

## Global Justice and the Iteration Proviso

Steven Lecce

Political Studies, University of Manitoba.

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### Introduction:

Our world consists of many distinct political communities. Some of these are very rich and provide their members with wide a range of opportunities to flourish in myriad ways; others are desperately poor, leaving their unfortunate denizens in a grueling and ongoing daily struggle for survival. Given such disparities, and for all its ubiquity, can compatriot preference—the practice of favoring the interests of co-citizens over those of outsiders—ever be justified and, if so, under what conditions?

To some, it might seem odd that the practice of *benefiting* our associates stands in need of any justification. After all, what could be wrong with tailoring law and public policy to advance the interests, preferences and goals of those with whom we share citizenship? It is *our* law and policy: whom else should it benefit? But it is not the benefiting of associates that is problematic; the difficulty rests with the *exclusion* of outsiders that is attendant to otherwise morally innocuous acts of collective self-advancement. Outsiders are doubly harmed by compatriot preference: “they sink lower in the affectionate priorities of those in the in-group, and in addition do not benefit from those special obligations that the in-group generates within itself” (Vernon, 2010, p.106)<sup>1</sup>. Ultimately, then, if we are to continue to rank the comparable interests of insiders above those of outsiders, some justification for this normative bias is required. Pointing out that this is standard operating procedure is hardly an argument in its favour, and surely makes matters even worse from the moral point of view.

Beyond the isolated bigot, sexist, racist or xenophobe, scarcely anyone seriously doubts that citizens of affluent societies have obligations to assist the disadvantaged beyond their borders. Both within contemporary political philosophy and in the popular imagination, the real question is not *whether* we owe outsiders anything but, rather, what, and also how much. We have reached, that is, a ‘cosmopolitan plateau’ (Vernon, 2010, p.2) in which any defensible political morality must begin with the recognition that what happens to everyone, and not just compatriots, is of moral importance. One of the most pressing philosophical (but also practical) tasks, then, is to figure out precisely how much weight the respective claims of insiders and outsiders should be assigned in our moral calculations. For example, in military combat, sophisticated technology now allows us to fight battles remotely so that few if any of our troops are placed in harm’s way and therefore subsequently killed. However, this also predictably increases innocent civilian casualties on the other side. In pursuing our military objectives, to what extent (if at

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<sup>1</sup> See Samuel Scheffler’s discussion of the “distributive objection” to special ties in *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought* (Oxford: Oxford University Press, 2001).

all), then, may we sacrifice civilian outsiders to safeguard domestic military casualties? In connection with international trade, is it permissible to entirely discount the economic interests of developing nations and focus exclusively on our own national profit margins? If not, how much should the pursuit of economic gain be tempered by considerations of global justice? Examples multiply.

In an original, provocative and important new book—*Cosmopolitan Regard: Political Membership and Global Justice*—Richard Vernon argues that the familiar way of opposing, and then trying to reconcile, compatriot preference with global justice is mistaken because the duties we have to outsiders (not to harm, but also to aid them in some cases) are, in fact, implicit in the very obligations that co-citizens have to one another. If Vernon is right, duties to the globally disadvantaged are not additional to, in conflict or else incommensurable with, the reasons for favoring co-citizens, as is commonly supposed by both moral universalists and associativists of various stripes. This startling claim—that one’s obligations to co-citizens and to outsiders rest on the same footing—is developed via a form of social contract theory, one which yields the following constraint on compatriot preference:

“...a group of people can legitimately set out to confer special advantages upon each other if others, outside that group, are free to do the same in their own case” (Vernon, 2010, p.105).

Vernon calls this deceptively simple norm the Iteration Proviso (hereafter, simply the “IP”). If the IP is sound, an exclusive political group of people can claim legitimacy for its arrangements only if it also acknowledges two duties: one to aid other groups when the IP does not hold; another not to harm the society-building work of other groups (Vernon, 2010, p.105).

