

# Challenges for a New Global Order: A Two-dimensional Approach to Global Justice

Iván Teimil García  
University of Oviedo

**Abstract.** The solution to global problems requires an effective extension of the universal Human Rights. Apart from demanding a more important weight of the institutions that watch over the civil rights of world citizens, this paper takes seriously into account the necessity of recovering the ambitious project included in the Human Rights Declaration as well as in the UNO Charter.<sup>1</sup> This project should make progress in the two egalitarian goals of overcoming economic inequalities worldwide and reducing the extreme difference in welfare within a highly stratified society. Therefore, the solutions have to attend so much to the inequalities of an unjust economic redistribution, as to the problems derived from an insufficient recognition of the people in a disadvantaged position. To all of that we must add a general context of undeniable unjust redistribution of the sources and the lack of effectiveness of the transnational institutions to correct this *status quo*. This paper underlines that the questions of global justice have necessarily at least two dimensions: redistribution and recognition.<sup>2</sup> Likewise, the project emphasizes that the Declaration of Human Rights contains two types of rights: civil and economic ones. For this reason, we must remark that the civil, political and individual rights cannot reach a complete development without the guaranty of the basic conditions of subsistence. This paper also considers, as Cristina Lafont has pointed out, that transnational institutions should be in charge of redistributive problems or, at least, they should restrict the unjust global redistributive measures, that prevent poor countries from reaching a stable and egalitarian economic order and, therefore, do not permit a complete development of the civil and political rights of all people in those countries.

**Key words:** civil rights, subsistence rights, supranational institutions, millenium goals, economic justice.

In this article I undertake some reflections on the two types of rights, whose mirror image is the classic distinction between positive and negative rights, the institutions that must promote them and the reach decisions from such institutions must have. To that effect I use the discussion over the Habermasian model of a reformed global order as a focal point (Habermas 2005). As Cristina Lafont (2008) correctly points out, there are two readings to this model: an ultra minimalist reading, which assigns supranational institutions (the UN, its Security Council, and the International Criminal Court) the single task of intervention in case of wars of aggression or massive crimes against humanity (that is, when a massive violation of negative rights occurs) and a more ambitious version, that entrusts supranational institutions with the task of correcting the regulations that perpetuate the situation of radical inequality between rich countries and impoverished countries.

In order to develop this matter, I firstly analyze the multi-level system for a reformed global order that Habermas proposes (I). Secondly, I take into account the possible

---

1] See Lafont 2008, 41-60.

2] See Fraser and Honneth 2003.

interpretations that can be made of this system, and the criticisms that could be formulated against its ultra minimalist interpretation, the one Habermas himself seems to opt for. I tackle all this making use of Cristina Lafont's analysis of the Habermasian model (II). And finally, I will complete the observations with some brief reflections on the growing importance of a sense of transnational solidarity, and the relevance of understanding the defense of negative and positive rights as two co-implicated parts of a same project (III).

### **I. HABERMAS "MULTI-LEVEL" MODEL FOR A REFORMED GLOBAL ORDER**

In his "Eine politische Verfassung für die pluralistische Weltgesellschaft" (2005) Habermas presents his global political organization model.<sup>3</sup> This model adapts the concept of popular sovereignty to the new forms of governance beyond the nation state. Habermas advocates a world society organized according to a hierarchical level system, in which world domestic politics must be implemented without a coercive world government. The German philosopher emphasizes that this world domestic politics must especially concern environmental problems and global economic policies. His design is characterized by a three level structure with three types of political actors assigned to each level. The supranational level is occupied by a single actor, the United Nations, an organization that has the capacity to act in well-defined political fields (ensuring peace and imposing human rights at a world level) without itself assuming the character of a state. However, although Habermas refers to a deeper way of conceiving the role of ensuring security, that includes the protection of the basic conditions of life, he understands at the same time that the core institutions of the United Nations must be exempt from tackling economic issues. For this reason, massive inequality is not a task to be undertaken, according to Habermas, from the nuclear institutions of the United Nations (the Security Council and the International Criminal Court) but that such institutions have as its fundamental aim ensuring safety and intervening in case of flagrant massive human rights violations.

