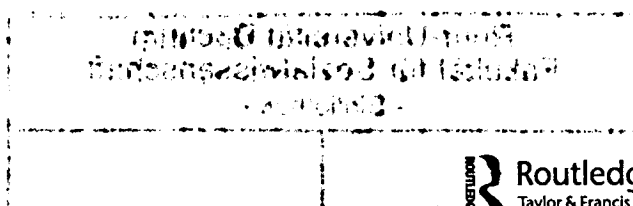

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The European Union and global political justice

Helene Sjursen

Introduction¹

Formerly a marginal concern, the subject of global ethics and justice has attracted increasing interest in recent years, and now occupies a prominent place within international studies. Nevertheless, the dialogue on how global ethics and justice may be relevant to the specific issue of the European Union's (EU) global role remains quite limited. Global ethics concerns the rights and duties that arise beyond state borders. Such issues seem to have less resonance within scholarship on the EU's external policies than within international studies in general. Still, there are several connecting points between the concerns of global ethics and those raised in scholarly research on the EU's global role. This is particularly so with regard to global *political* justice. In this chapter, I identify these connecting points, with a particular focus on how different approaches to global political justice may inform analyses of the EU's global role.

Global ethics, political justice and the EU's global role

Political theorists long regarded the question of justice as something that was mainly relevant for domestic politics. International relations scholars, especially those with realist leanings, have tended to concur on this point (Bull 1982; Hoffmann 1966; Mearsheimer 2001; Morgenthau [1948] 1993; Waltz 1979). Prominent exceptions, including world system theorists (Wallerstein 1974); dependency theorists (Galtung 1971; O'Connor 1970); and to some extent the solidarist wing of the English School (Wheeler 2000), merely confirm the main assumption of international relations scholarship, namely, that the duties of governments stop at the borders of their own state. However, against a backdrop of intensified globalization and economic integration, there has been an increase in support for the idea voiced by scholars, such as Charles Beitz (1979) and Thomas Pogge (2002), that principled reflection on ethical dilemmas and questions of justice cannot be confined to domestic political settings. In this context, the question of global *political* justice has come to the fore (Buckinx, Trejo-Mathys, and Waligore 2015; Eriksen 2016; Fraser 2005). Defining dominance as the essence of injustice, theories of political justice draw attention to the underlying structures of power within the global system, as well as the procedures through which problems might be settled, and by whom. The term 'dominance'

refers to a particular kind of unfreedom that people experience when they are in the discretionary power of others. It signifies forms of unauthorized rule – the absence of constitutional provisions – or lack of reciprocal power (Shapiro 2012, 293–294).

Dominance between states has been a permanent trait of international politics. However, with globalization, there has been a diversification and intensification of forms of dominance at play in the international arena. As Nancy Fraser (2005, 71) has suggested, there is ‘a new sense of vulnerability to transnational forces’. The fact that actions in one part of the world may directly affect the lives of people in another part raises questions of justice. What are our duties when what we do has consequences for other people? And, as dominance is the essence of injustice, how should relations between actors be organized in order that dominance might be reduced? Rather than reject the importance of distributive justice beyond the state (Beitz 1979; Pogge 2002), the literature on *political* justice further expands the research agenda, suggesting that redistribution would be insufficient. A fair distribution of resources, it is argued, would not protect people against arbitrary interference. Freedom requires that people themselves are able to participate in or contribute to decisions about the principles upon which such distribution should be organized (Forst 2015; Fraser 2005).

These core concerns in theories of political justice become more acute as political, economic, and security challenges that affect not only people’s interests, but also the fundamental conditions that should ensure their autonomy, increasingly originate in transnational and international contexts, not just national ones. Forces of global finance outpace the authority of elected governments to regulate them, and patterns of consumption, growth, and lifestyle in one part of the globe have measurable effects on the lives and well-being of citizens on the other side of the world. Flows of communication blatantly ignore state borders and easily overcome the challenge of geographical distance. The ability of the state to function as an adequate shelter for its citizens is reduced. Accordingly, while the modern territorial state was previously taken for granted as the unit within which justice applied, such a framing can no longer be assumed: ‘it has ceased to be axiomatic that the modern territorial state is the appropriate unit for thinking about issues of justice’ (Fraser 2005, 71).