This paper assesses Vernon’s attempted reconciliation of compatriot preference with global justice by carefully analyzing the IP. Part I briefly outlines how duties to outsiders are typically characterized in two leading accounts of global justice—moral universalism and associativism. Ultimately, the IP is motivated by Vernon’s desire to (partly) transcend the binary opposition between, and the limitations of, these two views, so we are unlikely to appreciate its force without also coming to terms with them. Part II sketches the version of contractualism that Vernon deploys to surmount these limitations and explains the role of the IP therein. Part III analyzes the IP and concludes two things. First, while there are only two possible interpretations of the IP, neither seems plausible. On a weaker interpretation of what constitutes leaving others free to form their own vulnerability-reducing societies, the IP permits all sorts of injustices that we have reasons to condemn. We might avoid this conclusion by strengthening the constraint, but it then becomes impossibly demanding, condemning as it does virtually every form and type of partiality. As we shall see, like all contractual views, the IP presupposes a (non-contractual) baseline that specifies what kinds of harm are relevant to distributive justice, but this cannot be solely derived—as Vernon tries to do—from the minimal premise that everyone’s life matters from the moral point of view. None of these objections decisively defeats the IP. Rather, they point out what remains to be filled in before an innovative proposal fulfils its promise.

## I.

In some ways, much of the recent literature on global justice is interpretive rather than analytical. That is, rather than trying to argue for specific obligations that the global rich have to the global poor, it assumes that the rich have those obligations, and simply tries to explain why, by relating such duties to other features of the moral world. Two general explanations are noteworthy.

*Moral universalism*<sup>2</sup> is the view that all particular role-obligations are, at bottom, vehicles of larger, more comprehensive, purposes and, as such, justifiable only insofar as those larger purposes are, themselves, justifiable (Vernon, 2010, p.13). Consider the case of parental authority. Normally, parents are given a wide discretion in the education and upbringing of their children and, exceptional abuses aside, the state largely avoids interfering in parent-child relations. Why? An older view suggested that children were quite literally the property of their parents who, accordingly, were entitled to do virtually whatever they wished to and for their offspring. Thankfully, in recent years, sophisticated theories of children's rights have discredited this claim, and we have begun to seriously think about children's interests in autonomy. A more promising path, however, links the practice of deferring to parents to its general consequences for children. Even if parents do not *own* their children, given familiar affective, emotional, and psychological facts—parents tend to care and be willing to sacrifice more for their biological offspring than they are for strangers. As a result, children on the whole will be better cared for if left in the hands of their parents. The conventional approach to childrearing, then, is justified on consequentialist grounds. Parent-child relationships are constituted by special obligations—I owe *my* daughter, not all daughters, physical protection, emotional nurturing, and moral instruction—but the underlying justification for them derives from their supposed (universal) benefits.

Compatriot preference is thought by some to be analogous. Clearly, the partitioning of the world into discrete political communities has the effect of making life miserable for countless individuals, who might otherwise benefit from their social, economic and political inclusion in states wealthier than their own. While cosmopolitanism tells us that, from the moral point of view, we must give equal weight to the interests of all human beings, the existence of states, and the ubiquitous practice of favoring compatriots over foreigners, seems like a straightforward violation of equality. However, the world is also an incredibly diverse place, and diverse in a multiplicity of ways related to geography, climate, language, culture, religion, and economics, to mention but a few. Given all of this, and given the undesirability or impossibility (at present) of a world-state, individuals might be more likely to have their fundamental interests protected if such protection is afforded them by local institutions, ones tailored to their

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<sup>2</sup> Important contemporary statements include: Charles Beitz, *Political Theory and International Relations, 2<sup>nd</sup> Edition* (Princeton: Princeton University Press, 1999); Charles Jones, *Global Justice: Defending Cosmopolitanism* (Oxford: Oxford University Press, 1999); Thomas Pogge, "Cosmopolitanism: A Defence", *Critical Review of International Social and Political Philosophy* 5 (2002): 86-91; *World Poverty and Human Rights* (Cambridge: Polity, 2002).

distinctive needs and aspirations. So while states clearly create and reinforce global inequalities in life-prospects, they also protect their members' fundamental interests, and in a way that likely would *not* obtain in their absence<sup>3</sup>.

One problem with moral universalism is that, from a phenomenological point of view, it is likely false. From the inside, as it were, it falsifies how—as parents and citizens, for example—we experience our attachments and the moral obligations they give rise to. When I care for my daughter, I do so simply because she is *my* daughter; not out of a general sense that, in doing so, I am discharging some universal obligation that all parents have to care for their offspring that, when discharged, maximizes child welfare overall. As an interpretation of lived parenting experiences, this latter explanation is one thought too many, and any parent who approached childrearing in this way would surely make a mess of it.

