also concern second-order, meta-level questions: what is the proper frame within which to consider first-order questions of justice? Who are the relevant subjects entitled to a just distribution or reciprocal recognition in the given case? Thus, it is not only the substance of justice, but also the frame, that is in dispute.[3]

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[3] This situation is by no means unprecedented. Even the most cursory reflection discloses historical parallels – for example, the period leading up to the Treaty of Westphalia and the period following World War I. In these moments, too, not just the substance of justice, but also the frame, was up for grabs.

The result is a major challenge to our theories of social justice. Preoccupied largely with first-order issues of distribution and/or recognition, these theories have so far failed to develop conceptual resources for reflecting on the meta-issue of the frame. As things stand, therefore, it is by no means clear that they are capable of addressing the double character of problems of justice in a globalizing age.[4]

In this essay, I shall propose a strategy for thinking about the problem of the frame. I shall argue, first, that in order to deal satisfactorily with this problem, the theory of justice must become three-dimensional, incorporating the political dimension of *representation*, alongside the economic dimension of distribution and the cultural dimension of recognition. I shall also argue, second, that the political dimension of representation should itself be understood as encompassing three levels. The combined effect of these two arguments will be to make visible a third question, beyond those of the "what" and the "who", which I shall call the question of the "how". That question, in turn, inaugurates a paradigm shift: what the Keynesian-Westphalian frame cast as the theory of social justice must now become a theory of *post-Westphalian democratic justice*.

1. For a Three-Dimensional Theory of Justice: On the Specificity of the Political

Let me begin by explaining what I mean by justice in general and by its political dimension in particular. In my view, the most general meaning of justice is parity of participation. According to this radical-democratic interpretation of the principle of equal moral worth, justice requires social arrangements that permit all to participate as peers in social life. Overcoming injustice means dismantling institutionalized obstacles that prevent some people from participating on a par with others, as full partners in social interaction. Previously, I have analyzed two distinct kinds of obstacles to participatory parity, which correspond to

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4   I have discussed the elision of the problem of the frame in mainstream theories of justice in my first Spinoza Lecture, "Who Counts? Thematizing the Question of the Frame." See also Nancy Fraser. "Democratic Justice in a Globalizing Age: Thematizing the Problem of the Frame." In *Varieties of World-Making: Beyond Globalization,* edited by Nathalie Karagiannis and Peter Wagner (Liverpool: Liverpool University Press, 2005).

two distinct species of injustice.[5] On the one hand, people can be impeded from full participation by economic structures that deny them the resources they need in order to interact with others as peers; in that case they suffer from distributive injustice or maldistribution. On the other hand, people can also be prevented from interacting on terms of parity by institutionalized hierarchies of cultural value that deny them the requisite standing; in that case they suffer from status inequality or misrecognition.[6] In the first case, the problem is the class structure of society, which corresponds to the economic dimension of justice. In the second case, the problem is the status order, which corresponds to the cultural dimension.[7] In modern capitalist societies, the class structure and the status order do not neatly mirror each other, although they interact causally. Rather, each has some autonomy vis-à-vis the other. As a result, misrecognition cannot be reduced to a secondary effect of maldistribution, as some economistic theories of distributive justice appear to suppose. Nor, conversely, can maldistribution be reduced to an epiphenomenal expression of misrecognition, as some culturalist theories of recognition tend to assume. Thus, neither recognition theory alone nor distribution theory alone can provide an adequate understanding of justice for capitalist society. Only a two-dimensional theory, encompassing both distribution and recognition, can supply the necessary levels of social-theoretical complexity and moral-philosophical insight.[8]

That, at least, is the view of justice I have defended in the past. And this two-dimensional understanding of justice still seems right to me as far as it goes. But I now believe that it does not go far enough. Distribution and recognition could appear to constitute the sole dimensions of justice only insofar as the Keynesian-Westphalian frame was taken for granted. Once the question of the frame becomes subject to contestation, the effect is to

5   Nancy Fraser. "Social Justice in the Age of Identity Politics: Redistribution, Recognition and Participation." In Nancy Fraser and Axel Honneth. *Redistribution or Recognition? A Political-Philosophical Exchange*, trans. by Joel Golb, James Ingram, and Christiane Wilke (London: Verso, 2003.)

6   This "status model" of recognition represents an alternative to the standard "identity model". For a critique of the latter and a defense of the former, see Nancy Fraser. "Rethinking Recognition: Overcoming Displacement and Reification in Cultural Politics." *New Left Review* 3 (May/June 2000): 107–120.

7   Here I assume quasi-Weberian conceptions of class and status. See Max Weber. "Class, Status, Party." In *From Max Weber: Essays in Sociology*, edited by Hans H. Gerth and C. Wright Mills (Oxford: Oxford University Press, 1958).