Economic inequalities between industrialized nations and developing nations and proposing policies to palliate the extreme poverty of the latter fall outside the purview of the UN and constitutes the role of "world domestic politics," located at a lower level than that occupied by the United Nations: the level of the relations between "global players" current and future or transnational level. According to Habermas, all political negotiations concerning environmental and economical issues that go beyond the frontiers of nation states and beyond the purview of the UN and its nuclear institutions, take place within this level. The concept of global domestic politics refers to those issues that were once the subject of foreign affairs, but today, on account of globalization, must be integrated in

---

3] See Habermas 2005, 324-65. All translations of this work are mine, from the Spanish edition (2006[2005]).

broader transnational political units, despite the fact that the first basis for their legitimacy resides on nation states, from whose sovereignty arises the legitimacy of all regulations.

According to Habermas, in this transnational level, institutional formations intermingle, being in need of the kind of coordination that an increasingly complex world society also requires. Such coordination, only reaches certain problem categories, for instance, telecommunications regulations, catastrophe prevention, containment of epidemics or the fight against organized crime. All that is needed in these cases is smooth information exchange and good international relations, which is already an extremely difficult task, given the political differences that often emerge when tackling shared endeavors. However, the issues that involve a genuine political nature and not just good coordination and cooperation between states, are even thornier. These political issues evidently relate to the equitable distribution of global resources, energy, environmental, financial and economic policies. In relation to these problems that, ultimately, concern world domestic politics, there is a need for regulation and configuration for which, in Habermas' judgment, neither the actors nor the opportune institutional frameworks yet exist (2006). Current political networks are insufficient to address the demanding task residing at this transnational level and, according to Habermas, regional regimes wielding the necessary power for an implementation of their decisions at a continental scale would be required. From the Frankfurtian's point of view, "politics will only be able to meet its regulatory role at the transnational level, if the intermediate arenas are populated by a manageable number of global players," such as the United States of America which already is one (Habermas 2006, 327-28). Western democratic states participate at this level, but also in a very special way so does global citizenry through its organizations and movements.

The lowest ground in this multi-level system is occupied by nation states. Habermas points out that national states are under constant pressure in our time, in that global problems go way beyond the nation-oriented policies of each country. The interdependence generated by a global economy and the cross-border risks of a world society (climate change, massive migratory movements, the threat of pandemics) "go beyond the territorial scope of their action realms and overtax their chains of legitimation" (2006, 328). For this reason the protection of global citizens can no longer be restricted to the defense of negative liberties, but must be extended to guarantee essential material conditions "so that those who live in hardship can make effective use of the rights they are formally guaranteed" (2006, 326). In order to undertake such an enterprise on a global scale, Habermas establishes the following division of labor: a transnational order is necessary to promote economic equality policies; just as necessary is an effective supranational order, whose nerve center is the UNO, to ensure peace, liberty and security. Also, if civic solidarity was, at the nation state level, a necessary element to vertebrate the relationships and bonds involving all citizens in the shared democratic enterprise, it is equally necessary to extend this concept to the global order, in the shape of a transnational civic solidarity.

In my opinion, the Habermasian three-level division perfectly captures the political relations that occur in each sphere, and is a good general analysis on who the actors that currently intervene in every level and their roles are. Nonetheless, after a reading of the cited article by Habermas many ambiguities still persist that have left even some Habermasians uneasy.

The first of these ambiguities is derived from Habermas' own allocation of roles for each level. The difficulty is encountered when we focus on the role assigned to the United Nations at the supranational level. Habermas states that the role of the United Nations must be purged of economic issues, and its nuclear institutions clearly separated from the subsidiary organizations in charge of those issues under the auspices of the UN. Thus, the Security Council and the International Criminal Court must focus their efforts on ensuring security and promoting human rights worldwide.