The increased interest in global political justice is paralleled by the so-called normative turn in scholarship on the EU. In the wake of the ratification of the Maastricht Treaty in 1993, there was growing recognition that European integration was not just a pragmatic issue of market liberalization, but also something that affected people’s ideas and values (Bellamy and Castiglione 2003). However, this normative turn mainly addressed questions of legitimacy and democracy (Beetham and Lord 1998; Bohman 2007; Eriksen 2005; Schmalz-Bruns 2002). To the extent that democracy is a claim of political justice there are links between this scholarly debate on EU legitimacy and the concerns of this chapter. However, legitimacy is a broader concept than justice. And theories of justice approach normative questions from a more principled perspective, seeing justice as a question of equal freedom for all. There is no consensus on how justice is linked to legitimacy. Thus, the two research agendas are not identical.

A critical analysis of the EU’s global role

When scholars develop their positions on global political justice, their preferred ‘oughts’ depend on different assumptions regarding what actually ‘is’. A core issue of contention is to what extent the state remains a key institution that must condition thinking about global political justice. Some political theorists take the view that boundaries between states are increasingly porous. Others, while recognizing the significance of globalization, continue to emphasize that borders are an inescapable and determining factor in global politics. Adhering to the latter position, Philip Pettit (2015, 37), for example, assumes that ‘there is unlikely to be a sea change in the

configuration of national regimes', and suggests that the fact of borders must therefore condition any reflection on global justice. The EU, which is a political experiment in establishing binding supranational law and in institutionalizing duties beyond borders, is particularly relevant in regard to this debate amongst theorists of justice. Even though research on the EU does not provide clear-cut answers, insights from EU scholarship allow for a better and more nuanced understanding of the likelihood of change in the 'configuration of national regimes'.

The very existence of the EU constitutes a break with the state-centered global order, and the EU may be considered a testing ground for different theories of global justice. But the potential connections cut both ways. Theories of global justice may also influence scholarship on the EU. They provide tools that allow for clarification of the responsibilities that arise owing to transformations taking place both within the EU and in the EU's relations with the rest of the world. They further provide tools for critical analyses of the EU's global role. By clarifying and distinguishing between different value positions, which may constitute reasons for action or reaction, theories of global political justice also open up for accounts of EU policies, including accounts of why they succeed or fail.

As noted, theories of global political justice take as their starting point that dominance is the essence of injustice. They differ, however, in relation to what freedom from dominance implies; how best to proceed in order to approximate non-dominance; and thus what kinds of responsibilities arise, and for whom. In the following section, I outline some major claims that emerge from the scholarship on global political justice and briefly discuss what they would imply for the EU's global responsibilities.

Clarifying the EU's global responsibilities

Following Eriksen (2016), we may distinguish between three strands, or lines of thinking, which conceive of justice as non-domination, impartiality, and mutual recognition, respectively. Distinguishing between these three strands allows for more fine-grained analyses than those based on the more familiar distinction between cosmopolitan and communitarian perspectives (Brown 1992; Held 2010; Jones 1999; Miller 1995). In fact, as communitarians consider that justice concerns should be addressed in the context of the nation-state, they have little to say about global responsibilities. This would leave the cosmopolitan perspective alone to define the kinds of duties that arise at the global level, rendering alternative perspectives less visible. As outlined by Eriksen, the conception of justice as impartiality corresponds broadly with the cosmopolitan approach. The conception of justice as non-domination, while sharing some of the assumptions that we find in communitarian perspectives, acknowledges that there are duties beyond state borders. As for the conception of justice as mutual recognition, it cuts across the communitarian – cosmopolitan divide in the development of its position on global responsibilities.

