

5

Global Governance and Rights to Development: Opportunity or Charade?

Introduction

The complex and asymmetric relationship between the nation state, 'capital' and global structures of governance makes the pursuance of rights to development easier said than done. As I have discussed in previous Chapters, the global capital market has shifted the locus of effective political power away from the nation state, while at the same time testing its regulative authority. This also impacts on the distribution of roles and responsibilities between state and non-state actors in a world that is politically and economically interconnected. Although the current global political and economic order continues to be based on local territorial sovereignty, its prospect is clearly shaped by global and inter-governmental networks. The network of organisations, which effectively governs the new 'global order', is captured by the umbrella term 'global governance' (Risse, 2005: 350). In this Chapter I will consider whether institutions of global governance can, as suggested by proponents of Cosmopolitanism, be reformed and restructured to deliver a mechanism for addressing inequality, poverty and environmental issues at all levels from the local to the global. In other words could institutions of global governance enhance state capacity to deliver rights? How expedient is it to engage a diversity of agents in development, thereby extending responsibility for delivering rights beyond the state? Could the concept of global justice be the key to the effective delivery of rights for the individual or community?

Previous Chapters have documented just a few of the many examples that exist of how economic globalisation has induced the withdrawal of

the state from the imperative of social protection, substituting it with the private sector or the vagaries of the market. This Chapter questions more directly the accountability of institutions of global governance, the major intergovernmental organisations and the private sector or transnational corporations, in relation to rights delivery, given that their actions have extraterritorial effects. How does the activity and influence of these institutions fit with the notion of state obligation and responsibility? Is there a need to question who the agents of justice are, given the range of actors involved in development (O'Neill, 2005) and how global development issues might make an effective contribution to rights delivery?

Several studies suggest that it is no longer appropriate to attribute effective and legitimate power solely to states, because of the increasing trend to devolve responsibility to a variety of non-state actors (such as NGOs, and MNCs), in particular where states are weak, unjust or unwilling to act (Kuper, 2005). The relationship between national states and global institutions and rights is very complex. In calling for the deconstruction of the Declaration of Human Rights and The Right to Development, O'Neill advocates the idea of redistributing responsibilities and assigning justice and development obligations to non-state as well as state actors. Kuper argues that in the current global order states are failing their citizens, especially the poorest, because their systems are not designed for the pressures of economic globalisation. Essentially states struggle to manage the intensity and scope of cross border interactions and their impact. This leaves 'gaping holes, where governance should be' (Kuper, 2005: 224).

Less government, more governance

Before exposing the paradoxes of global governance institutions, it is important to demystify the core concepts. Hirst explains for us that 'Governance is often confused with government, presenting governance almost as if it were an autonomous administrative capacity, detached from politics and the structure and principle of the state' (Hirst, 2000: 24). The state comprises institutions that set the rules, make law, formulate development policy and provide security for people within a specific territory. The function of the state is executed by governing institutions – the police, army, civil service and other bureaucracies. Governments manage development by forming development policy and poverty reduction strategies in negotiation with the international development agencies such as the World Bank and the International Monetary Fund (IMF) (primarily for

financial support). These institutions often describe governments in the south as powerful and forceful when it comes to managing development, although there are distinctions to be made between states 'not in their type of government, but in the degree to which the government really governs' (Hyden, Court and Means, 2003: 10). This is a pretty fundamental issue of course. States are often characterised as corrupt, unrepresentative, and unaccountable; violating individual civil and political rights. In fact widespread poverty and uneven economic growth are frequently attributed to irresponsible and corrupt elites who use and abuse their power.

In this context, there appears to be circumstances in which agencies other than the state could support the effective delivery and protection of individual or community rights. Such an approach to deliver rights focuses on less government and more governance or dispersed governance, based on multi level networks and partnerships. A multi-agency approach through which public bodies, and voluntary and public sector organisations assist communities, households, and individuals to manage and overcome risks and vulnerabilities is perhaps a necessary response to the far-reaching impact of globalisation. But only so long as the state continues to act as the primary agent of justice and development, if only in a regulatory capacity, could such an approach to protect individual rights be of any use. In Britain, for example, the network of public, private voluntary/charitable providers that is charged with meeting the basic needs of forced migrants provides a classic example of devolved governance or a dispersed state. Decentralisation has reduced the role of the state from that of a redistributor to that of a regulatory agent or a market manager. In this sense it is also a vehicle for promoting neo-liberal ideals, with individuals charged with increasingly taking responsibility for their own well-being as they become engaged with a host of agencies and institutions (Dwyer and Brown, 2005). Neo-liberals would suggest that we could do away with the idea of public good and community, replacing it with individual responsibility. Let's be clear – the involvement of a range of agencies in providing protection for the poor does not necessarily reflect greater commitment to their protection, but in most cases reflects attempts to contain the amount of welfare accessible to them, with the voluntary/informal sector essentially left to pick up the pieces.

In poor countries the problem of poverty is increasingly attributed to the problem of governance, or rather the lack of 'good governance', which is why the World Bank so keenly promotes the idea of achieving institutional reform, where needed, from within. 'Bad governance' is considered to be an obstacle to investment, innovation and a primary cause of delays to programme delivery, which in turn raise the overall

cost of development. Corruption, bribery and the abuse of public office for private gain are characteristics associated with bad governance and incapable governments. According to the World Bank 'good governance' is an essential component for economic growth, as it sets the context for the way in which power is employed to manage the market and determines a nation's social and economic resources for growth and development (World Bank, 2001). This conception of governance clearly promotes the idea of the state, civil society, and the market as a triad. Using the vocabulary of 'donor agencies', development is the partnership between these institutions. Governance is determined as 'good', when it operates to make the market work well, or in other words when the state limits the scope of its action only to what is necessary to ensure that the market works and to provide appropriate low costs social units like education and health (Hirst, 2000). This suggests that good governance sets parameters on the power of the state, and in line with a liberalist strategy clearly marks a separation between a limited state, a largely self regulating civil society, and a market economy. The state becomes less of a service provider and develops a role as a commissioner and regulator of other non-state agents that are delegated to deliver social and economic rights.