8   For the full argument, see Fraser. "Social Justice in the Age of Identity Politics." Op. cit.

make visible a third dimension of justice, which was neglected in my previous work – as well as in the work of many other philosophers.[9]

The third dimension of justice is *the political*. Of course, distribution and recognition are themselves political in the sense of being contested and power-laden; and they have usually been seen as requiring adjudication by the state. But I mean political in a more specific, constitutive sense, which concerns the constitution of the state's jurisdiction and the decision rules by which it structures contestation. The political in this sense furnishes the stage on which struggles over distribution and recognition are played out. Establishing criteria of social belonging, and thus determining who counts as a member, the political dimension of justice specifies the reach of those other dimensions: it tells us who is included, and who excluded, from the circle of those entitled to a just distribution and reciprocal recognition. Establishing decision rules, likewise, the political dimension sets the procedures for staging and resolving contests in both the economic and the cultural dimensions: it tells us not only who can make claims for redistribution and recognition, but also how such claims are to be mooted and adjudicated.

Centered on issues of membership and procedure, the political dimension of justice is concerned chiefly with *representation*. On one level, which pertains to the boundary-setting

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[9]   The neglect of the political is especially glaring in the case of theorists of justice who subscribe to liberal or communitarian philosophical premises. In contrast, deliberative democrats, agonistic democrats, and republicans have sought to theorize the political. But most of these theorists have had relatively little to say about the relation between democracy and justice; and none has conceptualized the political as one of three dimensions of justice. Deliberative democratic accounts of the political include Jürgen Habermas. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge, MA: The MIT Press, 1996) and Amy Gutmann and Dennis Thompson. *Democracy and Disagreement* (Cambridge, MA: Belknap Press, 1996). Agonistic accounts of the political include William Connolly. *Identity/Difference: Negotiations of Political Paradox* (Ithaca: Cornell University Press, 1991); Bonnie Honig. *Political Theory and the Displacement of Politics* (Ithaca: Cornell University Press, 1993); Chantal Mouffe. *The Return of the Political* (London: Verso, 1993); and James Tully. *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge: Cambridge University Press, 1995). Republican accounts of the political include Quentin Skinner. "The Republican Ideal of Political Liberty." In *Machiavelli and Republicanism*, edited by Gisela Bock, Quentin Skinner, and Maurizio Viroli (Cambridge, Cambridge University Press, 1990); and Philip Pettit. "Freedom as Antipower." *Ethics* 106, 3 (1996): 576–604. In contrast to these thinkers, a handful of others have linked the political directly to justice, although not in the way I do here. See, for example, Michael Walzer. *Spheres of Justice* (New York: Basic Books, 1983); Iris Marion Young. *Justice and the Politics of Difference* (Princeton, Princeton University Press, 1990); Amartya Sen. *Development as Freedom* (New York: Anchor Books, 1999); and Seyla Benhabib. *The Rights of Others: Aliens, Residents, and Citizens* (Cambridge, MA: Cambridge University Press, 2004).

aspect of the political, representation is a matter of social belonging; what is at issue here is inclusion in, or exclusion from, the community of those entitled to make justice claims on one another. At another level, which pertains to the decision-rule aspect, representation concerns the procedures that structure public processes of contestation; what is at issue here are the terms on which those included in the political community air their claims and adjudicate their disputes.[10] On both levels, the question can arise whether the relations of representation are just. One can ask: Do the boundaries of the political community wrongly exclude some who are actually entitled to representation? Do the community's decision rules accord equal voice in public deliberations and fair representation in public decision-making to all members? Such issues of representation are specifically political. Conceptually distinct from both economic and cultural questions, they cannot be reduced to the latter, although, as we shall see, they are inextricably interwoven with them.

To say that the political is a conceptually distinct dimension of justice, not reducible to the economic or the cultural, is also to say that it can give rise to a conceptually distinct species of injustice. Given the view of justice as participatory parity, this means that there can be distinctively political obstacles to parity, not reducible to maldistribution or misrecognition, although (again) interwoven with them. Such obstacles arise from the political constitution of society, distinct from the class structure or status order. Grounded in a specifically political mode of social ordering, they can only be adequately grasped through a theory that conceptualizes representation, along with distribution and recognition, as one of three fundamental dimensions of justice.

If representation is the defining issue of the political, then the characteristic political injustice is *misrepresentation*. Misrepresentation occurs when political boundaries and/or decision rules function to wrongly deny some people the possibility of participating on a par with others in social interaction – including, but not only, in political arenas. Far from being reducible to maldistribution or misrecognition, misrepresentation can occur even in the absence of the latter injustices, although it is usually intertwined with them.

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10   Classic works on representation have dealt largely with what I am calling the decision-rule aspect, while ignoring the membership aspect. See, for example, Hannah Fenichel Pitkin. *The Concept of Representation* (Berkeley: University of California Press, 1967); and Bernard Manin. *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997). Works that do treat the membership aspect include Walzer. *Spheres of Justice*. Op. cit. and Benhabib. *The Rights of Others*. Op. cit. However, both Walzer and Benhabib arrive at conclusions that differ from the ones I draw here.

At least two different levels of misrepresentation can be distinguished. Insofar as political decision rules wrongly deny some of the included the chance to participate fully, as peers, the injustice is what I call *ordinary-political* misrepresentation. Here, where the issue is intraframe representation, we enter the familiar terrain of political science debates over the relative merits of alternative electoral systems. Do single-member-district, winner-take-all, first-past-the-post systems unjustly deny parity to numerical minorities? And if so, is proportional representation or cumulative voting the appropriate remedy?[11] Likewise, do gender-blind rules, in conjunction with gender-based maldistribution and misrecognition, function to deny parity of political participation to women? And if so, are gender quotas an appropriate remedy?[12] Such questions belong to the sphere of ordinary-political justice, which has usually been played out within the Keynesian-Westphalian frame.