As these strands of theory start from different premises, they lead to different readings both of the EU's global role and of the responsibilities that follow from it. In the first strand, which conceives of justice as *non-domination*, states have the main role, even though the global context of justice is acknowledged. While diverging on a number of issues, theorists within this line of thinking consider freedom from arbitrary interference as best secured within bounded communities, such as states (Nagel 2005; Pettit 1999, 2015; Rawls 1999; Skinner 2010). The EU's obligations to actors beyond its own borders would be limited. To assist others would be an act of charity. The EU (as well as its ambition to be a global actor) appears at first sight an anomaly from such a perspective. The establishment of a polity such as the EU, which is neither a state nor an international organization, might even be considered a risky experiment, potentially bringing instability and reducing rather than enhancing the ability of states to protect their citizens

from the risk of dominance. On the other hand, one might conceive of the EU as a state in the making. Such a state could be considered as more apt to protect European citizens from arbitrary interference from third state or non-state actors. In order to counter dominance globally, a central concern in this perspective is the need to organize relations between states in a manner that would ensure their equal status. The EU might also be a more powerful provider of support to other states in this endeavor, and also in their efforts to ensure that they have well-functioning institutions that would enable them to protect their citizens' rights.

Scholars that would be considered representative of this first strand within theories of justice, tend to rely on a relatively thin conception of liberty, where the main concern is to establish mechanisms that prevent arbitrary interference (Pettit 2015). Scholarship in the second strand, which draws on a conception of justice as *impartiality* (Eriksen 2016), work with a thicker conception of liberty or freedom (Dworkin 2011; Forst 2015; Kant [1979] 1996). Justice does not only require that people are safe from non-arbitrary interference: People's public autonomy must be ensured, and this requires that they are authors of the laws that they have to obey. In this perspective, justice is a context-transcending principle, and the state is not identified from the outset as the preferred institutional arrangement (Forst 2015). There is, however, an emphasis on the need for a neutral standard for dealing with colliding interests, values, and norms. We may infer that demands for stronger institutions and laws beyond the state would be considered acceptable and even necessary. In principle, a non-state actor such as the EU would not be problematic in this conception of justice. Indeed, from the perspective of scholars drawing on the normative arguments that underpin this conception, the EU might represent a potential first step towards a reconfiguration of global politics that would allow for greater protection of people from arbitrary interference – from both domestic and international actors. It would be a cosmopolitan polity on a regional scale (Eriksen 2019). The EU would be expected to contribute to strengthen the role of law as a means to regulate relations between states, as well as to ensure the rights of people beyond and above the rights of states. Further, one would from this perspective expect the EU to contribute to build global institutions with the right to sanction non-compliance with collective decisions.

With the third strand, in which justice is conceived of in terms of *mutual recognition*, there is a shift in focus. The concern in this strand is that in order for justice to be realized, it is necessary to recognize difference. Unlike in the conception of justice as impartiality, in this perspective, there is a concern that a given solution to a particular problem of justice may not be suitable for all actors and in all contexts (Gilligan 1982; Honneth 1995; Taylor 1992; Young 1990). Particular experiences and different histories must be taken into account, as well as unequal access to resources. What is required is a mechanism that ensures that each actor's perspective is given due hearing, along with solutions to questions of justice that adequately match the actors and their particular experiences: 'Justice as mutual recognition makes us aware of the fact that people may be treated unfairly under just formal procedures' (Eriksen 2016, 19). The institutional implications that emerge from this strand of scholarship are less clear-cut, as no one size fits all. Institutional frameworks would need to be context sensitive and to take heed of particular concerns and vulnerabilities. As the positions within this strand speak to a more complex global context in which states, non-state actors, and individuals are all potentially legitimate claimants of justice, the EU does not stick out as particularly unusual. Its responsibilities would be linked to establishing and guaranteeing interactive processes that ensure that all actors receive a due hearing.

Although each starts from a principled perspective, the different conceptions of justice outlined above express different priorities regarding what would be considered global responsibilities. While they are all reasonable positions, they come with different strengths and weaknesses. Turning now to scholarship on the EU, I consider to what extent, if at all, as well as how these different perspectives on global political justice are reflected in scholarly analyses of the

characteristics of the EU's global role and in assessments of its contribution to global order. I suggest that concerns for the principles that underpin the conception of justice as impartiality figure particularly prominently, and also discuss what insights we may derive from scholarship on the EU regarding the viability of this conception of global justice.