Governance has been widely used in development literature to assess the accountability of governments. There are numerous definitions of governance, but here it is referred to as *a network of organisations consisting of government agencies, NGOs, private sector agencies and civil society organisations that share common social standards and values and which together rally around effective management of the market and development processes*. The retreat of the state and the reconfiguration of responsibilities to other agencies are increasingly immersed in discussions about global governance under the influences of international development and global financial institutions. The concept of governance at a global level is directly linked to the economic globalisation of the past 25 years and its undermining of state power and function.

Global governance

The concept of global governance is traditionally related to the political theory of international relations and in this sense it is not new. It has been co-opted into the discourse of development and not without contention. To start with let us consider a working definition for our clarification – *global governance is conceived as a network of transnational and intergovernmental organisations that have shared values and principles and follow a*

structured route of regulation and law. This network of organisations works on the belief system that poverty will be reduced through market-led development. It is important that we make a distinction between global governance and government, which refers to rule and law on the basis of citizenship (defined through a constitution and relevant institutions). Despite the claim that we are all 'global citizens', a global constitution, through which membership or citizenship of a global civil society is established, does not exist. There is, therefore, no such thing as global government. Global governance however refers to collective action that may impact on individual states but is more likely to impact on groups of states or regions across the world. Global governance essentially operates through the activities of intergovernmental organisations such as the World Bank, IMF, the World Trade Organisation, Kyoto Protocol, various UN agencies and other agencies that represent civil society and have joined this complex in recent years. Their collective action to address the causes and consequences of adverse transnational or global problems, such as environmental destruction and poverty, reflects shared principles. The dynamic of global governance institutions lies in their ability to manage global issues that not only operate at a national level but also have wider trans-border implications. To provide a list of all such global issues would be exhaustive. It would, however, include trade, Intellectual Property Rights, corruption and money laundering, competition policy, international product standards, human rights (including crimes against humanity and torture), labour rights, refugees and humanitarian assistance, development and poverty reduction, Millennium Development Goals, environmental problems such as climate change and the depletion of the ozone layer, and so forth.

There seems to be inevitability that institutions of global governance have a role to play in determining our lives. According to the UN Commission on Global Governance, the current structure of global governance provides an institutional design for managing globalisation. The Commission defines global governance as 'the sum of many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative actions may be taken'¹ (Commission on Global Governance, 1995: 2). For Murphy, however, global governance has a clear ideological basis in the sense that it is 'a world-wide management strata for sharing neo-liberal ideology'. The delivery mechanism is the growing network of both public and private regimes that extend across the world's largest regions, some of which are relatively autonomous and powerful, and many of which

carry out traditional service functions associated with public agencies, while at the same time working to establish new systems of international integration (2005: 139).

The contention of this Chapter is that the current institutions of global governance are not designed to manage development issues, as they have failed to ensure that the benefits of economic globalisation are symmetrically distributed. In a way 'Global governance has become the catch word for efforts at dealing with the political consequences of globalisation and subjecting them to political intervention' (Risse, 2005: 136). Whether we like it or not, protection is devolved to a variety of non-state actors, in particular where states are fragile or fail to deliver. Some schools of thought, such as the cosmopolitan managerialists, would have us believe that a reform of the institutions of global governance would lead to a realisation of the benefits of globalisation for the poor. If global governance were more transparent and inclusive would development strategies and policies that are more effective at poverty reduction be forthcoming? Could social and economic transformation be collectively managed through democratic global institutions that facilitate participation on the equal basis of all states? Beck suggests that such a form of 'institutionalised cosmopolitanism' would seek to structure and order the globalised world beyond the national and international (Beck, 2006).

There are some fairly simple presumptions in the Cosmopolitan position, not least that there can be consensus between states on complex issues and that this would take precedence over local or national policy drivers. The very global issue of refugee movement provides us with a good case study of the complex relationship between global and national institutions and rights. It demonstrates the difficulty that global institutions confront in terms of local implementation when accountability and responsibility remains with the nation state.

Institutions of global governance and refugees

International laws and treaties embrace protection for refugees with responsibility for delivery resting with signatory states. The principles that underpin the concept of protection for trans-border migrants are grounded in the UN Convention of 1951 and the 1967 Protocol Relating to the Status of Refugees, which set the protection of refugees within the framework of the Universal Declaration of Human Rights (1948). States who have ratified the Convention accept responsibility for protecting refugees' rights within their territory, not as a charitable gesture but under the obligation of international legal norms and in compliance

with the Convention. In the context of the duality of the state versus the individual, a refugee is perceived to be an 'unprotected alien' that neither has the diplomatic protection accorded by states to nationals when abroad, nor the benefit of internal protection in their country of origin (Fortin, 2001). This lack of protection has driven the need to establish a substitute system of protection, based on the manner in which a refugee is defined.² Thus the concept of 'international protection' is used to denote protection that is directly accorded to individuals and groups by international agencies, based on international conventions and international laws. In a normative sense, the protection of refugees is set within a rights and morality framework. The United Nations Commission for Refugees (UNHCR) has responsibility for 'overseeing' the Convention's implementation, under an overall mandate to protect the rights of refugees, although compliance and enforcement with international human rights is problematic as there is no common legal system within which they are embedded (Brown, 1999). There are no enforcing institutions other than the UNHCR, which is in essence non-political and humanitarian, and can, at best, only apply diplomatic pressures to states that violate the UN Refugee Convention. In Asia and the Middle East some states have not signed up to UN refugee conventions, which effectively mean that they are not committed to asylum legislation or institutional arrangements for the protection of refugees that reflect universal human rights. Evidence shows that states which have signed the Convention often apply it loosely and rely on their own legal and cultural interpretations of rights, which increasingly reflect an agenda geared at ensuring national security and cultural identity (Dunne and Wheeler, 1999).