Less obvious, perhaps, is a second level of misrepresentation, which concerns the boundary-setting aspect of the political. Here the injustice arises when the community's boundaries are drawn in such a way as to wrongly exclude some people from the chance to participate *at all* in its authorized contests over justice. In such cases, misrepresentation takes a deeper form, which I shall call *misframing*. The deeper character of misframing is a function of the crucial importance of framing to every question of social justice. Far from being of marginal importance, frame-setting is among the most consequential of political decisions. Constituting both members and nonmembers in a single stroke, this decision effectively excludes the latter from the universe of those entitled to consideration within the community in matters of distribution, recognition, and ordinary-political representation. The result can be a serious injustice. When questions of justice are framed in a way that wrongly excludes some from consideration, the consequence is a special kind of meta-injustice, in which one is denied the chance to press first-order justice claims in a given

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11 Lani Guinier. *The Tyranny of the Majority* (New York: The Free Press, 1994). Robert Ritchie and Steven Hill. "The Case for Proportional Representation." In *Whose Vote Counts?* Edited by Robert Ritchie and Steven Hill, 1–33 (Boston: Beacon Press, 2001).

12 Anne Phillips. *The Politics of Presence* (Oxford: Clarendon Press, 1995). Shirin M. Rai. "Political Representation, Democratic Institutions and Women's Empowerment: The Quota Debate in India." In *Rethinking Empowerment: Gender and Development in a Global/Local World*, edited by Jane L. Parpart, Shirin M. Rai, and Kathleen Staudt, 133–145 (New York: Routledge, 2002). T. Gray. "Electoral Gender Quotas: Lessons from Argentina and Chile." *Bulletin of Latin American Research* 21, 1 (2003): 52–78. Mala Htun. "Is Gender Like Ethnicity? The Political Representation of Identity Groups." *Perspectives on Politics* 2, 3 (2004): 439–458.

political community. The injustice remains, moreover, even when those excluded from one political community are included as subjects of justice in another – as long as the effect of the political division is to put some relevant aspects of justice beyond their reach. Still more serious, of course, is the case in which one is excluded from membership in any political community. Akin to the loss of what Hannah Arendt called "the right to have rights", that sort of misframing is a kind of "political death".[13] Those who suffer it may become objects of charity or benevolence. But deprived of the possibility of authoring first-order claims, they become non-persons with respect to justice.

It is the misframing form of misrepresentation that globalization has recently begun to make visible. Earlier, in the heyday of the postwar welfare state, with the Keynesian-Westphalian frame securely in place, the principal concern in thinking about justice was distribution. Later, with the rise of the new social movements and multiculturalism, the center of gravity shifted to recognition. In both cases, the modern territorial state was assumed by default. As a result, the political dimension of justice was relegated to the margins. Where it did emerge, it took the ordinary-political form of contests over the decision rules internal to the polity, whose boundaries were taken for granted. Thus, claims for gender quotas and multicultural rights sought to remove political obstacles to participatory parity for those who were already included in principle in the political community.[14] Taking for granted the Keynesian-Westphalian frame, they did not call into question the assumption that the appropriate unit of justice was the territorial state.

Today, in contrast, globalization has put the question of the frame squarely on the political agenda. Increasingly subject to contestation, the Keynesian-Westphalian frame is now considered by many to be a major vehicle of injustice, since it partitions political space in ways that block many who are poor and despised from challenging the forces that oppress them. Channeling their claims into the domestic political spaces of relatively powerless, if not wholly failed, states, this frame insulates offshore powers from critique and

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13 Hannah Arendt. *The Origins of Totalitarianism* (New York: Harcourt Brace, 1973), 269–284. "Political death" is my phrase, not Arendt's.

14 Among the best accounts of the normative force of these struggles are Will Kymlicka. *Multicultural Citizenship: A Liberal Theory of Minority Rights* (London: Oxford University Press, 1995) and Melissa Williams. *Voice, Trust, and Memory: Marginalized Groups and the Failings of Liberal Representation* (Princeton, NJ: Princeton University Press, 1998).

control.[15] Among those shielded from the reach of justice are more powerful predator states and transnational private powers, including foreign investors and creditors, international currency speculators, and transnational corporations.[16] Also protected are the governance structures of the global economy, which set exploitative terms of interaction and then exempt them from democratic control.[17] Finally, the Keynesian-Westphalian frame is self-insulating; the architecture of the interstate system protects the very partitioning of political space that it institutionalizes, effectively excluding transnational democratic decision-making on issues of justice.[18]

From this perspective, the Keynesian-Westphalian frame is a powerful instrument of injustice, which gerrymanders political space at the expense of the poor and despised. For those persons who are denied the chance to press transnational first-order claims, struggles against maldistribution and misrecognition cannot proceed, let alone succeed, unless they

[15] Thomas W. Pogge. "The Influence of the Global Order on the Prospects for Genuine Democracy in the Developing Countries." *Ratio Juris* 14, 3 (2001): 326–343, and "Economic Justice and National Borders." *Revision* 22, 2 (1999): 27–34. Rainer Forst. "Towards a Critical Theory of Transnational Justice." In *Global Justice*, edited by Thomas Pogge, 169–187 (Oxford: Blackwell Publishers, 2001); and "Justice, Morality and Power in the Global Context." In *Real World Justice*, edited by Andreas Follesdal and Thomas Pogge (Dordrecht: Springer, 2005).