Claims regarding global responsibilities in EU scholarship – justice as impartiality

Exceptions notwithstanding, research on the EU's foreign policy has not paid much attention to clarifying the responsibilities ensuing from the Union's global ambitions. In their quest to conceptualize the EU's global role, scholars have described the Union as, among other things, a gentle power (Padoa-Schioppa 2001), a civilizing power (Linklater 2011), an ethical power (Aggestam 2008), a civilian power (Rosecrance 1998; Smith 2000; Telò 2006; Whitman 1998), a normative power (Manners 2002), and as carrying out a 'structural' foreign policy (Keukeleire 2004). While different, these conceptions share an understanding of the EU as a polity that, in its internal organization, breaks with the organizing principles of the existing global order through its establishment of supranational law. Further, they suggest that the way in which the EU organizes itself internally also affects its foreign policy. These conceptions mainly aim to capture the empirical manifestations of the Union's global role. Still, they all describe the EU's foreign policy in ways that suggest it is committed primarily to the principles that underpin the conception of justice as impartiality.

A main priority in the conception of justice as impartiality is to ensure the autonomy of the individual. It is not automatically assumed that the state is the most suitable institutional configuration for achieving this objective. The emphasis is on the rights of the individual to be a free agent among other free agents, and on establishing institutions and procedures that are geared to ensuring equal treatment of all. This aim trumps collective goals, such as that of ensuring respect for norms that are considered crucial within a specific cultural context or have emerged through common practice within a particular group. The idea of a neutral arbiter capable of defining what freedom entails and how it should be interpreted is an important factor within this perspective (Eriksen 2016).

Much of the scholarship on the EU's global role centers on a search for evidence to support the assumptions of the above conceptions, this is, that the EU defines its duties at the global level as reaching beyond states to encompass also the people living in them, thus potentially challenging the principle of state sovereignty (Duchêne 1972; Lucarelli 2018; Manners 2002, 2006; Rosecrance 1998; Sjursen 2006; Smith 2000, 2006; Telò 2006; Whitman 1998; Ypi 2008). In pursuit of this objective, scholars have drawn on a variety of methods and empirical sources. Some scholars have analysed the constitutive documents of the Union – that is, the various EU Treaties and the EU's Charter of Rights – and the debates surrounding their establishment, in order to uncover the formal and informal sources of the EU's obligations in foreign policy. In these documents, the Union's normative ideals are specified as the rights of the human person, democracy, and the rule of law. With the ratification of the Lisbon Treaty, the EU's Common Foreign and Security Policy became embedded in the general EU constitutional framework, which made the Union's external policies subject both to the same fundamental principles that apply to any other area of EU competence and to the Charter of Rights. Corresponding to a conception of justice as impartiality these documents are thus usually understood as suggesting that the EU has a duty to prioritize the rights of individuals in its foreign policy.

Other scholars have analysed the substantive policies of the EU. Also here, the emphasis on human rights stands out. In fact, some consider the promotion of human rights to be the defining factor and primary objective of the EU's external policies (Kissack 2015). In addition to

the EU's across-the-board emphasis on human rights, the EU's issue-specific initiatives – such as the 1998 initiative on torture and the death penalty, which the EU has raised on a bilateral and multilateral basis worldwide are often-quoted examples of the EU's commitment. Manners (2002, 249–250), among others, has also analysed the EU's efforts to influence the overall human rights situation (particularly with regard to the abolition of or reduction in the use of capital punishment) in Albania, Azerbaijan, Cyprus, Poland, Russia, Turkey, Turkmenistan, and Ukraine through various means and measures. And Karen Smith (2006, 170–171) has studied the EU's influence both in the UN Commission on Human Rights and in the Third Committee of the General Assembly of the UN.