In practical terms, when 'protection' is translated into policy, it tends to be limited to legal and physical protection, rather than protection of social, economic, cultural and political rights. This is fundamentally determined by the fact that the plight of forced migrants is considered to only require temporary protection measures, with financial or other assistance provided as emergency relief only with 'a budget line on a par with an interstellar black hole'. Western European states have more capacity to deliver social protection for refugees than the majority of poor nations. In Europe it has been promoted through 'welfarism' and typical policy measures that protect forced migrants 'against the risks of inadequate incomes associated with employment, ill health and invalidity, parental responsibilities, old age ... and guaranteeing access to services that are essential for a life in dignity' (European Council on Refugees and Exiles, 2004). However, there have been moves to exclude

forced migrants from access to the full range of welfare rights granted to citizens, reflecting the crisis of modern citizenship (Lister, 2004). Empirical evidence from western European countries suggests that the welfare rights of forced migrants have been systematically reduced to the extent that the whole idea of social protection and social rights is increasingly giving way to the idea of conditional entitlement (Dwyer and Brown, 2005). Stringent efforts to keep forced migrants out have been combined with attempts to reduce the welfare entitlements of those who enter to seek asylum. Such legislative changes have consolidated the link between immigration/residency status and welfare entitlement. In the United Kingdom the welfare rights of forced migrants have been systematically reduced by five pieces of legislation in the past 11 years. All people seeking asylum are now subject to a distinct system of welfare provision under the management of the National Asylum Support System (NASS) that is responsible for the co-ordination and funding of accommodation and financial support. Several asylum seekers are placed in detention centres or in social housing, without the right to work or to be productive. They find it difficult to integrate into the host society and are often the subject of racial tension. In an empirical study from Leeds, Dwyer (2005) provides evidence of destitution among asylum seekers and failed asylum seekers. Since 2002 asylum seekers have been disallowed the right to work and other privileges such as family reunion have been withdrawn. Asylum seekers, while waiting to hear the outcome of their application, live on basic-needs benefits even though some are skilled and could contribute economically to their host society.³ Only those who have been granted refugee status have the same welfare rights as full citizens. Even those who have permission to work struggle to find employment that fits their skills and qualifications or because their own qualifications are not recognised as transferable and often 'doctors and professors end up as sandwich makers and security guards' (Hayter, 2004: 105). In fact UK anti-migration policies and justification for border control, to Hayter, reflect nothing but protection of nation state interest in a climate of racism, and to support the thesis that cites processes and practice that violate individual rights because they allow asylum seekers and their children to be labeled, for example, as 'voucher kids'. A truly open border migration policy would give people the opportunity for free mobility and secure this universal human right. The fear that numerous people from poor countries would come to the rich countries is, according to Hayter, over exploited as it would be very unlikely that several people would chose to migrate. However, this cosmopolitan notion of individual rights fails to consider

the institutional problem of managing population flows in a global context, in today's world which is still nation-state centred.

While northern states have the capacity to offer social protection measures to deliver rights (even if they choose not to), the countries in the south tend to be less well placed. In these states refugees are forced to depend on what is offered through UN support or their own constrained resources and relatives and friends to manage poverty and risk. Poverty Reduction Programmes (PRSPs) aimed at achieving social protection for the vulnerable and the poor in over 70 poor countries have not addressed the problems faced by forced migrants (Marcus and Wilkinson, 2004). The main focus and priority of PRSPs is income poverty, while other deprivation concerns linked to forced migrants (gender inequality, rights, nutrition etc.) are ignored or treated as secondary (Conway et al., 2002: 26). In a similar vein, the Millennium Declaration makes only one reference in passing to refugees as vulnerable populations, requesting states to 'strengthen international co-operation, including burden-sharing in, and the coordination of, humanitarian assistance to countries hosting refugees, and to help all refugees and displaced persons to return voluntarily to their homes, in safety and dignity, and to be smoothly reintegrated into their societies' (UN, 2000: 5).

In the south most refugees and internally displaced people live in camps that were established for an initial period of five years, but which have remained open for more than two decades. In Africa alone, there are more than four million people living in perpetual poverty in one of the 170-plus camps that form the main structure of refugee assistance. In settings where facilities and basic necessities are minimal and where individuals have limited access to education, health, employment, and secure incomes, chronic poverty is widespread. Some refugees have lived for more than 15 years in camps where persistent shortages of food have resulted in acute malnutrition. As a result of recent budget cuts by UN institutions, bilateral donors, and NGOs, refugee food rations are often reduced and African refugees have been particularly affected with cuts of up to 25 per cent in some camps. According to UNHCR (2003a) there are rising rates of malnutrition in the refugee camps in Tanzania that house around 400,000 Burundian and Congolese refugees. In late 2004 the distribution of cereal and pulses was halved for refugees in Zambia and cuts have placed as many as 87,000 at risk of malnutrition. Lack of food is not simply a cause of transient poverty, but is a contributory factor to chronic poverty where subsequent generations are characterised by capability failure and deprivation. Even though many refugees have been living in camps for

more than a decade they cannot come and go at will, nor do they have the right to work. Alongside malnutrition and poor living conditions, numerous human rights violations are believed to be committed within camps, including arbitrary detention and violent acts, such as rape and severe beatings. The oppression of women is particularly acute. Empirical findings show that camp inhabitants have to find their own strategies for survival and these include the collection of wild food, begging and vagary, prostitution, child placement, petty crimes, and so forth (Golooba-Mutebi, 2004).