[16] Richard L. Harris and Melinda J. Seid. *Critical Perspectives on Globalization and Neoliberalism in the Developing Countries* (Boston: Leiden, 2000).

[17] Robert W. Cox. "A Perspective on Globalization." In *Globalization: Critical Reflections*, edited by James H. Mittelman, 21–30 (Boulder: Rienner, 1996); and "Democracy in Hard Times: Economic Globalization and the Limits to Liberal Democracy." In *The Transformation of Democracy?* Edited by Anthony McGrew, 49–72 (Cambridge, MA: Polity Press, 1997). Stephen Gill. "New Constitutionalism, Democratisation and Global Political Economy." *Pacifica Review* 10, 1 (February 1998): 23–38. Eric Helleiner. "From Bretton Woods to Global Finance: A World Turned Upside Down." In *Political Economy and the Changing Global Order*, edited by Richard Stubbs and Geoffrey R. D. Underhill, 163–175 (New York: St. Martin's Press, 1994). Servaes Storm and J. Mohan Rao. "Market-Led Globalization and World Democracy: Can the Twain Ever Meet?" *Development and Change* 35, 5 (2004): 567–581. James K. Boyce. "Democratizing Global Economic Governance." *Development and Change* 35, 3 (2004): 593–599.

[18] John Dryzek. "Transnational Democracy." *Journal of Political Philosophy* 7, 1 (1999): 30–51. James Bohman. "International Regimes and Democratic Governance." *International Affairs* 75, 3 (1999): 499–513. David Held. "Regulating Globalization?" *International Journal of Sociology* 15, 2 (2000): 394–408; David Held. *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Cambridge: Polity Press, 1995), 99–140; "The Transformation of Political Community: Rethinking Democracy in the Context of Globalization." In *Democracy's Edges*, edited by Ian Shapiro and Cassiano Hacker-Cordón, 84–111 (Cambridge: Cambridge University Press, 1999).

are joined with struggles against misframing. It is not surprising, therefore, that some consider misframing the defining injustice of a globalizing age.

Under these conditions of heightened awareness of misframing, the political dimension of justice is hard to ignore. Insofar as globalization is politicizing the question of the frame, it is also making visible an aspect of the grammar of justice that was often neglected in the previous period. It is now apparent that no claim for justice can avoid presupposing some notion of representation, implicit or explicit, insofar as none can avoid assuming a frame. Thus, representation is always already inherent in all claims for redistribution and recognition. The political dimension is implicit in, indeed required by, the grammar of the concept of justice. Thus, no redistribution or recognition without representation.[19]

In general, then, an adequate theory of justice for our time must be three-dimensional. Encompassing not only redistribution and recognition, but also representation, it must allow us to grasp the question of the frame as a question of justice. Incorporating the economic, cultural, and political dimensions, it must enable us to identify injustices of misframing and to evaluate possible remedies. Above all, it must permit us to pose, and to

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[19] I do not mean to suggest that the political is the master dimension of justice, more fundamental than the economic and the cultural. Rather, the three dimensions stand in relations of mutual entwinement and reciprocal influence. Just as the ability to make claims for distribution and recognition depends on relations of representation, so the ability to exercise one's political voice depends on the relations of class and status. In other words, the capacity to influence public debate and authoritative decision-making depends not only on formal decision rules, but also on power relations rooted in the economic structure and the status order, a fact that is insufficiently stressed in most theories of deliberative democracy. Thus, maldistribution and misrecognition conspire to subvert the principle of equal political voice for every citizen, even in polities that claim to be democratic. But of course the converse is also true. Those who suffer from misrepresentation are vulnerable to injustices of status and class. Lacking political voice, they are unable to articulate and defend their interests with respect to distribution and recognition, which in turn exacerbates their misrepresentation. In such cases, the result is a vicious circle in which the three orders of injustice reinforce one another, denying some people the chance to participate on a par with others in social life. In general, then, the political is not the master dimension. On the contrary, although they are conceptually distinct and mutually irreducible, the three sorts of obstacles to parity of participation are usually intertwined. It follows that efforts to overcome injustice cannot, except in rare cases, address one such dimension alone. Rather, struggles against maldistribution and misrecognition cannot succeed unless they are joined with struggles against misrepresentation – and vice versa. Where one puts the emphasis, of course, is a both a tactical and strategic decision. Given the current salience of injustices of misframing, my own preference is for the slogan, "No redistribution or recognition without representation." But even so, the politics of representation appears as one among three interconnected fronts in the struggle for social justice in a globalizing world.

answer, the key political question of our age: how can we integrate struggles against mal-distribution, misrecognition, and misrepresentation within a *post-Westphalian* frame?

2. On the Politics of Framing: From State-Territoriality to Social Effectivity?

So far I have been arguing for the irreducible specificity of the political as one of three fundamental dimensions of justice. And I have identified two distinct levels of political injustice: ordinary-political misrepresentation and misframing. Now, I want to examine the politics of framing in a globalizing world. Distinguishing affirmative from transformative approaches, I shall argue that an adequate politics of representation must also address a third level: beyond contesting ordinary-political misrepresentation, on the one hand, and misframing, on the other, such a politics must also aim to democratize the process of frame-setting.