Other scholars have looked further back into the history of the EU. Also focusing on human rights and democracy promotion, Susannah Verney (2006) has analysed to what extent concerns for human rights and for the respect for democratic principles influenced the decision to enlarge the Union through the incorporation of Greece. She points to the European Parliament's Birkelbach Report, which was issued in response to Greece's potential membership candidature in the early 1960s, as being particularly important in this context (European Parliamentary Assembly 1962). According to Verney (2006), once the issue of Greek accession had been turned into a question of democracy, rejecting the country's membership for economic or administrative reasons would have meant a major loss of Community credibility and legitimacy. The commitment to ensure respect for principles of human rights is also widely considered to have been critical in mobilizing support for the costly 'big bang' enlargement of the Union to include Central and Eastern Europe (Schimmelfennig 2001; Sedelmeier 2005; Vachudova 2005).

The principles that underpin the conception of justice as impartiality have also been used as a critical standard to assess the policies of the EU. The critique is particularly acute with regard to the Union's agreements with third states on migration, such as the so-called EU-Turkey deal (Ceccorulli 2018; Lucarelli 2018; Menendez 2016). However, reliance on a conception of justice as impartiality as a critical standard is also evident in other analyses, particularly those pointing to inconsistencies in the EU's external policies (Brunner 2009; Gegout 2016; Olsen 2000; Panebianco 2006; Smith 2014).

An important strand in the scholarly literature on the EU's global role describes the Union as a polity that thinks of its global responsibilities in a manner similar to that within a conception of justice as impartiality. However, others are skeptical. Some scholars question the empirical accuracy of such an understanding of the EU's global role. Others point to the risk that a focus on impartiality brings the EU to create new problems of dominance.

Counter claims: The impossibility of a rights-based foreign policy?

An important principled critique that is often raised against a conception of justice as impartiality relates to its alleged vagueness. While such a conception supposedly rests on certain universal principles, these principles will require interpretation in order to have relevance in specific situations. There are few guidelines on how such interpretation should be carried out. Trust is put in the idea of a neutral arbiter. However, this raises the problem of authorization: By what right can this supposedly neutral arbiter claim to speak on behalf of all and ensure that solutions are acceptable to all affected? There is a need for democratic procedures. This is a principled objection to the conception of justice as impartiality. In addition, there are the practical problems related to the establishment of such procedures that are particularly evident at the global level. Further, the idea of universal principles and of respect for human rights as a commitment that should bind all states is also contested. To be sure, all of the United Nations' members have signed up to the Universal declaration on human rights (Brunkhorst 2011; Fassbender 1998;

Risse 2004). There are also examples that testify to a general acceptance of human rights as a universal standard in global politics – for example, the sanctions regime imposed on South Africa. However, debates in the UN, such as those regarding the principle of the Responsibility to Protect, highlight the many differences and ambiguities that exist with regard to the question of how to respond to breaches of human rights standards, as well as with regard to which rights, political or social, should be made legally binding. Respect for human rights and external sovereignty does not have to be an either/or question. However, a large number of the member states of the UN remain skeptical of the practical implications of giving human rights priority over the principle of (external) sovereignty in international legal arrangements.

The principled critique of the conception of justice as impartiality is also reflected in analyses of the EU's foreign policy. In this literature, the critique is amplified by evidence testifying to the difficulties in conducting what might be termed a rights-based foreign policy, inspired by the principles that underpin the conception of justice as impartiality. Most importantly, this literature highlights the difficulties and risks particularly in committing to human rights promotion in a state-centric global order. As long as there is no explicit, autonomous, and uncontested legal standard to legitimize it, individual actors' insistence on human rights, even if based on the best of intentions, risks being an imposition. This raises the question of whether it is at all feasible, or indeed desirable, to conduct a rights-based foreign policy. This concern that liberal universalism turns into liberal imperialism is evident in the literature on the EU's global role. Scholars analysing the EU's policies towards states along the Mediterranean, for example, have argued that the EU has a tendency to assume that its own approach will by necessity fit others. Failing to understand the particular context within which 'EU principles' are projected, the EU has been accused of developing new forms of dominance (Bicchi 2006; Onar and Nicolaidis 2013). Related concerns also emerge from the scholarship that examines how the EU is perceived by third states. In this research, a common finding is that the EU is criticised for taking it upon itself to identify what is right, as a kind of self-appointed arbiter (Lucarelli 2014). Scholars also find that third states often experience the EU as an actor that talks 'to' rather than 'with' them, and that it aims to impose European values under the guise that they are universal (Chaban, Knodt, and Verdun 2017).