The plight of Somali refugees in Kenya is indicative of the ineffectiveness of current policy frameworks to protect refugees. Kenya like many African⁴ states has signed the UN Refugee Convention (1951), but there are no institutions or national legal procedures that apply to refugees and offer them legal protection or legal status within Kenyan territory. It is, therefore, impossible for refugees to seek asylum, and they are forced to live in designated camps, located in the remotest and poorest areas bordering a desert-savannah region that lacks vegetation and natural resources (Crisp, 1999). A number of people fled from their homes, land and villages during the civil war in Somalia in the early 1990s to take refuge in Kenya, and since then the UNHCR has provided food and shelter for up to 120,000 refugees in camps in Dadaab. Most refugees live in crowded, harsh conditions and, because they are confined to the camps, are mostly dependent on humanitarian aid. They live in makeshift shelters that provide little shade from the heat and poor protection against heavy rains. For example, on one rainy day over 600 shelters were destroyed and more than 300 refugees were left without shelters, exposed to scorpions and other insects. Although the World Food Programme and UNHCR recommend refugees receive 2100 kilocalories per day, this fluctuates and has been reduced at times of insufficient donor funding, such as in 2002 when normal daily food rations were reduced by approximately 25 per cent (Human Rights Watch, 2003). More than 8000 refugee children and hundreds of pregnant refugees suffer from malnutrition in the camps, according to a survey undertaken by the UN (UNHCR, 2003b). The problem of security and sexual violence in the camps is severe and the UNHCR has revealed that in one year alone women reported 70 incidents of rape in Dadaab (Montclos and Kagwanja, 2000: 204–208). More than 80 per cent of all rapes occurred when women were collecting firewood and building material outside the camps. Added to this is significant tension and violence between the locals and refugees, a number of whom have been killed. Several studies have documented evidence of the chronic poverty experienced by refugees and IDPs in camps in poor

countries (Van Damme, 1995; Black, 1998; Bakewell, 2000; Arafat, 2003).

In response to concerns about the scale and costs of asylum in this era of economic globalisation and security issues post 9/11, support measures that offer temporary protection are being actively promoted in a political climate of 'containment' and increasingly restrictive protection.⁵ The reconstruction of refugee protection policy in the north reflects concerns over the economic costs of asylum, state security and uncontrolled migration (UNHCR, 2006). In Castle's view it illustrates that forced migration is 'a pivotal aspect of global social relations, linked to an emerging new political economy in the context of US political and military domination, economic globalisation, North-South inequality and transnationalism' (1999: 23). As part of the so-called war against terrorism or 'political Islam', restrictive immigration policies have made it harder for individuals to seek asylum and indicate that states have largely regressed in their commitment towards protecting refugees and their rights.⁶ Chimni (2000) attributes this to an ideology of humanitarianism that is peculiar to hegemonic northern states that use the vocabulary of human rights to legitimise concern with security issues.

Managing globalisation

As I discussed in previous Chapters a number of scholars have articulated the need for more transparent and accountable institutions of global governance that could operate on the basis of a cosmopolitan human rights standard. These have tended to focus on how the global economy could be directed, picking up on the fact that addressing the politicisation of global institutions is key to achieving more equitable globalisation. According to Griffin the problem that we have is not economic globalisation but the fact that we do not have global institutions to govern our global markets: '...the institutions that exist are unrepresentative, many people do not have a full voice in them, and they fail to conform to democratic ideals' (2003: 805). Moreover, these innumerable international and intergovernmental institutions lack the ability to manage global issues such as equal rights to trade because they do not have a clear shared vision, but rather compete to shape global public policy. The current pattern of global institutions is fragmented. The World Bank, IMF, WTO, the UN systems, and the G7 and G77 reflect different groupings of countries that also work alongside a number of national social initiatives (Held, 2004: 94). In reality, what exists is domination of the global institutions by the more powerful countries

and this translates into restrictive and protectionist strategies, for example agricultural subsidies and protection measures in the United States of America and Europe. These effectively exclude the poorer nations from the benefits of free trade and economic globalisation. This is compounded by restrictions on the movement of low skilled labour and the creation of 'intellectual property rights' regimes that restrict the flow of knowledge, ideas and technology to the south. Preferential treatment protects the rich and powerful, by making it almost impossible for the poor and weak to participate in the global economy. The problem is not with trade liberalisation, but with the skewed distribution of the benefits of globalisation in favour of rich countries and discrimination against products such as foodstuffs, textile, clothing, footwear and leather products etc., from low income countries.

Griffin and Stiglitz both argue that greater globalisation, rather than less, will accomplish poverty reduction and increased incomes in poor countries. They suggest that if globalisation is managed properly then it does not have to be bad for the environment, contribute to inequality, or only advance corporate interests at the expense of the well-being of ordinary citizens. The successful development of much of East Asia and China is heralded as an example of the positive benefit of globalisation, regardless of position or location. Although Stiglitz does not use the term, he presents an economic cosmopolitan perspective, promoting 'at the international level the kinds of democratic global institutions that can deal effectively with the problems globalisation has created' (Stiglitz, 2006: 21). In effect, economic globalisation has outpaced political globalisation, generating a rather chaotic, uncoordinated system of global governance within which an array of institutions and agreements deal with a range of different problems, from global warming to international trade. Stiglitz acknowledges the weaknesses in current international institutions which suffer from democratic deficit. Lack of confidence in these institutions reflects that decisions made are too often not in the interests of those in the south. In a similar vein to Fukuyama, Stiglitz is confident that there is cohesion at one level, as states no longer have to worry about ideological clashes of the market with 'localised' political philosophies such as communism. Capitalism has a progressive role to play and can bring the whole of the world up to reasonable standards of living if economic globalisation is well managed. But what we need to understand is how responsible institutions of global governance can be established in order to raise living standards throughout the world: to give poor countries access to overseas markets so that they can sell their goods; to allow foreign investment to create

new production at cheaper prices; and to open borders so people can travel abroad to be educated and work, and to send home earnings to help their families and fund new businesses (2006: 4).