I begin by explaining what I mean by "the politics of framing". Situated on my second level, where distinctions between members and nonmembers are drawn, this politics concerns the boundary-setting aspect of the political. Focused on the issues of who counts as a subject of justice, and what is the appropriate frame, the politics of framing comprises efforts to establish and consolidate, to contest and revise, the authoritative division of political space. Included here are struggles against misframing, which aim to dismantle the obstacles that prevent disadvantaged people from confronting the forces that oppress them with claims of justice. Centered on the setting and contesting of frames, the politics of framing is concerned with the question of the "who".

The politics of framing can take two distinct forms, both of which are now being practiced in our globalizing world.[20] The first approach, which I shall call the *affirmative* politics of framing, contests the boundaries of existing frames while accepting the Westphalian grammar of frame-setting. In this politics, those who claim to suffer injustices of misframing seek to redraw the boundaries of existing territorial states or in some cases to create new ones. But they still assume that the territorial state is the appropriate unit within which to pose and resolve disputes about justice. For them, accordingly, injustices of misframing

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[20] In distinguishing "affirmative" from "transformative" approaches, I am adapting terminology I have used in the past with respect to redistribution and recognition. See Nancy Fraser. "From Redistribution to Recognition? Dilemmas of Justice in a 'Postsocialist' Age." *New Left Review* 212 (1995): 68–93; and "Social Justice in the Age of Identity Politics." Op. cit.

are not a function of the general principle according to which the Westphalian order partitions political space. They arise, rather, as a result of the faulty way that principle has been applied. Thus, those who practice the affirmative politics of framing accept that the principle of state-territoriality is the proper basis for constituting the "who" of justice. They agree, in other words, that what makes a given collection of individuals into fellow subjects of justice is their shared residence on the territory of a modern state and/or their shared membership in the political community that corresponds to such a state. Thus, far from challenging the underlying grammar of the Westphalian order, those who practice the affirmative politics of framing accept its state-territorial principle.[21]

Precisely that principle is contested, however, in a second version of the politics of framing, which I shall call the *transformative* approach. For proponents of this approach, the state-territorial principle no longer affords an adequate basis for determining the "who" of justice in every case. They concede, of course, that that principle remains relevant for many purposes; thus, supporters of transformation do not propose to eliminate state-territoriality entirely. But they contend that its grammar is out of synch with the structural causes of many injustices in a globalizing world, which are not territorial in character. Examples include the financial markets, "offshore factories", investment regimes, and governance structures of the global economy, which determine who works for a wage and who does not; the information networks of global media and cybertechnology, which determine who is included in the circuits of communicative power and who is not; and the bio-politics of climate, disease, drugs, weapons, and biotechnology, which determine who will live long and who will die young. In these matters, so fundamental to human well-being, the forces that perpetrate injustice belong not to "the space of places", but to "the space of flows".[22] Not locatable within the jurisdiction of any actual or conceivable territorial state, they cannot be made answerable to claims of justice that are framed in terms of the state-territorial principle. In their case, so the argument goes, to invoke the state-territorial principle

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[21] For the state-territorial principle, see Thomas Baldwin. "The Territorial State." In *Jurisprudence, Cambridge Essays*, 207–230, edited by H. Gross and T. R. Harrison (Oxford: Clarendon Press, 1992). For doubts about the state-territorial principle (among other principles), see Frederick Whelan. "Democratic Theory and the Boundary Problem." In *Nomos XXV: Liberal Democracy*, edited by J. R. Pennock and R. W. Chapman, 13–47 (New York and London: New York University Press, 1983).

[22] I borrow this terminology from Manuel Castells. *The Rise of the Network Society* (London: Blackwell Publishers, 1996), 440–460.

to determine the frame is itself to commit an injustice. By partitioning political space along territorial lines, this principle insulates extra- and non-territorial powers from the reach of justice. In a globalizing world, therefore, it is less likely to serve as a remedy for misframing than as means of inflicting or perpetuating it.

In general, then, the transformative politics of framing aims to change the deep grammar of frame-setting in a globalizing world. This approach seeks to supplement the state-territorial principle of the Westphalian order with one or more *post-Westphalian* principles. The aim is to overcome injustices of misframing by changing not just the boundaries of the "who" of justice, but also the mode of their constitution, hence the way in which they are drawn.[23]

What might a post-Westphalian mode of frame-setting look like? Doubtless it is too early to have a clear view. Nevertheless, the most promising candidate so far is the "all-affected principle". This principle holds that all those affected by a given social structure or institution have moral standing as subjects of justice in relation to it. In this view, what turns a collection of people into fellow subjects of justice is not geographical proximity, but their co-imbrication in a common structural or institutional framework that sets the ground rules that govern their social interaction, thereby shaping their respective life possibilities in patterns of advantage and disadvantage.