The same goes for citizenship. When we pay taxes to fund social programs, fight wars of national self-defence, protest domestic injustice, and campaign to reform law and public policy so that it is fairer to all Canadians, are we fundamentally motivated by *humanitarian* impulses? Is it reasonable to suppose that the ultimate intended beneficiary of our actions is humanity, per se? That our citizenship is simply a particularized forum of otherwise truly global concern? This seems fanciful.

We should not place too much weight on the phenomenological worry, however, because there is, in fact, a much more decisive objection to moral universalism, which has been pointed out with exceptional force and clarity by A. John Simmons<sup>4</sup>. In a nutshell, the problem is simply this: while moral universalism can account for non-associative obligations (including trans-national duties), it cannot explain particular ones. Suppose that compatriot preference is justified because, as was suggested above, the practice of favoring the interests of insiders over outsiders, once generalized, benefits *everyone*, and that the principal benefit is justice: states deliver justice and that, in the end, is why we owe them our support. But while this gives us a reason to support *states*, it supplies us with no reason at all to support *our own*, and it is this particularized obligation that is appealed to in the justification of compatriot preference<sup>5</sup>. As a Canadian, what am I to do if, in my

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<sup>3</sup> This is yet another reason why the parent-child and compatriot preference cases are analogous. Different parents control different educational, economic, and emotional resources, so the practice of granting them wide discretion in their children's upbringing has the entirely predictable effect of generating inequalities of opportunity for the latter. Notwithstanding these inequalities, it is still commonly supposed that children, on the whole, are better off when their upbringing is left to their parents, rather than to the state, or to other adults.

<sup>4</sup> See Simmons' excellent discussion of the 'particularity problem' in *Justification and Legitimacy: Essays on Rights and Obligations* (Cambridge: Cambridge University Press, 2001).

<sup>5</sup> Vernon echoes Simmons when he writes that "[a]n argument about the moral value of political association does not show us why 'we have a special relation to the particular polity of which we are members'", *Cosmopolitan Regard: Political Membership and Global Justice*, p.37.

judgment, Sweden is more just than Canada? In this case, the argument leads away from, not towards, compatriot preference, because I can do more to enhance the world's justice by supporting—in any way that I can—Swedish social justice.

*Associativism*<sup>6</sup> responds to these limitations by arguing that all moral obligations are irreducibly local. Typically, it can take either one of two forms: first, a thesis about the content of particular obligations, as opposed to its origins. For example, one might argue that one's particular obligations—to friends, one's spouse, one's country—do not consist entirely of elements that can be derived from general morality; or, second, a thesis that particular obligations do not contain only elements easily predictable from a knowledge of general morality (Vernon, 2010, p.17). So, for example, we should expect to see truly different and fundamentally incommensurable duties in various times and places rather than interpretive iterations (local flavours) of the same universal norms.

Not surprisingly, associativism has precisely the opposite problem that moral universalism has. If universalism cannot explain particularity, associativism cannot explain our widely shared sense that we owe something (however minimal) to outsiders. Of course, different theories of justice try to establish varying levels of support for outsiders, and also assistance of different kinds, but virtually no one thinks that we owe the global poor *nothing*. Yet on the associativist view, the possible grounds of such transnational duties—whatever they are—remain utterly mysterious. If we acquire duties to others only by virtue of particular associations and attachments that are more or less exclusive, how can we make sense of the idea of global justice<sup>7</sup>? And if we want to insist that we have duties of global justice despite our inability to account for them from within the associativist framework<sup>8</sup>, we are left in a rather uncomfortable and precarious situation. Our moral world consists of two sets of different and incommensurable duties: special and non-generalizable claims in virtue of particular relationships between associates; and general claims that are binding upon everyone, independently of who they are. In cases of conflict between the two, when we are in need of practical guidance, moral and political theory is largely silent. Might there be a better way of reconciling compatriot preference with cosmopolitan regard?

## II.

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<sup>6</sup> John Horton, "Defending Associative Political Obligations: A Response to Richard Vernon", *Political Studies* 55 (2007):880-84; "In Defence of Associative Obligations: Part One", *Political Studies* 54 (2006):427-43; *Political Obligation* (New Jersey: Humanities Press, 1997); "In Defence of Associative Obligations: Part Two", *Political Studies* 55 (2007):1-19; David Miller, *On Nationality* (Oxford: Oxford University Press); Richard Rorty, *Contingency, Irony and Solidarity* (Cambridge: Cambridge University Press, 1989).