What is clearly being suggested is that states and the institutions of global governance endeavour to fix the problems of capitalism by focusing on improving market operation. This requires a fundamental shift in the approach of the Washington Consensus, that relies upon market liberalisation, to one that views market operation in relation to other factors that shape poverty (see Chapter 3). To make globalisation work global institutions have to target foreign assistance and debt relief and tackle global poverty and protection of the global environment. Stiglitz argues that while the Millennium Development Goals are a response in the right direction, there is need for fairer trade regimes between countries if poverty reduction targets are to be achieved. A key motivation for his Post-Washington Consensus was to understand why some countries have failed to integrate into the globalisation process (in particular African countries), while others have been more successful (such as China and India). Stiglitz points to China as a successful country that has managed globalisation well (see Chapter 4). This suggests that although a welcome shift in thinking is coming out of Washington, economic patterns of managing globalisation continue to be policy focused. There is still insufficient engagement in how this can be at the cost of social, political and cultural rights. In the case of China, Stiglitz has been uncomfortably silent about distributional issues, inequality and human rights abuses and misses the point that managing globalisation entails a complicated set of processes operating in several arenas besides economics.

Redistribution and moral issues

Ethical cosmopolitanism, on the other hand, raises wider moral questions about the unacceptable level of poverty and inequality to which globalisation contributes. It calls upon global institutions, the wealthier countries and the wealthy themselves to address the problems of injustice. In *Frontier of Justice* (2006a) Nussbaum extends her earlier work (see Chapter 2) to focus on the concept of global justice or justice across national boundaries, challenging the traditional social contract theory of Rawls.⁷ She argues that justice is not particular to one nation but applies to all individuals universally. Using the language of human rights as the measure of the equal worth of all human beings, she considers how a theory of global justice might provide a mechanism for the protection of human dignity. As Gasper points out, however, 'an adequate theory of justice

does not come simply out of bargaining rights. The language of human rights appropriately conveys an entitlement grounded in justice' (Gasper, 2006: 1233). Nussbaum develops her list of capabilities into principles for global justice, which are equally relevant to individuals everywhere. However, unlike other proponents of universalism she distinguishes her liberalism as a 'culture-sensitive form of universalism' (2006b: 1316).

The idea that the richer nations have a moral obligation to assist the less advantaged, seems to cling fairly closely to the distributional ideal. Nussbaum and others, such as Singer, promote the notion that individuals in richer countries should contribute part of their income to poverty alleviation.⁸ Although global institutions are defined as having a key role to play in supporting the achievement of global justice, the affluent are tasked to give at least 2 per cent of GDP to poorer people, which is above the current 0.7 per cent that has been internationally agreed by rich countries (2006b: 1327). From this point of view it is important that affluent national governments accept primary responsibility for the protection of the capabilities of their own citizens; they are also assumed to have responsibility to promote the capabilities of citizens from the poorer nations. It is in this context that Nussbaum argues that the unit of analysis should be an individual person not a state. She suggests that this would give individuals 'salience in a theory of justice ... We cannot say, in a similar way, that the state is a necessary moral starting point' (Gasper, 2006: 236–237). States are not able to guarantee the security and protection of citizens through a social contract at the national level, requiring the state to provide goods and services to meet basic citizen rights, as specified in the capabilities list. Such social protection tends to be framed in relation to citizenship, although human rights are universal and apply to all, including non-citizens (refugees and migrants) minority or indigenous groups that may be denied full citizenship; and even women, who may have lesser rights in both statutory and customary law, for example in relation to land ownership or inheritance. Any approach that is limited to citizenship is considered to be inadequate to deliver protection for all unless the granting of citizenship is also 'human rights-based'.

For Pogge, the important question about the global justice thesis is not just its merits per se, but the fact that the poor tend to be largely viewed as recipients of charity, and not as individuals with equal rights and entitlements.

We should not think of our individual donation and of possible institutionalised poverty eradication initiatives...such as helping

the poor, but as protecting them from the effect of global rules whose injustice benefits the rich countries. We should not only think about remedial measures, but also about how the injustices of the global order might be diminished through intuitional reforms that would end for such remedial measures. (2002: 23)

The idea that it is possible to remedy the suffering of the poor through transfers of resources, aid and money from the rich countries of the north to the south does not embrace the moral imperative of global redistribution of resources and wealth. Instruments of redistribution, such as the Global Resource Dividend (GRD), would allow individuals to engage in poverty alleviation, by using the tax system to divert a proportion of individuals' income in rich countries towards poverty reduction. In practice approximately \$312 billion annually could be raised through this route to improve the standard of living of those who are living on less than \$1 a day (Pogge, 2002: 197–199). Other proposals for obtaining funds for development purposes that are discussed in global justice literature include the insistence that governments fulfill the UN-recommended obligation to contribute 0.7 per cent of GNP as official development aid; taxes on environmentally undesirable activities (carbon use), or socially problematic activities (weapon trading); the Soros proposal to donate 'special drawing rights'; and the Currency Transfer Tax (Tobin Tax), or a more general tax on financial markets, in the style of a Value Added Tax on financial transactions. What Pogge has in mind when he claims that there is a 'feasible' alternative to the current global order is that redistributive measures of this sort could contribute to the eradication of at least absolute poverty. This requires, however, global institutions that could effectively redistribute these resources towards greatest need. Whether the current structure and operation of institutions of global governance are apposite to promote social justice will be discussed in the following sections.

What is the World Trade Organisation's contribution?

Theoretically, trade liberalisation and openness allows all countries to participate in the global market through a flow of goods, capital, and services. In practice this has worked for rich countries, and China and India to some extent, but not for those countries whose trade agreements depend on their primary exports. Rich countries tend to endorse high tariff levies on goods produced in poor countries so that when these goods reach the consumer they cost five times more than locally

produced goods. At the same time as countries through conditionality are being forced to reduce or abandon subsidies on agriculture and other goods, their exports are discouraged. This makes one wonder exactly what institutions of global governance, such as the WTO with its responsibility to regulate trade and ensure that poorer countries are able to participate in the global economy, are actually doing.

