

RE-FRAMING JUSTICE IN A GLOBALIZING WORLD

Nancy FRASER

New School for Social Research (U.S.A.).

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 at 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

1. This text is a revised and expanded version of my second Spinoza Lecture, delivered at the University of Amsterdam, December 2, 2004. I am grateful to the faculty and administration of Philosophy Department of the University of Amsterdam, for their support of this work and their superb hospitality. Special thanks to Frans Jacobs, Karen Vingtes, Be Bernini, Ria Beentjes, and Willy van Veer for their organizational help and collegiality. Also to Yolande Jansen and Hilla Dayan for selfless and good-natured assistance in a time of great need. Stimulating conversations with Joel Anderson, Veit Bader, Paul van den Berg, Frances Gouda, Noortje Marrens, Pieter Pekelharing, Peter van der Veer, Karel van Wolferen, and Eli Zaretsky influenced my thinking greatly at key points during the preparation of the lectures. James Bohman generously provided expert bibliographical advice. I benefited from the unusually thoughtful and challenging responses of participants at the conference on “Philosophy and Social Science, Prague, May 20-24, 2004, where I presented an early version of lecture one. Although I was not able to respond to them adequately, the comments of Ed Baker, Alessandro Ferrara, Rainer Forst, and David Peritz proved especially helpful in alerting me to the complexities of the issues and some difficulties in my argument. Subsequent comments from Amy Allen, Seyla Benhabib, Bert van den Brink, Alessandro Ferrara, Ted Koditschek, David Peritz, Ann Laura Stoler, and Eli Zaretsky were invaluable in the process of revision. Thanks, finally, to Kristin Gissberg and Keith Haysom for expert research assistance.

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 in order to be able to participate on a par with others, as full members of the 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 nongovernmental, 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

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-imperialists 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.

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, who 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. 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, which is in dispute.

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.

In this lecture, 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 *postwestphalian 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 two distinct species of injustice. 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. 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. 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 economic 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.

That, at least, is the view of justice I have defended in the past.³ 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 make visible a third dimension of justice, which was neglected in my previous work—as well as in the work of many other philosophers.⁴

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

3. 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. Joel Golb, James Ingram, and Christiane Wilke (London: Verso, 2003).

4. The neglect 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 a dimension of justice. Among liberals, see, for example, Ronald Dworkin, "What is Equality? Part 2: Equality of Resources," *Philosophy and Public Affairs*, 10:4 (Fall 1981): 283-345; John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971); and *Political Liberalism* (Columbia University Press, 1993). Among communitarians, see Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (Notre Dame: University of Notre Dame Press, 1984) and Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982). Among deliberative democrats, see, for example, Seyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* (Princeton: Princeton University Press, 2002), Amy Gutmann & Dennis Thompson, *Democracy and Disagreement* (Cambridge: Belknap Press, 1996), Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge MA: The MIT Press, 1996). Among agonistic democrats, see, William Connolly *The Terms of Political Discourse* (Princeton: Princeton University Press, 1983) and *Identity/Difference: Negotiations of Political Paradox* (Ithaca: Cornell University Press, 1991) and 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). Among republicans see, Philip Pettit, "Freedom as Antipower", *Ethics* 106, 3 (1996): 576-604. Quentin Skinner, "The Republican Ideal of Political Liberty", in *Machiavelli and Republicanism*, ed. Gisela Bock, Quentin Skinner and Maurizio Viroli (Cambridge University Press, 1990). Exceptions are Amartya Sen, *Development as Freedom* (New York: Anchor Books, 1999) and Iris Marion Young, *Justice and the Politics of Difference* (Princeton University Press, 1990).

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*. At one level, which pertains to the boundary-setting 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. At both levels, the question can arise as to 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, as opposed to 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.

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?⁵ 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?⁶ 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 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 a “political death”.⁷ 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.

5. 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?* ed. Robert Ritchie and Steven Hill (Boston: Beacon Press, 2001) 1-33.

6. 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*, ed. Jane L. Parpart, Shirin M. Rai and Kathleen Staudt (New York: Routledge, 2002), 133-145. 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.

7. Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt Brace 1973), 269-284.

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.⁸ 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, as 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 control.⁹ 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. Also protected are the governance structures of the global economy, which set exploitative terms of interaction and then exempt them from democratic control.¹⁰ Finally, the Keynesian-Westphalian

8. 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).

9. 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*, ed. Thomas Pogge (Oxford: Blackwell Publishers, 2001), 189-187; and "Justice, Morality and Power in the Global Context", unpublished ms., 10 pp. Richard L. Harris and Melinda J. Seid, *Critical Perspectives on Globalization and Neoliberalism in the Developing Countries*, (Boston: Leiden, 2000). Ankie M.M. Hoogvelt, *Globalization and the Post Colonial World: The Political Economy of Development* (Baltimore: John Hopkins University Press, 2001).

10. Robert W. Cox, "A Perspective on Globalization", in *Globalization: Critical Reflections*, ed. James H. Mittelman (Lynne Rienner, 1996), 21-30; and "Democracy in Hard Times: Economic Globalization and the Limits to Liberal Democracy", in *The Transformation of Democracy?* ed. Anthony McGrew (Cambridge: Polity Press 1997), 49-72. Stephen Gill, "New Constitutionalism, Democratization and Global Political Economy", *Pacific 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*, ed. Richard Stubbs and Geoffrey R. D. Underhill (St. Martin's Press, 1994), 163-175. David Schneiderman, "Investment Rules and the Rule of Law", *Constellations* 8, 4 (2001):

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.¹¹

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 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. The point can also be put in the form of a slogan: No redistribution or recognition without representation.

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 answer, the key political question of our age: how can we integrate struggles against maldistribution, misrecognition, and misrepresentation within a *postwestphalian* frame?