<sup>7</sup> For one attempt at squaring this apparent circle, see Richard Rorty, "Justice as a Larger Loyalty", in *Cosmopolitics*, (eds) Pheng Cheah and Bruce Robbins, 45-58 (Minneapolis: University of Minnesota Press, 1998).

<sup>8</sup> David Miller is one political theorist who argues that, on the one hand, all duties are necessarily local and, on the other, we can make sense of the doctrine of human rights.

The social contract tradition teaches us that states derive their justification from the reduction in vulnerability that they bring to their members. In different ways, Hobbes, Locke and Rousseau all argued that the entirely unassociated person—no matter how otherwise strong, intelligent, and cunning—could not hope to ward off persistent threats to life, liberty and property. In order to safeguard against such threats, reasonable people, so the argument went, agreed to set up, and then submit to, political authority.

Building upon the innovative work of others, Vernon elaborates upon an idea mostly implicit within classical social contract theory, namely, that states are actually Janus-faced: while it is true that states undertake to protect the physical security, freedom and subsistence of their members, they also simultaneously *increase* the vulnerability of those subject to their authority. Recent work on crimes against humanity, for example, has vividly shown the special dangers that governments pose to those they are supposed to protect—as a matter of fact, in recent history, most people have been killed by their own, not other people’s, states. Yet this is only one extreme example of a much broader phenomenon: in leaving the precariousness of the so-called state of nature, we trade the vulnerability of isolation for the vulnerability of association, in several ways, two of which are especially worth pointing out. First, the collectivization of security subjects people to hitherto unprecedented social control. While the conventional wisdom says that people tend to treat their compatriots better than they do outsiders, in many ways, they treat them *worse*: “Being a citizen, then, exposes one to a much closer set of controls, and much more far-reaching demands, than any state can legally impose upon the citizens of other states” (Vernon, 2010, p.55). Second, as members of organized political communities, “we have only limited opportunities to escape from the preference of majorities” (Vernon, 2010, p.55). In these and other ways, then, in the course of protecting us, national states constrain the kinds of lives that it is possible for us to lead, and they magnify our vulnerability in the course of diminishing it.

For Vernon, this common risk exposure particularizes obligation, and in a way that supports compatriot preference:

“...if one is part of a set of arrangements that enhances the vulnerability of others to damage, then one has a special reason to adopt measures to avert that damage. The overall benefits of a political society make it just; the risks that it imposes make its special demands legitimate (Vernon, 2010, p.63)”

The basic moral principle appealed to here is that we owe more for the consequences of something when we are part of it than when we are not, and the rights and responsibilities of citizenship demarcate a special kind of complicity in mitigating, but also *increasing* risk. Given all of this, it is not surprising, then, nor is it morally problematic that we owe a special and exclusive form of regard to those with whom we are politically associated.

Vernon adopts an attenuated form of contractualism—one he calls the “social waiver”—to elaborate the conditions under which it would be reasonable for people to form exclusive political societies, given their double-edged potential as protectors/threats. The argument is quite complicated but, for our purposes, it

suffices to note its central upshot: “...political societies will be justifiable to the extent that they offer basic protection to individuals, make power revocable or otherwise anticipate its abuse, shield minorities from the full force of majority will, and adopt social and economic policies that prevent domination by those who hold economic power” (Vernon, 2010, p.70).

These protections articulate an ideal of reciprocity that sharply distinguishes Vernon’s model of the social contract from alternatives with which it must not be confused. On the one hand, there are contractarians who want to derive the content of morality, itself, from mutually advantageous agreements. Such agreements are possible only among a group of people, all of whom are able to contribute to, and draw from, a pool of benefits, with each motivated by some form of enlightened self-interest. The criterion of advantage is ethically impoverished since, on this view, we owe nothing to those too weak and powerless to bargain with us. On the other, there are impartialists who are committed to an ideal of equality that dispenses with conventional arrangements altogether. This avoids the unattractive features of contractarianism but, in making any sort of contract redundant, it is not particularly helpful in establishing precisely *which* rights and responsibilities civic equals owe one another, information that is usefully elucidated via the dialogical process that the social contract both presupposes and reflects. In sum, a social contract—or, in Vernon’s idiom, the “social waiver”—demarcates a group of people who give one another reciprocal assurance of just dealing.