In sum, the WTO treaties make no reference to human rights and rights to development. They, therefore, operate in a fairly narrow vacuum. Established in 1995, the objective of the WTO is to facilitate the rules of free trade, handling trade disputes between nations, and strengthening the capacity of states to participate in international trade negotiations. Based on the current state of play, I can only conclude that the WTO has failed the poor countries that it sets out to support. Poor countries have called for free trade in real terms but cannot compete with the world's two largest trading blocks, the United States and the EU, which do not implement the trade liberalisation they insist that other countries adopt. They continue to subsidise and protect sectors, such as agriculture and textiles, to avoid poor countries having comparative advantage. For example the United States pays more than \$20,000 to each farmer per annum in the form of subsidies; EU farmers receive similar amounts. Cotton producers from West Africa have suffered most in recent years because of the fluctuating price of cotton in the global market as a result of the high subsidies the United States of America pays in protection to US farmers. The rich countries have flooded African markets with heavily subsidised and, therefore, artificially cheap food and products. African farmers and other producers find it even harder to compete and export, and struggle to operate efficiently. Ghana, for example, used to export rice, but now imports \$100m of rice a year (*The Guardian*, 27 May 2002: 17). Why have institutions of global governance not been able to address what are imbalanced and unequal relations?

The poor countries raised their concerns and detailed the difficulties that they faced in implementing WTO agreements, in particular in the face of rich countries protectionists subsidies,⁹ at the fourth WTO Ministerial Conference in Doha, Qatar, in November 2001. What came out of this was the Doha Development Agenda, through which the WTO promised to establish fairer trade regimes for all countries, and in particular to make sure that poor countries have access to rich nations' markets, in particular the agricultural and textile markets. The WTO promised that detailed concerns would be resolved at a future meeting, and through a better deal for the countries in the south. But so far this

meeting has not taken place, and in September 2003 conflict between rich nations and the other countries led to the breakdown of the WTO Ministerial Conference in Cancun, which halted the progress of the Doha negotiations (Rittberger and Zangl, 2006: 153).

The other contentious issue that the WTO has failed to address is the impact of the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which operates to give patent rights to genetic resources for agricultural products to companies from the north, and ignores the rights of poor farmers to their own resources, such as seeds. Rich and powerful transnational corporations have promoted the ownership of ideas or 'intellectual property rights', as it facilitates their monopoly over products. For poor countries this can inhibit both their own production of technology and the transfer of technology to the south, as it increases the costs of acquiring knowledge. If we take the example of multinational pharmaceutical companies, we find that their patent rights to drug production allows them a monopoly to price drugs in the global market at a price unaffordable for the majority of people in poor countries. The cost of antiretroviral drugs to treat an HIV-positive person, to prevent the development of Acquired Immune Deficiency Syndrome (AIDS), is around \$360 per annum in Africa in 2006 prices (Akukwe, 2006). This equates to the income per capita per annum of the majority of people in Africa, 70 per cent of whom earn less than \$1 a day; (using the World Bank criteria for our convenience). Most people simply cannot afford to purchase these drugs and die earlier than they might if they had lived in rich countries. The Doha Declaration of 2001 supported poor countries' need for cheaper drugs and to some extent has allowed them to buy cheap copies of desperately needed drugs produced in India and Thailand, where the manufacturing capacity exists. However the United States is trying to prevent these countries from making and selling cheaper generic versions of drugs, so as to preserve the monopolies of drug companies, even if this means breaking the Doha Declaration. When contested in court, producers from rich countries are unable to afford the same legal representation as the large multinational corporations, placing them at a distinct disadvantage when attempting to enforce their rights in a court of law. That said, Indian firms are now making most of the cheap drugs' cocktails that are being rolled out to people with HIV in Africa and according to Oxfam report these drugs are keeping more than a million people alive. The price of a basic three drug cocktail has come down from \$1000 a year to the \$360 it is today (Oxfam, 2006: 10). The problem with diseases such as AIDS, is that over time the virus becomes resistant to the basic drugs, generating

a need for new ones which then have to go through the patenting process.

The WTO is more politically open than the IMF and the World Bank as it allows each member state to have an equal vote in the organisation. However, that does not mean to say that it has not 'institutionalised the current system of global economic equality' (Bello, 2002) by pursuing the Washington Consensus development agenda. None of the global institutions promote equality between nations on trade, or encourage foreign assistance and debt relief by reducing conditionality on loans and more aid for poorer countries. As Stiglitz rightly points out the poor countries have to spend whatever they earn from exports on paying back their debt service to Banks. Unless the debt burden is reduced, they will struggle to progress. The poor countries owe approximately \$1.5 trillion to creditors including the World Bank and IMF. Despite the fact that there have been some gestures from the G8 to write off some of the debts of the 14 Sub-Saharan countries, poor countries continue to be the highest debtor to the World Bank (Stiglitz, 2006).

International financial institutions, governance and human rights

The International Financial Institutions (IMF and the World Bank) have advocated the first generation of human rights (civil and political rights) through the promotion of 'good governance'. But they have been less forthcoming about the need to consider the political dimensions of rights in terms of their interactions with the south. Hence, we have seen very little active support from within these institutions for rights to development. Kaufmann (2005) a leading economist at the World Bank provides empirical cross-country evidence that shows that social and economic rights (second generation rights) 'are (inter alia) found to be dependent on first generation of human rights' (2005: 381). Perhaps this helps to explain why the IMF and the World Bank believe that good governance – controlling corruption, establishing the rule of law, and transparent and accountable government – is the basis for improving civil and political rights. States are encouraged to focus on governance that promotes civil liberties that enhance aid effectiveness, even though the mandate of international finance institutions preclude explicit political conditionality, as specified in the World Bank Articles of Agreement, IV, Section 10: 'The Bank and its officers shall not influence the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions'.