The attribution of redistributive responsibilities at a transnational level, the one in which *global players* and their institutions act, brings within itself the following consequence: These *global players* are the only ones able to undertake redistributive measures, since only they could harmonize the decisions of nation states, backed by the sovereign people, into a higher integration level, just as, according to Habermas, do the United States and the European Union. Now, in the Frankfurtian's opinion, this transnational level still has an insufficient degree of articulation. In regard to global energy, environmental, financial and economical policies, "there is a need for regulation and configuration for which neither the actors nor the institutional frameworks yet exist" (Habermas 2006, 327). But, if that is so, is it appropriate to entrust this transnational level with issues as important today as global energy policies or world economy? It appears such intentions are postponed to an undefined future, in which this level might have the appropriate number of global players with enough decision power. However, would not it be more logical, given the urgency of these matters, to entrust their management to those institutions in the supranational arena that have already reached such a degree of organization and regulation? According to Habermas, redistributive policies are something to be left on the hands of the thorny negotiations of interests between states at the transnational level, as the UN must focus on the already rather complicated task of protecting human rights and ensuring security.

The second ambiguity I detect in the Habermasian multi-level design derives from the very role as protector of human rights worldwide assigned to the United Nations. Habermas argues that the UN must stand apart from redistributive issues. However, the protection of human rights extends, as already stated, beyond the subjective liberal rights to include subsistence rights. As Jeffrey Flynn (2009) points out, limiting the role of the UN to the traditional agenda of ensuring peace, security and liberty seems to contradict the millennium goal postulated by the UN, which calls for all people to meet the basic and essential needs for the fulfillment of the rest of civic and political rights.<sup>4</sup> If we demand that the world organization closes ranks around the traditional mentioned agenda, we

---

4] See Flynn 2009, 59-77.

must then know that we are exercising a more liberal interpretation of the United Nations, which particularly focuses on negative liberties (Lafont 2008).

Finally, the third and last ambiguity that I could blame the Habermasian model for is the lack of a more precise articulation of the order the Frankfurtian calls transnational. His explanation raises questions like: what kind of agreements and negotiations would underpin the transnational balances Habermas speaks of? How must the institutions of these global players be designed or what institutional arrangement is meant to achieve this kind of scenario? What is the importance of these arrangements in non-governmental organizations and the so-called cosmopolitan citizenship? In this same article Habermas hints at a way to answer these questions. However, it should be noted that Habermas addresses this issues in other recent works and articles where he takes full care of his proposals for the so-called global players, particularly regarding the European Union and the constitutionalization of international law.<sup>5</sup> Since this latter problem would take me very far from the goal of this article, I shall delve into the two first mentioned ambiguities.

## II. TWO CONCEPTIONS OF HUMAN RIGHTS

In the article “Alternative visions of a new global order: what should cosmopolitans hope for?” Cristina Lafont (2008) reflects on the two possible readings of the Habermasian Cosmopolitan model.<sup>6</sup> The first, more ambitious, aims to achieve peace and the human rights gathered in the United Nations Charter. The second, minimalist, is limited to advising that any obligation on the side of the international community is restricted to the negative task of preventing wars of aggression and massive violations of human rights, such as ethnic cleansing and genocide. Lafont defends, despite its “utopian” content, the more ambitious version of the Habermasian model, on the basis that there is no significant distinction between massive violation of rights caused by armed conflicts and those derived from unjust regulations in the global economic order. According to Lafont, the cosmopolitan challenges of the Habermasian project can only be met if the principles of transnational justice accepted by the international community are interpreted in accordance with the more ambitious reading, which addresses economic justice as well (Lafont 2008, 41).