Conceived of in this way, it should not surprise us that the rights and responsibilities of citizenship do *not* apply to those outside a given polity, so we are naturally led to a principled defence of compatriot preference. But does this mean that compatriots therefore owe outsiders *nothing*?

Since the publication of Rawls’s *A Theory of Justice*, an enormous critical literature has emerged around the appropriate scope of contractually-generated principles of justice. For his part, Rawls has more or less consistently rejected the suggestion that justice-as-fairness applies anywhere other than to the basic structure of a single democratic society; his more cosmopolitan-minded commentators have found this limitation to be arbitrary, and have urged instead for a single global contract. Both sides to the dispute, however, share the assumption that the justice-based duties arising from the domestic version of the contract do *not* apply to anyone beyond the contracting parties themselves.

It is here that the novelty of Vernon’s position comes to the fore. The domestic contract—the “social waiver”—that grounds compatriot preference is not morally neutral. Unlike mutual advantage theories that attempt to derive the entire content of morality from agreement, Vernon’s contractualism—like any other plausible view—presupposes a background right to liberty that one waives (hence, the “social waiver”) should the features of the particular polity to which one belongs make this reasonable. It is the self-enforcement of this liberty right that one forgoes through political association. Remember, however, that the premise of the argument is cosmopolitan regard—the view that *everyone’s* life matters equally. This rather weak and seemingly innocuous premise has the important implication that, compatriot-preference notwithstanding, outsiders do *not* forfeit this liberty right unless, of course, they themselves waive it via a disparate contractual act

instantiating a separate polity. It further implies that compatriots have a duty not to impede or in any other way damage the ability of outsiders to initiate their own vulnerability-mitigating institutions (which is to say, states).

In sum, the domestic social waiver that justifies compatriot preference requires a (non-contractual) background morality without which the notion of a social contract is inconceivable. Yet the very morality that supports compatriot preference simultaneously constrains it, out of a recognition of the legitimate claims of outsiders. Just as contracts within civil society take place against a given background scheme, the idea of the social waiver assumes the freedom of those outside it to create background schemes of their own. Vernon calls this the Iteration Proviso:

“...a group of people can legitimately set out to confer special advantages upon each other if others, outside that group, are free to do the same in their own case (Vernon, 2010, p.105).

While it is true, then, that exclusive associations both divert care from outsiders and increase the level of benefit for their members at others’ expense, the presumptive unfairness of such preferential treatment evaporates if, and to the extent that, it may be replicated. For Vernon, “the basic moral problem of exclusion here is resolved if we take the continuing requirements of the contract to be subject to the same Proviso as the original contract—“if others can do so too” (Vernon, 2010, p.1010).

The IP is a direct implication of the background morality that makes the social waiver intelligible in the first place. It implies that we can rightly give special concern to compatriots only under two conditions: first, that outsiders are truly in a position to distribute special concern among themselves and, second, that we do not prevent outsiders from seeking the advantages that we seek in the course of pursuing advantages for ourselves (Vernon, 2010, p.114). Together, these requirements go beyond calling for simple non-interference for, in many cases, we cannot in good faith assume that others can behave symmetrically. Failed states no longer control the resources to provide either basic subsistence or security for their members; criminal states control such resources but perversely turn them against their own. In circumstances such as these, a duty to aid follows, “for no one could suppose in good faith that the assumption that underpins our own social project would still hold” (Vernon, 2010, p.108).

*Cosmopolitan Regard* contains detailed and often subtle discussions of the concrete implications of the IP. There is not the space to sketch these in any detail here. In brief, though, the duty to aid means that our own state’s legitimacy will often depend on its military intervention, humanitarian contribution, or support for international criminal prosecution, in connection with state-sponsored atrocities. While the duty not to harm leads to less determinate results—after all, there is no consensus as to what global equal opportunity would mean in practice, nor a sense of which capacities would need to be rebalanced in order to achieve it—there is a requirement on the part of rich states “to join regulatory institutions in which the interests of poor states are made present: institutions that would rule on appropriate terms of trade, investment, and loan conditions...” (Vernon, 2010, p.116).

As Vernon is clearly aware, these requirements are hardly novel. The genius of *Cosmopolitan Regard*, however, lies in its showing that our duties to the globally disadvantaged are distinctively *political*—they derive from, rather than compete with, what we owe our fellow citizens.