In other words the bank does not take into account the political dimensions of human rights in its lending decisions. Ann Krueger, the first deputy managing director of IMF, expresses this even more robustly:

The function of the IMF is to make sure that macro economic and financial stability is managed appropriately. Therefore it should not deal in microeconomic issues; IMF should not (and does not) take a position on issues such as worker rights, core labour standards, and environmental policy, except in those rare instances where macro-economic stability is threatened as, for example, when labour legislation has rendered the labour market so inflexible as to constitute a major barrier to economic growth. (Krueger, 2006: 61)

The IMF and the World Bank are at pains to point out that efficiency is impaired, not by politics, but when market forces conflict with social goals.

The International Financial Institutions (IFIs) have an ambiguous and often incongruous position on human rights. In a discussion of the reasons why they do not provide a framework through which rights could be articulated in their programmes, the former president of the World Bank pointed out that

...when I came to the Bank we were not allowed... to mention... the 'c' word. I was told within days of getting to the institution by the general council and in great secrecy, 'Don't mention the "c" word.' And, I said, 'What's the "c" word?' He said, 'Corruption... Well, maybe we need to mention the "r" word, which is "rights."' And, maybe coming down the line we will talk much more about rights as we move forward... to some of our shareholders the very mention of the words human rights is inflammatory language. And, it's getting into areas of politics; and it's getting into areas that they're very concerned about. We decide to just go around it and we talk the language of economics and social development.' (Wolfensohn, 2005: 22)

Slow progress is being made. In the latest World Development Report (2006) the World Bank added the concept of equity to development. This draws on the work of Rawls and Sen who have developed, as I discussed earlier, theories of distributive justice based on individual freedom. Development is now defined as 'equality of opportunity' for individuals to pursue a life of their choosing, and suggests the intention

of removing some of the structural constraints that make this impossible. The assumption that equity is good for growth accepts that inequalities in capabilities could be a source of poverty. The report acknowledges that past development policies have been less effective than anticipated and that poor people have remained poor because they have very little or no access to essential services, such as health centres, schools, and credit, that could enhance their capability. What is not surprising, however, is that the report concludes that equity must be relative to efficiency and the pursuit of overall well-being requires some balance between competing goals of equity and economic efficiency, as well as other individual freedoms and rights (World Bank, 2006). From this point of view equity does not raise the question of inequality in outcomes, such as income and assets. In a market economy inequality of this sort is considered to be inevitable. The World Bank asserts that assets and income distribution are obstacles to growth as they damage the efficiency that can be achieved by prudent expenditure and robust budgetary measures in selective areas such as education and health. It supports 'building up human capital and physical assets of poor people by judiciously using the redistributive power of government spending and, for example, market based and other forms' (World Bank, 2001: 56–57). The implication is that there is has to be a trade-off between human rights and development.

Even though the World Bank has recognised the importance of human rights in development practice, this is not backed up by its lending strategy. Privatisation and the rolling back of the state in the economy remain the focus of the Bank's development programme. As Wolfensohn said

although the Bank is already engaged in human rights work, the sense of many on the Board of Directors is that the Bank's job is not to enforce rights; it's a neutral institution. This is consistent with the legal opinion done some years ago that indicated that the Bank is not an enforcement agency. Of course, the Bank does enforce prohibitions against slavery and abuse of children and many other things. But generally the best way for us to proceed has been in a sort of step-by-step way, doing it quietly, trying to assert the delivery of rights, but not necessarily couching it in the terms of human rights. (Wolfensohn, 2005: 3)

Paradoxical as it may be, the World Bank continues with the strategy of conditionality and in this sense mocks the whole notion of ownership

and rights to development. Funding is only given to countries that have a good record of governance on the grounds that a poor development record is attributable to indigenous factors such as bad governance and corruption. What we are left with is a technocratic approach to governance that supports effective government intervention to reform institutions including legal reform and anti-corruption measures. Conditional lending is imposed on countries that do not go along with these measures. When Paul Wolfowitz, former US defense secretary, was appointed as the president of the World Bank in 2005 he outlined his vision of development, pointing out that the biggest obstacle to development was corruption. He withdrew loans from some of the poorest countries such as Kenya, India, Chad, Bangladesh, and The Congo because of corruption and poor governance. He promoted anti-corruption measures as the only way in which poverty could be fought to ensure 'that the bank's resources go to the poor and don't end up in the wrong pockets'. Clearly the president of the bank was pursuing the US agenda of democratisation, rather than representing the interests of the world's poor. Even the UK Department for International Development threatened to withdraw £50m from the World Bank out of concern that the poorest countries were suffering as a result of too much emphasis being placed on corruption, and the extent of conditionality attached to the bank's loan. The bank has been criticised for allowing the development of double standards, with countries that ally with the United States getting an easier time than those that take a more independent stand. The Bank's rather simplistic approach suggests it is not concerned about how aid reaches those who have the misfortune of living in the most corrupt countries, who are effectively punished twice, 'once for being poor and again for having corrupt government' (*The Guardian*, Monday 12 September, 2006).

Governance has a strong normative bias because it is 'a consensual process of accommodating parties whose aim is to reconcile conflict cooperatively' (Overbeek, 2005). There is an undeniable need for the IMF to become a democratic institution, which allows participation on an equal basis at the global level of all states, if social transformation is to be collectively managed. The normative dimension of governance gives hope that global governance has the potential to be reformist and counter hegemonic structures and processes, but this depends on support for a more equitable world. Simply reforming the accountability of global governance will be only one step towards justice. The relationship between the powerful rich nations and the south will not change unless there is a genuine commitment and political will for the goal of ending world poverty and equality.

Global governance and power relations

No nation can make itself secure by seeking supremacy over all the others

(Kofi Annan, 2006)

The golden thread that runs through this book is my concern at how hegemonic states use institutions of global governance to exercise control over the others. The global order has shifted into a new era of imperial power, in which the more powerful countries frame the agenda for development for those who are not represented on equal bases in the global institutions of governance. In the words of Cox 'Hegemony frames thought and thereby circumscribes action' (1992: 179). The member states of the main multilateral development institutions are unequal. The more powerful nations dominate senior appointments at the World Bank and the IMF, reflecting that they pay the larger share of contributions from member states to the funding of these institutions. Countries like the United States, United Kingdom, France, Germany and Japan are represented on the Board of Executive directors, whereas the 19 other board members represent 178 countries.