In Lafont’s view, Habermas’ position oscillates between ultra minimalism and the more ambitious version of international politics. As this author points out, protecting human rights worldwide requires, among other things, ensuring the minimal necessary social and economic conditions for the exercise of civil and political rights. However, this interpretation is explicitly ruled out by Habermas’ assertion that the world organization should be independent from any “political” challenge, and for Habermas redistributive matters are included in the political challenges of a reformed world order. In Lafont’s

---

5] For a detailed exposition of these matters see Habermas 2001, 2004, and 2008.

6] See Lafont 2008, 41-60.

judgment, the result of this rigid division of labor between the supranational level and the transnational level is that none of the levels is charged, in the end, with the task of improving or palliating unfair social and economic conditions. The minimalist version results in the following scenario: on one side, the UN, at the supranational level, must limit itself to the traditional agenda of ensuring liberty, security and peace. On the other hand, the protection of human rights in the transnational arena does not directly concern “global domestic politics,” since the defense of those rights is a fundamental matter of the world organization at the supranational level. The establishment of a fairer economic order remains, according to Lafont, as a mere political aspiration and not as an obligation of justice. This crucial goal then depends on the negotiated compromises between the conflicting interests and value preferences of the different countries.

As a consequence, in Lafont’s judgment, one of the challenges listed by Habermas in the context of his vision on global justice, namely, that of “correcting the extreme differential in welfare within a highly stratified world society”, becomes a noble aspiration much in the style of “protecting coral reefs and promoting the arts” (Lafont 2008, 47). The eradication or at least the reduction of world poverty might or might not be the subject of global domestic politics, depending on the constellation of ethical-political values more in vogue at each time.

In Lafont’s opinion, the problematic distinction between positive duties and negative duties lays implicitly in this ultra minimalist vision, whose mirror image is a hierarchical organization of the different types of human rights violations: those that inexcusably trigger an immediate responsibility to act and those which do not. Negative duties are sufficiently specific and universal and therefore worthy of being attributed to a supposedly impartial world organization. In contrast, positive duties are intrinsically vague since they refer to the question “Who is supposed to do what?” and that makes a consensus over such duties very difficult among groups and nations of different ethical-political signs. Since the world organization must be neutral before these differences, it would be a mistake to attribute positive duties to it that would reveal a severe partiality in its procedures, because only it has the incontrovertible negative duty of avoiding by all means any armed conflicts that may place large segments of the population at risk (Lafont, 2008).

According to Lafont, this thesis involves two important problems. The first one is less relevant to the task of this article but not, nonetheless, of a lesser caliber in the general context of global justice. Lafont states this difficulty as follows: what needs justification in case of UN action in armed conflicts is precisely the positive obligation to act. Even if we guarantee the negative duties of a morality of universal justice, that is of no great help in our context, since what matters most in these cases are not the negative obligations of abstaining from provoking wars of aggression or perpetrating crimes against humanity, but the positive obligations of acting against such crimes, even considering the risks to soldiers and civilians and the high economic costs of such interventions. If what matters

most in these cases is acting, then it is necessary to have good reasons to back the positive duty of intervention.<sup>7</sup>

The second problem we face in accepting the ultra minimalist version refers, according to Lafont, to the nature and extent of human rights violations. As justification for intervention in case of wars of aggression and crimes against humanity, it is usually argued that such violations are massive, that is, they indiscriminately affect wide segments of society. Now, in Lafont's judgment, this would not be the distinctive feature of these attacks against humanity –since natural disasters also cause massive casualties- but rather their condition as undeserved crimes, unprovoked by the victims, who on top of it all remain devoid of any means to defend themselves from aggression. It is precisely this feature that generates the positive obligation of acting in order to protect the victims. Most important, therefore, is not if their defense is generated by a positive or a negative duty, but that their protection has to do with a decisive question of basic justice.