### III.

In his classic defence of economic markets in Chapter 5 of the *Second Treatise of Government*, Locke places three limitations on the property that individuals may justifiably appropriate from the commons: (i) they may only acquire what they manage to improve or produce via their labour; (ii) they must take care to ensure that no portion of what they appropriate spoils; and (iii) they must leave “enough and as good” for others.

If we think about the matter carefully, we notice that (i) and (ii) are actually self-enforcing. After all, we cannot work harder than we can, so there is not much sense in telling us not to; and given that labour is how we justly acquire, why would we work only to see the fruits of our labour spoil (which is what happens when we take too much)?<sup>9</sup> Limit (iii), however, is clearly different: it requires a form of self-restraint, one based upon the recognition that, since (as Locke assumes) the earth was given to all mankind in common for their preservation, other people’s rights to acquire property must *also* be left intact by our own appropriative behaviour. A pre-contractual form of equality, then, both motivates and constrains Locke’s contractual argument for markets.

Vernon’s Iteration Proviso is a kind of structural analogue to Locke’s “enough and as good” limitation, this time in connection with global justice. Contractualism is ultimately about the justification of imposing burdens on others, so we should not be surprised that, in adopting a form of contractualism via his “social waiver” idea, Vernon is led to a similar fairness constraint in the form of the IP:

“...a group of people can legitimately set out to confer special advantages upon each other if others, outside that group, are free to do the same in their own case” (Vernon, 2010, p.105).

But how exactly are we to interpret the residual freedom in question? What does it mean to leave others free to create their own vulnerability-mitigating (but, remember, also vulnerability-enhancing) institutions?

We might think of the IP in either one of two ways:

*The Weak View (WV):* we are forbidden from preventing others from creating and/or sustaining exclusive and advantageous groups of their own;

*The Strong View (SV):* our own in-group partiality cannot unfairly disadvantage outsiders.

We can dispense with (WV) immediately. As a purely negative injunction, it implies that: we have absolutely no obligation to intervene militarily to prevent genocide,

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<sup>9</sup> Of course, Locke goes on to argue that the introduction and consent to the use of money overturns limits (i) and (ii)—labour can subsequently be bought and sold, and money does not spoil, so there is accordingly a hitherto non-existent incentive to *accumulate*.

even if and when we could do so at little cost or risk to ourselves; we have no responsibility to prosecute crimes against humanity after the fact, or to play our fair part in supporting international tribunals; and, finally, we have no duties of justice to prevent and also respond to avoidable poverty. Surely, this kind of callousness is beyond the pale, and no plausible understanding of the social waiver could have *this* as one of its iterative implications. Of course, Vernon himself disavows this by insisting that humanitarian intervention, international criminal prosecutions, and global poverty relief are all direct consequences of the IP.

Does (SV) fare any better as a possible basis for such potentially arduous duties? To begin with, the distinction between fair versus unfair disadvantage presupposes a baseline, and one obvious one is this: we cannot adopt vulnerability-reducing arrangements that *increase* the vulnerability of others (at least without compensating them). This raises both epistemic and moral problems. At one point in his argument, Vernon asserts that “the fact that some, being outside the scheme, do not get the benefits of the scheme, cannot itself be a reason to extend the scheme to them” (Vernon, 2010, p.109). But why not? That they can form schemes of their own might be one such reason but, as we are about to see, this assumes without argument that those latter schemes are *equally* effective at mitigating both the background and dynamic risks of political belonging. When they are not, “that others can do so too” will hardly suffice to compensate the excluded. Leaving that vexing moral issue aside for the moment, there is an epistemic problem related to the *terms* of compensation: what should they be? Can material resources compensate for social and political marginalization? In the domestic context, Rawls has persuasively argued<sup>10</sup> that reasonable people would *not* agree to trade socio-economic advantage for basic liberties if such a deal were presented to them. Surely, such considerations apply with equal force internationally<sup>11</sup>. And who will set the terms of compensation? The IP assumes that the excluded do *not* need to be incorporated into existing political communities, as long as they are compensated, but it is precisely this exclusion from the deliberative democratic institutions of the well off, and the relative bargaining powerlessness of the globally vulnerable, that makes it extremely unlikely that compensatory terms will be fair.