The skepticism to variants of a rights based foreign policy is, however, multifaceted. Some warn against the dangers of reinforcing dominance by imposing a specific understanding of rights, on other states. Others, highlighting the lack of consistency of the EU in its pursuit of such rights are thus seemingly less concerned by the risk that imposing human rights might reproduce patterns of dominance rather than ensure justice (Smith 2014).

They often see the lack of consistency in how the EU pursues human rights as evidence of hypocrisy and of a lack of genuine commitment to ensure respect for such rights across the world. Incidentally, such understandings of the EU's policy are also sometimes accompanied by skepticism regarding the relevance of conceptions of justice as analytical tools for understanding the EU's global ambition altogether, along with suggestions that appeals to justice are merely a cover for the promotion of particular interests (Brummer 2009; Hyde-Price 2006; Seeberg 2009; Smith 2014). This realist-inspired perspective usually aims to account for the state of global affairs rather than to argue for a particular normative position. However, in line with the approach of Hans Morgenthau ([1948] 1993), for example, some of this scholarship is actually also prescriptive, and suggests that the EU *ought* to focus on promoting its own interests rather than on promoting rights (Biscop 2018). To the extent that there is any conception of 'justice' in this argument, it is one of the mutual advantages, which alleviates actors of responsibility towards other actors at the global level.

While a number of scholarly analyses of the EU's global role seem to take a normative stance in favour of the promotion of human rights as a foreign policy objective, their findings also

testify to the difficulties involved in committing to human rights promotion in a state-centric global order. A degree of skepticism regarding approaches to justice that proclaim to have universal answers is required (Aarstad 2015; Diez 2005). However, the question is how to nevertheless ensure respect of basic rights as well as the right of people to have a say in decisions that affect them as well as the community in which they live.

Global justice through states?

The conception of justice as non-domination proposes an alternative approach to both mutual advantage and impartiality. In this conception, it is suggested that, rather than being irrelevant, human rights are better protected through other means than the establishment of binding law above states. Scholars working with a conception of justice as non-domination argue that they do not deprioritize human rights (Mikalsen 2017). Instead, they regard the freedom of the individual as being best protected within the state structure. Further, such a conception of justice is concerned with how best to provide each people with a 'collective version of individual freedom' (Pettit 2015, 38). Crucially, though, in order to ensure that states are able to fulfill their promise as freedom-enabling institutional frameworks, other states must recognize them as equal and refrain from interfering in their affairs. The expectation is that this will lead to less domination than would be the case in an integrated global political structure in which all states would be subject to the same laws. This conception of global justice as non-domination gives priority to sovereign states, as do scholars in the Realist tradition of International Relations. Yet, it differs from the Realist position through its suggestion that the organization of global politics should aim to ensure the equal treatment of states and that adequate solutions to problems of global justice will only be found if all states are able to have their say on an equal basis. This entails an emphasis on international law as a crucial mechanism for regulating interactions at the global level, as well as on the establishment of multilateral institutions to enable deliberation on common problems. To be sure, within such a perspective, involvement in multilateral institutions, as well as commitment to any agreement entered into during deliberations within those institutions, can only be voluntary. Binding commitments would contradict the idea of external sovereignty. Still, the expectations on states are of a different kind than those encountered within a realist perspective, where only mutual advantage is expected to guide cooperation and there is no expectation that states should take it upon themselves to assist other states when or if they fall prey to acts of dominance. The ideal of multilateralism echoes many of the concerns of the conception of justice as non-domination. In fact, as Ruggie (1992) has shown the earliest multilateral arrangements were designed to ensure that states were treated equally, to prevent the seizure of territory, and to guarantee the right to exclude others from one's own territory.