This takes us to the second and most important problem for the argument of this article. Lafont points out that there are other massive violations of human rights, also undeserved and by no means provoked by the victims. There is no need to remember the millions of people that die every day from easily curable diseases, if the proper means and resources were available, nor the billions of human beings that live under extreme malnourishment and poverty conditions, of which 3 out of 5 are children under five years of age. As Lafont reflects, the fundamental right to life is not protected for 18 million people that die prematurely and, of course, undeservedly, each year, due to curable diseases. Given this reality, it is of little importance if the redistributive measures are or are not political in nature (in fact, it is difficult to imagine they are not to some extent). In some cases, it would not even be necessary for a reformed world organization to undertake radical redistributive reforms, but just that it prevented the inaction of the global players taking advantage of a *statu quo* as beneficial for some as it is harming to others. Cristina Lafont cites several examples in this regard, from which I have selected one that I find particularly significant.<sup>8</sup> As it is well known, HIV is one of the major causes of mortality in impoverished countries. Whereas in rich countries this painful disease has in many cases become a chronic condition thanks to antiretroviral drugs, governments in developing countries cannot afford them because they are bound by the international agreements ratified under the auspices of the World Trade Organization. These agreements, collected under the acronym TRIPS (“Trade-Related Aspects of Intellectual Property Rights”), allow pharmaceutical companies a monopoly in the production of drugs for a period of 20 years, during which they can increase the price as much as they want and write it down as previous investigation costs. Obviously, changing this blatantly unjust regulations will not solve all distributive injustices in the planet, but certainly would help, a lot, to palliate

---

7] See Lafont 2008, 48.

8] See Lafont 2008, 50.

some of the most serious. Carrying out effective changes in this regulations seems at least as reasonable as taking part in risky and costly military operations.

For Lafont, the only reasonable hope we can harbor in this regard depends on the international community progressively admitting that some economic regulations –from entities such as the IMF or the WTO- bring within themselves massive violations of human rights. And that cannot be left to the ventures of the domestic political wills that each country may impose in the transnational arena. A reformed world organization at the supranational level would have to set the basic directives for a fair economic policy, that is independent from the partisan interests of the most powerful and that guarantees for the “citizens of the world” the basic conditions for the exercise of their equal formal rights. This, effectively, grants the appropriate importance to massive violations of rights that deserve to be taken into account as much as genocide and ethnic cleansing. The last part of this paper links precisely to the challenge of opening avenues that lead to achieving this goal through a cosmopolitan solidarity.

### III. TOWARDS A NEW COSMOPOLITAN SOLIDARITY

At the very least, the solution to the grave distributive injustices that plague the planet demands the establishment of an international road plan that focuses on the basic subsistence difficulties of people as well. Now, the other side of the coin is the gradual creation of an active transnational solidarity based on human rights. In Jeffrey Flynn’s opinion (2009), Habermas neglects this active side of cosmopolitan solidarity, in that he focuses on the reactive element which vertebrates this solidarity: for Habermas, the bases over which it stands are the emotional reactions of disapproval by the citizens to massive violations of human rights.<sup>9</sup> However, in Flynn’s judgment, unless citizens and leaders in developed countries start moving towards making the social and economic rights of the poorest countries a reality, the latter will continue to see the spread of a human rights culture as a hidden form of cultural imperialism or economic exploitation.

On one hand, ensuring human rights demands taking action in the economic arena and not just preaching the need to extend the liberties of the traditional liberal flowchart. On the other hand, in order to foster a true cosmopolitan solidarity we need more than spontaneous reactions of disapproval to massive violations. We need, in the end, a more active form of solidarity possessed of a style similar to that which in nation states served and still serves as a vehicle for social integration.