521-537. Alfred C. Aman, Jr., "Globalization, Democracy and the Need for a New Administrative Law", *Indiana Journal of Global Legal Studies* 10, 1 (2003): 125-155. 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.

11. 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; *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*, ed. Ian Shapiro and Cassiano Hacker-Cordón (Cambridge: Cambridge University Press, 1999), 84-111; "Cosmopolitanism: Globalization Tamed?" *Review of International Studies* 29, 4 (2003), 465-480; and "Democratic Accountability and Political Effectiveness from a Cosmopolitan Perspective", *Government and Opposition* 39, 2 (2004): 364-391.

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 at 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.¹² 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 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 in which 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

12. 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: Redistribution, Recognition and Participation”, *op. cit.*

of the Westphalian order, those who practice the affirmative politics of framing accept its state-territorial principle.¹³

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 cyberotechnology, which determine who is included in the circuits of communicative power and who is not; and the biopolitics 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”.¹⁴ 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 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 *postwestphalian* principles. The aim is to overcome injustices of misframing

13. For the state-territorial principle, see Thomas Baldwin, “The Territorial State”, in *Jurisprudence, Cambridge Essays*, ed. H. Gross and T. R. Harrison (Oxford: Clarendon Press, 1992), 207-230. For doubts about the state-territorial principle (among other principles), see Frederick Whelan, “Democratic Theory and the Boundary Problem”, in *Nomos XXV: Liberal Democracy*, ed. J. R. Pennock and R. W. Chapman (New York and London: New York University Press, 1983), 13-47. For accounts of the paths inherent in affirmative struggles against misframing, see: Frantz Fanon, “On National Culture”, in Fanon, *The Wretched of the Earth* (New York: Grove, 1963), 165-199. Tom Nairn, “The Modern Janus,” in Nairn, *The Break-Up of Britain: Crisis and Neo-Nationalism* (London: NLB, 1977), 329-363. Partha Chatterjee, *Nationalist Thought and the Colonial World* (Minneapolis: University of Minnesota Press, 1993). For the gender dimension of such struggles, see: Anne McClintock, “Family Feuds: Gender, Nation and the Family”, *Feminist Review* 44 (1993): 61-80; Deniz Kandiyoti, “Identity and its Discontents: Women and the Nation”, in *Colonial Discourse and Post-Colonial Theory: A Reader*, ed. Patrick Williams and Laura Chrisman (New York: Columbia University Press, 1994), 376-391; and Nira Yuval-Davis, *Gender and Nation* (London: Sage Publications, 1997).

14. Manuel Castells, *The Rise of the Network Society* (London: Blackwell Publishers, 1996): 440-460.

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.¹⁵

What might a postwestphalian 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. On 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, which 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, as it served to justify the progressive incorporation, as subjects of justice, of the 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.¹⁶ 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

15. 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*, ed. David Miller and Sohail H. Hashmi (Princeton, NJ: Princeton University Press, 2001), 164-182.

16. 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. Rainer Forst, “Towards a Critical Theory of Transnational Justice”, *op. cit.*; and “Justice, Morality and Power in the Global Context”, *op. cit.*

principle directly to the framing of justice, without going through the detour of state-territoriality?

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 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.¹⁷

In such cases, the transformative politics of framing proceeds simultaneously in multiple dimensions and on multiple levels.¹⁸ 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 postwestphalian 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 postwestphalian principle, this politics is also inaugurating a postwestphalian *process* of frame-setting. Above and beyond their other claims, then, 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”. At their most reflective and ambitious, accordingly, transformative movements are demanding the creation

17. Manuel Castells, *The Power of Identity* (London: Blackwell Publishers, 1996). John A. Guidry, Michael D. Kennedy and Mayer N. Zald, “Globalizations and Social Movements”, *op. cit.* Sanjeev Khagram, Kathryn Sikkink and James V. Riker, *Restructuring World Politics: Transnational Social Movements, Networks, and Norms*, *op. cit.* Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, *op. cit.* Jeffrey St. Clair, “Seattle Diary”, *op. cit.*

18. For a useful account, which 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.

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.¹⁹ In this way, they are prefiguring the possibility of new institutions of *postwestphalian democratic justice*.

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 at the meta-political level, in deliberations and decisions concerning the “who”. Because 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 where 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.

19. 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*, ed. Max Pensky (Totowa NJ: Rowman & Littlefield, forthcoming).

3. PARADIGM SHIFT: POSTWESTPHALIAN 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, which 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*”, to cite Ian Shapiro’s apt phrase.²⁰

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 Shapiro and other proponents of the dialogical

20. Ian Shapiro, *Democratic Justice* (New Haven: Yale University Press, 1999).

turn.²¹ 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 at *every* level, meta-political as well as ordinary-political, it becomes a theory of *postwestphalian democratic justice*.²²

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 postwestphalian 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,

21. Important arguments for dialogical theorizing can also be found in Jürgen Habermas, *Between Facts and Norms*, *op. cit.* However, neither Shapiro nor Habermas has attempted to apply the “democratic justice” approach to the problem of the frame. One dialogical theorist who appreciates the importance of framing is Rainer Forst. See his, *Contexts of Justice: Political Philosophy Beyond Liberalism and Communitarianism*, trans. J. M. M. Farrell (Berkeley: University of California Press, 2002); “Towards a Critical Theory of Transnational Justice”, *op. cit.*, and “Justice, Morality and Power in the Global Context”, *op. cit.* But even Forst, who seems to me to come closest to the view proposed here, does not envision democratic processes of frame-setting.

22. For a suggestive treatment of these issues, see James Bohman, “International Regimes and Democratic Governance”, *op. cit.*

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 postwestphalian 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 postwestphalian frame?