In the end, though, (SV) is implausibly demanding. Even if all of the previous difficulties were surmountable, *every* vulnerability-reducing arrangement makes outsiders worse off than they could be if they were included within it. As such, no form of in-group partiality could survive the IP. One way of escaping the horns of this dilemma (the weak view is too weak; the strong view is too strong) would be to identify a threshold such that costs above it could never be justifiably imposed while, below it, any and all forms of partiality were permissible. The Social Waiver might be deployed to identify that threshold. There is nothing wrong with this

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<sup>10</sup> See Rawls’s arguments for the lexical priority of the equal basic liberties over the difference principle in *A Theory of Justice* (Cambridge: Harvard University Press) and *Political Liberalism* (New York: Columbia University Press).

<sup>11</sup> In fact, Amarty Sen has argued that political and economic rights are mutually reinforcing. See his comments on democracy and famine in *Development as Freedom* (New York: Random House, 1999).

proposal. In fact, as Vernon points out, this is typically how contractualism works—a pre-contractual moral background is assumed by the operation of the contract device. The problem in this case is that, by making this move, Vernon’s theory would abandon its stated goal: to place associative obligations and global justice *on the same footing*. The revised IP evades the horns of the above-stated dilemma only by claiming that the globally well off can do whatever they want as long as they do not violate basic (and contractually specified) rights, but those rights do not depend in any way on special ties.

The IP also seems vulnerable to a leveling-down objection of the following kind. As it stands:

Group A can justifiably prefer insiders to outsiders in Group B because...

Group B can justifiably prefer insiders to outsiders in Group C because...

Group D, and so on.

If the IP’s notion of residual freedom is interpreted strongly so that your compatriot preference cannot leave anyone else worse off, even if you are not collectively involved in harming them, how should the distribution of vulnerabilities/risks be interpreted: in relative or absolute terms? In the scenario sketched above, perhaps at some point, the regression stops, because, say, group Y can justifiably prefer insiders to Z, because Z can justifiably prefer insiders to group A, who already satisfy the IP. However, this seems to assume that while it is important that each group has vulnerability-mitigating institutions, and in a way that makes the “social waiver” reasonable, *comparative differences in each group’s abilities to mitigate those vulnerabilities are morally unimportant*. Yet this distinction is surely arbitrary. If the IP justifies compatriot preference in light of on-balance vulnerability assessments *within* groups, the same reasoning should hold *between* them. Vernon eschews this symmetrical treatment but it appears to be warranted by his placing both political and cosmopolitan duties on the same footing.

To be fair, Vernon does not intend for the IP to be this unrelentingly egalitarian. He adopts an opportunity rather than outcome metric of global justice, and the fact that obligations of global justice rest on the same grounds as domestic ones does not, he thinks, show that they are of equal strength or equal in priority:

“Nothing in the argument calls for equality at the distributive level and members of successful societies can justly continue to expend resources more generously on their own behalf than on that of others. It may also be the case that exploring the iterative implications of contractualism will lead to further demands of a redistributive kind that constrain economic self-preference (Vernon, 2010, p.139).

But given that the proviso is *iterative*, on what non-arbitrary grounds might we distinguish between the stringency of domestic versus international equality principles? Many contemporary contractualists, including Rawls, have noted that, in the domestic context, formal equality of opportunity—non-discrimination combined with careers open to talents—is *not* sufficient to treat people with equal concern and respect. Purely procedural accounts still leave people’s distributive shares far too subject to both natural and social contingencies. Again, since Vernon places political and cosmopolitan obligation on the same footing, these insights would

appear to apply with equal force to inequalities *between* the global rich and poor: if we are truly interested in equalizing opportunity, at some point, and perhaps at multiple points, equality of condition seems like a background presupposition<sup>12</sup>. There might be reasons for worrying less about global rather than domestic inequality, but Vernon does not supply any.

By way of response, Vernon might wish to claim that the critique advanced over the last few pages misunderstands both the point and form of his argument for the IP and that, once these misunderstandings are brought to light, his argument, in fact, emerges more or less unscathed by the problems I have identified<sup>13</sup>. That is, in trying to saddle Vernon with the *Strong View (SV)* of residual freedom, I am missing the IP's point, which is to derive potentially radically egalitarian conclusions from a seemingly weak or innocuous ethical premise that (virtually) everyone can accept. And while cosmopolitan regard—the view that everyone's life matters equally—fits this bill, clearly, the *Strong View* does *not*. As such, even if my critique succeeds, it does so only because I have managed to transform the IP into something that Vernon, himself, need not endorse.