Flynn notes that it is possible to pave this kind of feeling if we focus on the transformations we have tackled or are tackling from different perspectives. For this reason, this cosmopolitan solidarity must be created, more than reactively, as a positive construction that centers on trans-cultural dynamics and dialogic processes (Flynn 2009). The channels for this process are vague. But, that is no reason to interpret that the global public sphere moves

---

9] Flynn 2009, 68.



just in a reactive fashion, in its disapproval of massive violations. This public sphere is also constructive, self-referential and performative, it is configuring a series of political contexts tending towards eliminating exclusion and armoring a set of inalienable rights. Precisely, the spirit of human rights and the subsequent Declaration is the result of this constructive effort and such Declaration is postulated from the presupposition that this context of rights can be effectively carried out. Thanks to this spirit, global human rights policies, which groups like Amnesty International and Human Rights Watch have sought to endorse, have given rise to a certain cosmopolitan solidarity (Flynn 2009). Hence, information technologies have made visible those ignominies that remained silenced. Both factors have combined to recently launch campaigns for the elimination of the debts owed by the poorest countries and increase development aid, which are aimed at least to palliate some of the effects of extreme poverty.

Flynn emphasizes a kind of solidarity that is produced within public spheres through participation in a trans-cultural dialogue, largely generated thanks to the actions of this global social movements and the diffusion reached by the grave subsistence problems of underdeveloped countries (Flynn 2009). This solidarity not only arises from the reactions to human rights abuses, but is actively created in the interior of this global public discourse. It is built within the common project of a global human rights system that does not only focus in public and civil liberties, but in the means to guarantee the exercise of such liberties as well.

In short, this cosmopolitan solidarity, not just articulated on the basis of disapproval of massive crimes, is imperative to mobilize a transnational citizenry able to influence the policies of a global reformed state. In turn, supranational institutions must channel this solidarity by setting the directives for a more just global economic order, or at least de-legitimizing unjust regulations that get started under its patronage (Lafont 2008). As Thomas Pogge points out, we even sever the negative duty “not to harm” by imposing an unjust global economic order in poor countries (Pogge 2002). I suggest then that the distinction between civil and political rights and subsistence rights be contemplated under the light of the idea of co-originality formulated by Habermas in the context of his debate with political liberalism.<sup>10</sup> In my opinion this idea is adapted to our problem at hand, we find that both kinds of rights are co-original or, at least, that they are closely co-implicated: it is not possible to exercise civil and political rights without having secured basic subsistence conditions, and inversely, the protection of this basic subsistence conditions is more difficult in a context where political and civil rights are not guaranteed. In the struggle for the protection of human rights, freedoms and the possession of the essential material means for a dignified life are two sides of the same coin. Therefore, the institutions in charge of promoting human rights (especially, the UN at the supranational level) should set the guidelines for the protection of both types, since, if we consider the information at our disposal, one cannot survive in a stable manner without the other.

---

10] See Habermas and Rawls 1998.

## REFERENCES

- Lafont, Cristina. 2008. Alternative Visions of a New Global Order: What should Cosmopolitans Hope for?. *Ethics & Global Politics* 1 (1-2): 41-60.
- Flynn, Jeffrey. 2009. Human Rights, Transnational Solidarity, and Duties to the Global Poor, *Constellations* 16 (1): 59-77.
- Fraser, Nancy and Axel Honneth. 2003. *Redistribution or Recognition? A Political-Philosophical Exchange*. London: Visor.
- Habermas, Jürgen. 2001. *Zeit der Übergänge*. Frankfurt: Suhrkamp.
- . 2004. *Der gespaltene Westen*. Frankfurt: Suhrkamp.
- . 2005. Eine politische Verfassung für die pluralistische Weltgesellschaft?. In *Zwischen Naturalismus und Religion. Philosophische Aufsätze*, 324-65. Frankfurt/Main: Suhrkamp.
- . 2006[2005]. Spanish edition. ¿Una constitución política para una sociedad mundial pluralista?. In *Entre naturalismo y religión*, translated by Pere Fabra, 315-55. Barcelona: Paidós.
- . 2008. *Ach Europa*, Frankfurt: Suhrkamp.
- Pogge, Thomas. 2002. *World Poverty and Human Rights, Cosmopolitan Responsibilities and Reforms*. Cambridge: Polity.
- Rawls, John and Jürgen Habermas. 1998. *Debate sobre el liberalismo político* Barcelona: Paidós.