Some scholars have highlighted traits of the EU's external policies that echo some of the concerns of the conception of justice as non-domination. Marise Cremona (2017) has shown that an emphasis on international law and multilateralism is a consistent feature of the EU's foreign policy that can be found both in the predecessors to the Global Strategy of 2016 (European Council 2016) – that is, the European Security Strategies of 2003 and 2008 – and in the EU Treaties. She has also noted that 'the EU characteristically shapes its external relationships through legal instruments, and the promotion of a rule-based approach to international relations is threaded through its Treaty-based external objectives' (Cremona 2017, 39; see also Hillion 2014). According to the Treaties, the EU's aim is to 'promote an international system based on stronger multilateral cooperation and good global governance' (Article 21.2 of the Treaty of European Union; see Official Journal of the European Union 2012). Others, however, argue that European states fail to respect the principle of sovereign equality of states.

Analysing European contributions to the bombing of Libya in 2011, for example, Fioramonti and Kotsopoulos (2015, 472), have written that

The North saw it [the bombing of Libya] as a necessary act of assistance during the euphoric early 'Arab Spring' phase, as well as the deposition of a notorious dictator. Jacob Zuma and others saw it as in insult, a failure of the North to heed any of its own rhetoric about 'partnership of equals' or assisting the continent with its pledge to find 'African Solutions for African Problems'

Owing to its less stringent demands on states than those supported by a conception of justice as impartiality—the conception of justice as non-domination might be considered more realistic. Yet, the ideal of non-domination and the requirement of giving states equal status is demanding. It is also far from realized in world politics. The multilateral system has several built-in mechanisms that perpetuate inequality and Western hegemony rather than contributing to more equality between states (Acharya 2016). Insights from the domestic politics of the EU also suggest that the conception of justice as non-domination is more demanding than it might appear at first sight. One challenge is pragmatic and linked to the lack of efficiency, as it is difficult (for states) to agree on a common course of action and to get them to stick to it if it is not possible to sanction non-compliance. However, there is also a more principled concern that there would be a need for stronger measures than would be allowed by the conception of justice as non-domination, in order to protect both individuals and states from arbitrary interference. As long as there is no formal obligation to treat all states equally, there is an obvious risk that the will of the most powerful will prevail. Incidentally, some scholars do argue that it is indeed the most powerful states that determine the EU's foreign policy (Gegout 2010). Others, however, have found that smaller often successfully resist the tendency of great power dominance by referring to the principle of equal status of member states in the EU's foreign policy making (Sjursen and Rosén 2017).

Only a small portion of the scholarship on the EU's global role rests on assumptions that correspond with those within the conception of justice as non-domination. Those that are skeptical towards the viability of the EU's rights based foreign policy, tend instead to adopt a position that is closer to what Eriksen (2016) has referred to as a conception of justice as mutual recognition. It is the EU's desire for standard solutions and legal blueprints leading to a lack of context sensitivity, that is often criticised. The alternative proposed by critics seems to be to search for an approach that would allow for solutions that are adapted to the issue at hand and to the actors involved (Diez 2005; Keukeleire and Lecocq 2018; Onar and Nicolaidis 2013). The call for a "decentering" Europe (Onar and Nicolaidis 2013) also seem to be in line with such thinking.

Taking the context seriously

Global institutions relying on the voluntary commitment of states as suggested in the conception of justice as non-domination, may not be sufficiently robust to deter certain forms of dominance. They do not provide solutions to the question of what should be done (if anything), for example, if states systematically violate the basic rights of their citizens. Further, they do not allow for problems of dominance that cuts across borders to be tackled, and they are ill-equipped to deal with climate change, which hits states asymmetrically. From a perspective of justice as mutual recognition, deliberation and 'coalitions of the weak' are not considered sufficient. Yet, universal solutions do not fare much better, as they risk triggering new patterns of domination (Eriksen 2016).