Until recently, the all-affected principle seemed to coincide in the eyes of many with the state-territorial principle. It was assumed, in keeping with the Westphalian world picture, that the common framework that determined patterns of advantage and disadvantage was precisely the constitutional order of the modern territorial state. As a result, it seemed that in applying the state-territorial principle, one simultaneously captured the normative force of the all-affected principle. In fact, this was never truly so, as the long history of colonialism and neocolonialism attests. From the perspective of the metropole, however, the conflation of state-territoriality with social effectivity appeared to have an emancipatory thrust, since it served to justify the progressive incorporation, as subjects of justice, of the

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[23]   I owe the idea of a post-territorial "mode of political differentiation" to John G. Ruggie. See his immensely suggestive essay, "Territoriality and Beyond: Problematizing Modernity in International Relations." *International Organization* 47 (1993): 139–74. Also suggestive in this regard is Raul C. Pangalangan. "Territorial Sovereignty: Command, Title, and Expanding the Claims of the Commons." In *Boundaries and Justice: Diverse Ethical Perspectives*, edited by David Miller and Sohail H. Hashmi, 164–182 (Princeton, NJ: Princeton University Press, 2001).

subordinate classes and status groups who were resident on the territory but excluded from active citizenship.

Today, however, the idea that state-territoriality can serve as a proxy for social effectivity is no longer plausible. Under current conditions, one's chances to live a good life do not depend wholly on the internal political constitution of the territorial state in which one resides. Although the latter remains undeniably relevant, its effects are mediated by other structures, both extra- and non-territorial, whose impact is at least as significant.[24] In general, globalization is driving a widening wedge between state territoriality and social effectivity. As those two principles increasingly diverge, the effect is to reveal the former as an inadequate surrogate for the latter. And so the question arises: is it possible to apply the all-affected principle directly to the framing of justice, without going through the detour of state-territoriality?[25]

This is precisely what some practitioners of transformative politics are seeking to do. Seeking leverage against offshore sources of maldistribution and misrecognition, some globalization activists are appealing directly to the all-affected principle in order to circumvent the state-territorial partitioning of political space. Contesting their exclusion by the

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[24] Thomas W. Pogge. *World and Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity Press, 2002), especially the sections on "The Causal Role of Global Institutions in the Persistence of Severe Poverty", 112–116, and "Explanatory Nationalism: The Deep Significance of National Borders", 139–144.

[25] Everything depends on finding a suitable interpretation of the all-affected principle. The key issue is how to narrow the idea of "affectedness" to the point that it becomes a viable operationalizable standard for assessing the justice of various frames. The problem is that, given the so-called butterfly effect, one can adduce evidence that just about everyone is affected by just about everything. What is needed, therefore, is a way of distinguishing those levels and kinds of effectivity that are sufficient to confer moral standing from those that are not. One proposal, suggested by Carol Gould, is to limit such standing to those whose human rights are violated by a given practice or institution. Another proposal, suggested by David Held, is to accord standing to those whose life expectancy and life chances are significantly affected. My own view is that the all-affected principle is open to a plurality of reasonable interpretations. As a result, its interpretation cannot be determined monologically, by philosophical fiat. Rather, philosophical analyses of affectedness should be understood as contributions to a broader public debate about the principle's meaning. (The same is true for empirical social-scientific accounts of who is affected by given institutions or policies.) In general, the all-affected principle must be interpreted dialogically, through the give-and-take of argument in democratic deliberation. That said, however, one thing is clear. Injustices of misframing can be avoided only if moral standing is not limited to those who are already accredited as official members of a given institution or as authorized participants in a given practice. To avoid such injustices, standing must also be accorded to those non-members and non-participants significantly affected by the institution or practice at issue. Thus, sub-Saharan Africans, who have been involuntarily disconnected from the global

Keynesian-Westphalian frame, environmentalists and indigenous peoples are claiming standing as subjects of justice in relation to the extra- and non-territorial powers that impact their lives. Insisting that effectivity trumps state-territoriality, they have joined development activists, international feminists, and others in asserting their right to make claims against the structures that harm them, even when the latter cannot be located in the space of places. Casting off the Westphalian grammar of frame-setting, these claimants are applying the all-affected principle directly to questions of justice in a globalizing world. [26]

In such cases, the transformative politics of framing proceeds simultaneously in multiple dimensions and on multiple levels.[27] On one level, the social movements that practice this politics aim to redress first-order injustices of maldistribution, misrecognition, and ordinary-political misrepresentation. On a second level, these movements seek to redress meta-level injustices of misframing by reconstituting the "who" of justice. In those cases, moreover, where the state-territorial principle serves more to indemnify than to challenge injustice, transformative social movements appeal instead to the all-affected principle. Invoking a post-Westphalian principle, they are seeking to change the very grammar of frame-setting – and thereby to reconstruct the meta-political foundations of justice for a globalizing world.

But the claims of transformative politics go further still. In addition to appealing to a post-Westphalian principle, this politics is also inaugurating a post-Westphalian *process* of

25 economy, count as subjects of justice in relation to it, even if they do not participate officially in it. For the human-rights interpretation, see Carol C. Gould. *Globalizing Democracy and Human Rights* (Cambridge: Cambridge University Press, 2004). For the life expectancy and life-chances interpretation, see David Held. *Global Covenant: The Social Democratic Alternative to the Washington Consensus* (Cambridge: Polity Press, 2004), 99 ff. For the dialogical approach, see below, as well as Fraser. "Democratic Justice in a Globalizing Age." Op. cit. and "Abnormal Justice." Op. cit. For the involuntary disconnection of sub-Saharan Africa from the official global economy, see James Ferguson. "Global Disconnect: Abjection and the Aftermath of Modernism, in Ferguson." In *Expectations of Modernity: Myths and Meanings of Urban Life on the Zambian Copperbelt* (Berkeley: University of California Press, 1999), 234–54.