To date nobody from the poorer countries of Africa or Asia has been the president of either institution, whatever their qualifications or background. The fundamental inequality of this governing structure is unlikely to change in the near future. Similarly asymmetries in the Security Council of the United Nations have been the subject of contest, with the most powerful nations dominating crucial decisions as permanent members of the Council. As Sen rightly points out – 'I do not believe the Bank and the IMF have really considered any major reform of governing arrangements, and given the fact that these are financial institutions, they probably will not.' (Sen, 2004: interview). Kofi Annan in his final farewell speech as Secretary-General of the UN, in a critique of Unilateralist of the United States pointed out that:

It is only through multilateral institutions that states can hold each other to account. And that makes it very important to organize those institutions in a fair and democratic way, giving the poor and the weak some influence over the actions of the rich and the strong. That applies particularly to the international financial institutions, such as the World Bank and the International Monetary Fund. The south should have a stronger voice in these bodies, whose decisions can have almost a life-or-death impact on their fate. And it also

applies to the UN Security Council, whose membership still reflects the reality of 1945, not of today's world. (Annan, 2006)

Such an imbalance of power within the major global governance institutions persisted in the 2006 appointment of World Bank president Paul Wolfowitz, who as former US deputy defence secretary was directly involved in the pre-emptive attack on Iraq (which he considered a preventative measure against nuclear threat and global terror). Despite an international row over his appointment in such a major development institution, Paul Wolfowitz pursued a neo-conservative anti-corruption agenda that undermined social protection and rights issues. Whether the anti-corruption drive was an arbitrary process or tied to a development agenda is questionable, as it was applied with vigour in some countries but not others, such as Pakistan. Similarly conditionality is being used as a weapon to fulfil the corruption agenda and the British government has raised concerns about the merits of this approach.¹⁰

Benevolent hegemony – what about the UN?

For global governance to be effective this requires the commitment of all national states and parties on the grounds of equality. However, the current global order works well for powerful states, which can choose to ignore global institutions, while continuing to enjoy the benefits of economic globalisation. US unilateralism has clearly demonstrated its view that global institutions, in particular the UN, are too weak to achieve democratisation or civil and political rights, and indeed the US is critical of the role of the UN as arbitrator or enforcer of global justice (citing campaigns of contention such as the oil for food programme).¹¹ In fact when the UN fails to serve 'as an instrument of US unilateralism on issues of elite concerns, it is dismissed'¹² (Chomsky, 2003: 29). Although the United States remains in support of the collective action of some international institutions, such as NATO, the WTO, and the IMF, the distance between global institutions and the United States has widened since neo-conservatism became the dominant ideology of US foreign policy. The current US administration is clearly sceptical about the UN as an effective, legitimate seat of global governance. This has taken place against the backdrop of consolidation of the UN and the universalism of a rights regime based on the sovereignty of nation states through treaties and their gradual acceptance into national legislation (e.g. human rights laws). The modus operandi of previous nation building exercises mainly involved UN delivery of a peace keeping mission,

whereas we have clearly seen a different strategy in Iraq where the UN has had no formal involvement.

The underlying premise of the US position is that other nations would support intervention to achieve *regime change* where necessary to preserve the *global order* and suppress perceived threats to global peace. In those states that violate human rights, regime change is promoted as a means to address poverty through the establishment of democracy. We have seen unilateralist 'benevolent hegemony' put into practice in the Middle East.¹³ Reflecting as a reformed neo-con, Fukuyama points out that 'What goes on inside other countries has now become the business of the US' (2006: 114). There is, however, no agenda to address development problems, evidenced by the lack of concern from the United States on the problems of poverty in the countries of Africa and Latin America, which only become of interest when they are considered to be a security threat or appear on the 'freedom agenda'.¹⁴ Laymen on the streets of the Middle East are justified in asking why the United States has not intervened in countries such as Sudan or Rwanda where millions have either died or been displaced as a result of civil war and state mismanagement of the economy. Indeed the invasion of Afghanistan was motivated as part of the 'geo-political management' of terrorism and political Islam associated with Al Quaida. Similarly, the invasion of Iraq was closely linked to the political priority to secure sufficient oil sources for the global capitalist economy and that of the United States in particular. These have all taken place, while countries like Saudi Arabia and other Gulf states that are known for domestic human rights abuses have gone unchallenged and while the profits of large oil companies like Shell and BP have soared. In this respect contradictory engagement with other states and geopolitical priorities, 'transcend the boundaries between national and international domains, but at the same time they revitalise the asymmetries of power between states' (Beck, 2006: 177). Thus, we see states maximising national interests through 'benevolent' international activity. In effect the United States stipulates rights but not responsibilities, imposing its view of the new global order on weaker and poorer nations in order to maintain its hegemony, with little reflection on cosmopolitan laws and rights.

Conclusion

In this Chapter I have argued that the concept of cosmopolitanism relies on a generic interpretation of global governance for the co-ordination of agencies that protect individual rights, and it is unclear about where

responsibility actually lies. The current structure of global governance, as we have seen, has undoubted shortcomings and it is biased towards the powerful nations and their representatives. This is symptomatic of a global order in which the capacity of states to direct national economies has been restricted by supranational forces. We cannot ignore the part that Transnational Corporations play in ensuring that private, rather than national interests, dominate the global economy. Transnational corporations provide a key part of the network that transcends national and regional boundaries, while at the same time they achieve vertical integration into local economic systems (Sklair, 2002). Their activities also support the argument that it is no longer appropriate to attribute effective and legitimate power solely to states, as power really lies with a variety of local and international non-state institutions that include Transnational Corporations (TNCs) as well as major development agencies, and this is explored in the next Chapter.