Some scholarship suggests that the EU's Global Strategy of 2016 took the EU further in the direction of justice as mutual recognition. Ben Tonra (2017) reads the EU's launch of the

concept of resilience as an expression of a normative agenda that has shifted from a commitment to universal norms to a focus on differentiated norms, which would be better suited to capturing the particular situations of different actors. He thus suggests that resilience can credibly be presented as being transformative of how the Union might conduct its foreign policy, as well as enhancing its efficacy and credibility. In his view, this would be the case if resilience is understood as 'a process not a goal; a means to greater ends, and also if it is centred upon responsiveness, adaptability, flexibility and hybridity – very much as a proactive strategy rather than a defensive approach'.

Tonra points to the emphasis on partnership and the heterogeneity of partners (states, cities, local authorities, or even private entities such as companies, foundations, etc.) in the EU's Global Strategy. On this basis, he suggests that resilience implies a commitment on the part of the EU to engage at all levels of state and society, and that each level is assumed to have its own role and potential in contributing to strengthened capacities. What is particularly significant for Tonra is that resilience implies that, in its dealings with these partners, the Union signals a willingness to engage with them on the basis of their perspectives rather than its own.²

In the same vein, scholars examining the EU's development policies have examined the Union's commitment to local ownership as a way to mitigate established patterns of dominance in development policy (Keijzer et al. 2019). If taken seriously, such a commitment does have important and novel implications for the EU's approach to global politics, as it rests on the idea of a need to speak 'with' rather than 'to' its interlocutors. Much of the scholarship on EU development policy appears supportive of the principle of local ownership. Yet, they question the EU's commitment to the principle, which would no doubt require an increased investment in the skills of EU diplomats, as well as in their knowledge of the countries in which they would operate. They seem less conscious of the difficulties in determining how much contextualization is sufficient, and when the concern for difference must give way to that of certain basic rights.

In this vein, the principles that underpin the conception of justice as impartiality as a critical standard to assess the policies of the EU. The critique is particularly acute with regard to the Union's agreements with third states on migration, such as the so-called EU-Turkey deal (Ceccorulli 2018; Lucarelli 2018; Menendez 2016). However, reliance on a conception of justice as impartiality as a critical standard is also evident in other analyses, particularly those pointing to inconsistencies in the EU's external policies (Brummer 2009; Gegout 2016; Olsen 2000; Panebianco 2006; Smith 2014). While scholars such as Karen Smith, for example, seem to take a normative stance in favour of the promotion of human rights as a foreign policy objective, their findings also testify to the difficulties involved in committing to human rights promotion in a state-centric global order.

Conclusion

In this chapter, I have highlighted the many connecting points between scholarship on global ethics and that on the EU's global role, focusing in particular on theories of global political justice. I have suggested that insights from theories of global political justice may be useful for analyses of the EU's global role, and vice versa. More specifically, I have suggested that the principled concerns of a conception of justice as impartiality inform much of the scholarship on the EU's global role, but that they also testify to the difficulties involved in conducting a rights based foreign policy in a state centric global order.

One might object that the relevance of theories of global justice for understanding international affairs is decreasing rather than increasing in a context where geopolitical concerns are on the rise and the validity of global norms is increasingly contested. In this context, prominent

scholars and policy analysts have highlighted the concepts of spheres of influence, balance of power, and alliances as “the sturdiest building blocks for understanding and constructing international order” (Allison, 2020). Theories of justice suggest a different approach to understand international order, as well as a different way of accounting for the contestation of global rules and norms. Through their focus on the underlying structures of power within the global system, theories of justice direct attention to the ambiguities of global norms, and to the possibility that their contestation is a counter reaction to dominance.

They further provide tools that allow scholars to examine questions of political organization and of rights that arise in this context of resistance to dominance. They allow for a disentangling and assessment of the significance of conflicting perspectives with regard to what should be the key organizing principles of global order. Such analyses are important if we are to grasp the complexity of global politics of the 2020s.

Notes

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2. It should be noted that Tonra’s understanding of resilience differs from the way in which this concept is understood in the international relations literature. For a review of that literature, see Marco Krüger (2019).

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