26 Manuel Castells. *The Power of Identity* (London: Blackwell Publishers, 1996). John A Guidry, Michael D. Kennedy, and Mayer N. Zald. *Globalizations and Social Movements: Culture, Power and the Transnational Public Sphere*. Ann Arbor, MI: University of Michigan Press, 2000. Sanjeev Khagram, Kathryn Sikkink, and James V. Riker. *Restructuring World Politics: Transnational Social Movements, Networks, and Norms*. Minneapolis: University of Minnesota Press, 2000. Margaret E. Keck and Kathryn Sikkink. *Activists Beyond Borders: Advocacy Networks in International Politics*. Ithaca: Cornell University Press, 1998. Jeffrey St. Clair. "Seattle Diary." *New Left Review* vol. a (1999).

27 For a useful account that differs from the one presented here, see Christine Chin and James H. Mittelman. "Conceptualizing Resistance to Globalisation." *New Political Economy* 2, 1 (1997): 25–37.

frame-setting. Above and beyond their other claims, these movements are also claiming a say in the process of frame-setting. Rejecting the standard view, which deems frame-setting the prerogative of states and transnational elites, they are effectively aiming to democratize the process by which the frames of justice are drawn and revised. Asserting their right to participate in constituting the "who" of justice, they are simultaneously transforming the "how" – by which I mean the accepted procedures for determining the "who".[28] At their most reflective and ambitious, accordingly, transformative movements are demanding the creation of new democratic arenas for entertaining arguments about the frame. In some cases, moreover, they are creating such arenas themselves. In the World Social Forum, for example, some practitioners of transformative politics have fashioned a transnational public sphere where they can participate on a par with others in airing and resolving disputes about the frame.[29] In this way, they are prefiguring the possibility of new institutions of *post-Westphalian democratic justice*.[30]

The democratizing dimension of transformative politics points to a third level of political injustice, above and beyond the two previously discussed. Previously, I distinguished first-order injustices of ordinary-political misrepresentation from second-order injustices of misframing. Now, however, we can discern a third-order species of political injustice, which corresponds to the question of the "how". Exemplified by undemocratic processes of frame-setting, this injustice consists in the failure to institutionalize parity of participation on the meta-political level, in deliberations and decisions concerning the "who". Be-

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28 For further discussion of the "how", see Fraser. "Democratic Justice in a Globalizing Age." Op. cit. and "Abnormal Justice". Op. cit.

29 James Bohman. "The Globalization of the Public Sphere: Cosmopolitanism, Publicity and Cultural Pluralism." *Modern Schoolman* 75, 2 (1998): 101–117. John A Guidry, Michael D. Kennedy, and Mayer N. Zald. "Globalizations and Social Movements." Op. cit. Thomas Pomiah. "Democracy vs. Empire: Alternatives to Globalization Presented at the World Social Forum." *Antipode* 36, 1 (2004): 130–133. Maria Pia Lara. "Building Up Diasporic Global Spheres." Unpublished ms. on file with author. Nancy Fraser. "Transnationalizing the Public Sphere." In *Globalizing Critical Theory*, edited by Max Pensky (Totowa NJ: Rowman & Littlefield, 2005).

30 For the time being, efforts to democratize the process of frame-setting are confined to contestation in transnational civil society. Indispensable as this level is, it cannot succeed so long as there are no formal institutions that can translate transnational public opinion into binding, enforceable decisions. In general, then, the civil-society track of transnational democratic politics needs to be complemented by a formal-institutional track. For further discussion of this problem, see Fraser. "Democratic Justice in a Globalizing Age." Op. cit. and "Abnormal Justice." Op. cit. Also James Bohman. "International Regimes and Democratic Governance." Op. cit.

cause what is at stake here is the process by which first-order political space is constituted, I shall call this injustice *meta-political misrepresentation*. Meta-political misrepresentation arises when states and transnational elites monopolize the activity of frame-setting, denying voice to those who may be harmed in the process, and blocking creation of democratic fora where the latter's claims can be vetted and redressed. The effect is to exclude the overwhelming majority of people from participation in the meta-discourses that determine the authoritative division of political space. Lacking any institutional arenas for such participation, and submitted to an undemocratic approach to the "how", the majority is denied the chance to engage on terms of parity in decision-making about the "who".

In general, then, struggles against misframing are revealing a new kind of democratic deficit. Just as globalization has made visible injustices of misframing, so transformative struggles against neoliberal globalization are making visible the injustice of meta-political misrepresentation. Exposing the lack of institutions in which disputes about the "who" can be democratically aired and resolved, these struggles are focusing attention on the "how". By demonstrating that the absence of such institutions impedes efforts to overcome injustice, they are revealing the deep internal connections between democracy and justice. The effect is to bring to light a structural feature of the current conjuncture: struggles for justice in a globalizing world cannot succeed unless they go hand in hand with struggles for *meta-political democracy*. At this level, too, then, no redistribution or recognition without representation.