To the notion that I have misunderstood the argument's *point* in this way, Vernon might also add that the leveling-down objection assumes the wrong *form*, because, at least as I've advanced it, it seems like we have an obligation to give outsiders what they would have had, *were they to be included within our own vulnerability-reducing political arrangements*. For Vernon, however, the IP is *not* a definition of material equality (as my objection implies) but, rather, a justificatory point of view, which implies no straightforward or particular conclusions about acceptable versus unacceptable social and material differences.

I would respond as follows. To begin with, it is the logic of Vernon's position, and not his intentions, which matters here and, so far as I can tell, that logic supplies no reason to distinguish between international and domestic inequality from the moral point of view. One can argue that we are justly entitled to favour the interests of insiders over those of outsiders for a variety of reasons; one can argue for a global equality of opportunity principle. But I cannot see how one can consistently argue simultaneously for *both*, especially if one is persuaded (as Vernon is) by A.J. Simmons' "particularity problem". Once one accepts that everyone's life matters equally, what grounds are there for resisting the *Strong View* of residual freedom, or for insisting upon anything less demanding in connection with iterative contractualism? In short, and thankfully, there is nothing particularly weak or innocuous about cosmopolitan regard, and I suspect that far less material inequality is compatible with it than Vernon (might?) think.

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<sup>12</sup> See Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge: Harvard University Press, 2000). In the hypothetical auction that determines what counts as a fair distribution of material resources, participants begin with equal bidding power. Without this premise, the post-auction distribution could not plausibly be called both ambition-sensitive and endowment insensitive.

<sup>13</sup> An earlier version of this paper was presented at the 2010 Prairie Political Science Association conference. The following tries to paraphrase and briefly address some of professor Vernon's oral responses (as I remember them) to that iteration.

Finally, I doubt that, in the end, the procedural/substantive distinction is tenable in this context. This is a different way of reiterating the same thing, so the point/form objections are closely related, if not identical. It does not make much sense to distinguish between material and justificatory equality if—given one’s cosmopolitan premises—material equality must somehow figure as a background *presupposition* of the contractual justificatory framework. Since the IP makes Vernon’s contractualism *iterative* rather than global, we are to imagine a series of independently executed normative experiments, rather than one, and this renders a Rawlsian-type “veil of ignorance” (or any other similar representation of cosmopolitan regard) seemingly inappropriate for international social and distributive justice. If Vernon is correct, Rawls is *not*, because citizenship is *not* arbitrary from the moral point of view. As such, the IP implies that it will often be perfectly acceptable for a person’s distribution of resources and opportunities to be influenced by their citizenship. But why would reasonable people—those who took their interests in freedom and equality seriously—consent to iterative rather than global contractualism in the first place? Remember, Vernon hopes to distinguish the IP from contractarian theories of mutual advantage, and he does this principally by presupposing a background right to liberty that one reasonably waves (hence “social waiver”) when the features of one’s polity make this a good bet. One forgoes the self-enforcement of this liberty right through political association. However, because the premise of Vernon’s argument is cosmopolitan regard, *everyone, and not just compatriots, has this right*. At the core of the IP, then, is a complex right that fuses liberty *and* equality. As it stands, though, Vernon’s current formulation of the IP reflects the former and ignores the latter. Excluding outsiders from the benefits of political association can only be squared with cosmopolitan regard when not one but *two* conditions are met: (1) others can try to do so too; and (2) the *conditions* under which they attempt this are the same. Restricting one’s focus to (1) as Vernon does fetishizes a purely formal notion of liberty (which one can waive in associating politically) at the expense of its *value*, which must somehow be equalized.

For all of this, *Cosmopolitan Regard* is a breathtakingly ambitious and provocative book, and its central conclusions—that the mighty must protect the vulnerable, the rich must feed the poor, the lawful must prosecute criminals, and all this irrespective of national boundaries—will resonate with decent people everywhere intent upon making the world a less horrendously unjust place. Before inspiring them to do so, however, professor Vernon will have to:

- (i) identify a non-arbitrary baseline of advantage/disadvantage for the IP;
- (ii) articulate and defend a conception of freedom that simultaneously bridges domestic and international iterations of the “social waiver”;
- (iii) explain why, given that conception, opportunity rather than outcome is the right metric for global justice, or, at least;
- (iv) introduce procedural constraints that model cosmopolitan regard without collapsing iterative into global contractualism.