3. Paradigm Shift: Post-Westphalian Democratic Justice

I have been arguing that what distinguishes the current conjuncture is intensified contestation concerning both the "who" and the "how" of justice. Under these conditions, the theory of justice is undergoing a paradigm shift. Earlier, when the Keynesian-Westphalian frame was in place, most philosophers neglected the political dimension. Treating the territorial-state as a given, they endeavored to ascertain the requirements of justice theoretically, in a monological fashion. Thus, they did not envision any role in determining those requirements for those who would be subject to them, let alone for those who would be excluded by the national frame. Neglecting to reflect on the question of the frame, these philosophers never imagined that those whose fates would be so decisively shaped by framing decisions might be entitled to participate in making them. Disavowing any need for a

dialogical democratic moment, they were content to produce monological theories of social justice.

Today, however, monological theories of social justice are becoming increasingly implausible. As we have seen, globalization cannot help but problematize the question of the "how", as it politicizes the question of the "who". The process goes something like this: as the circle of those claiming a say in frame-setting expands, decisions about the "who" are increasingly viewed as political matters, which should be handled democratically, rather than as technical matters that can be left to experts and elites. The effect is to shift the burden of argument, requiring defenders of expert privilege to make their case. No longer able to hold themselves above the fray, they are necessarily embroiled in disputes about the "how". As a result, they must contend with demands for meta-political democratization.

An analogous shift is currently making itself felt in normative philosophy. Just as some activists are seeking to transfer elite frame-setting prerogatives to democratic publics, so some theorists of justice are proposing to rethink the classic division of labor between theorist and *demos*. No longer content to ascertain the requirements of justice in a monological fashion, these theorists are looking increasingly to dialogical approaches, which treat important aspects of justice as matters for collective decision-making, to be determined by the citizens themselves, through democratic deliberation. For them, accordingly, the grammar of the theory of justice is being transformed. What could once be called the "theory of social justice" now appears as the "theory of *democratic justice*".[31]

In its current form, however, the theory of democratic justice remains incomplete. To complete the shift from a monological to dialogical theory requires a further step, beyond those envisioned by most proponents of the dialogical turn.[32] Henceforth, democratic processes of determination must be applied not only to the "what" of justice, but also to the "who" and the "how". In that case, by adopting a democratic approach to the "how", the theory of justice assumes a guise appropriate to a globalizing world: dialogical on *every*

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[31]   The phrase comes from Ian Shapiro. *Democratic Justice* (New Haven: Yale University Press, 1999). But the idea can also be found in Jürgen Habermas. *Between Facts and Norms*, op. cit. Seyla Benhabib. *The Rights of Others*, op. cit., and Rainer Forst. *Contexts of Justice: Political Philosophy Beyond Liberalism and Communitarianism*, trans. By J. M. M. Farrell (Berkeley: University of California Press, 2002).

[32]   None of the theorists cited in the previous note has attempted to apply the "democratic justice" approach to the problem of the frame. The thinker who comes closest is Rainer Forst, since he appreciates the importance of framing. But even Forst does not envision democratic processes of frame-setting.

level, meta-political as well as ordinary-political, it becomes a theory of *post-Westphalian democratic justice*.

The view of justice as participatory parity lends itself easily to such an approach. This principle has a double quality that expresses the reflexive character of democratic justice. On the one hand, the principle of participatory parity is an outcome notion, which specifies a substantive principle of justice by which we may evaluate social arrangements: the latter are just if and only if they permit all the relevant social actors to participate as peers in social life. On the other hand, participatory parity is also a process notion, which specifies a procedural standard by which we may evaluate the democratic legitimacy of norms: the latter are legitimate if and only if they can command the assent of all concerned in fair and open processes of deliberation, in which all can participate as peers. By virtue of this double quality, the view of justice as participatory parity has an inherent reflexivity. Able to problematize both substance and procedure, it renders visible the mutual entwinement of those two aspects of social arrangements. Thus, this approach can expose both the unjust background conditions that skew putatively democratic decision-making and the undemocratic procedures that generate substantively unequal outcomes. As a result, it enables us to shift levels easily, moving back and forth as necessary between first-order and meta-level questions. Making manifest the co-implication of democracy and justice, the view of justice as participatory parity supplies just the sort of reflexivity that is needed in a globalizing world.

Let me conclude by recalling the principal features of the theory of justice that I have sketched here. An account of post-Westphalian democratic justice, this theory encompasses three fundamental dimensions, economic, cultural, and political. As a result, it renders visible, and criticizable, the mutual entwinement of maldistribution, misrecognition, and misrepresentation. In addition, this theory's account of political injustice encompasses three levels. Addressing not only ordinary-political misrepresentation, but also misframing and meta-political misrepresentation, it allows us to grasp the problem of the frame as a matter of justice. Focused not only on the "what" of justice, but also on the "who" and the "how", it enables us to evaluate the justice of alternative principles and alternative processes of frame-setting. Above all, as I noted before, the theory of post-Westphalian democratic justice encourages us to pose, and hopefully to answer, the key political question of our time: how can we integrate struggles against maldistribution, misrecognition, and misrepresentation within a post-Westphalian frame?