Justice and collective responsibility

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Introduction

Cosmopolitan conceptions of justice hold that the principles of justice are properly applied to evaluate the situation of all human beings, just in virtue of their humanity and regardless of the institutional or other relations that may obtain among them.\(^1\) Associative conceptions hold, by contrast, that the proper object of evaluation of principles of justice are the situation of those persons who stand in some associative relation with one another that is claimed to trigger the requirements of justice. The relevant associative relation may be a scheme of cooperation that distributes important benefits and burdens,\(^2\) or appropriately specified autonomy-restricting coercive relations,\(^3\) or yet something else. In this paper I will discuss a specific version of the associative conception, one that is sometimes referred to as the ‘political conception’ of justice and that has been outlined in most detail by Thomas Nagel.\(^4\) The political conception holds, like some of the accounts that restrict the scope of application of the duties of justice to certain coercive relations,

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2 Different versions of this view are offered by Charles Beitz, *Political Theory and International Relations* (Princeton: Princeton University press, 1979) and Andrea Sangiovanni, "Global Justice, Reciprocity, and the State." *Philosophy & Public Affairs* 35:1 (2007): 3-39. Beitz and Sangiovanni reach different substantive conclusions because in Beitz’s view the relevant cooperative relations obtain globally, while in Sangiovanni’s view the benefits reciprocally produced within nation states are normatively special and therefore only they give rise to egalitarian distributive requirements.

3 Michael Blake "Distributive Justice, State Coercion, and Autonomy." *Philosophy & Public Affairs* 30:3 (2001): 257-296, and Laura Valentini, "Coercion and (Global) Justice." *American Political Science Review* 105:1 (2011): 205-20. These accounts are different to the extent that in Blake’s view the morally relevant coercion is only the one currently exercised by nation states, while Valentini holds that there are other forms of coercion as well that trigger duties of distributive justice.

4 Thomas Nagel, “The Problem of Global Justice,” *Philosophy and Public Affairs* 33:2 (2005), pp. 113-147, at p. 120.
that the demands of egalitarian distribution arise only among persons who are subject to
the authority of the same coercive state institutions. Unlike these accounts, however, it
does not identify the morally relevant aspect of coercive institutions in their autonomy-
restricting nature but in the relations of collective responsibility that they are suggested to
generate. It holds that coercive rules that are imposed in the name of those who are
coerced make the coerced collectively responsible for the effects of the rules by
normatively engaging their agency, and by making them responsible in this way such
institutions create a new justificatory burden that can be discharged only through
egalitarian distributions. In this paper I will attempt to reconstruct the account of
collective agency and responsibility that may provide support for the political conception.
I will then argue that the political conception fails even if the theory of collective
responsibility that is suggested to underlie it is correct.

It is important to note right at the start that Nagel’s defense of the political
conception leaves many interpretive questions open, and therefore a significant part of
the discussion is to develop a coherent and plausible rationale for the various claims that
he makes in support of his position. Furthermore, in the spirit of criticizing his account in
its strongest version, I try to provide plausible arguments for his position where they are
only implied in the text, or when there are gaps in the account. To this extent, the
interpretation goes beyond reconstruction and searches for the grounds, not mentioned by
Nagel himself, which may provide support for the political conception. Once this is done,
I will argue that the political conception is not successful even in the amended form that I
outline here. I argue that the account of collective agency and responsibility that is either
implicit in the political conception or that may be invoked to illuminate it does not in fact support its conclusions.

The political conception

According to Nagel’s version of the political conception, the requirements of socioeconomic justice is first and foremost about eliminating or at least mitigating the unequal distributive effects of morally arbitrary factors, such as the wealth of one’s parents, one’s sex or native talent, i.e. such factors that one has done nothing to deserve.\(^5\) However, in the political conception “the presumption against morally arbitrary inequalities is not a principle of universal application”\(^6\): rather, arbitrary inequalities are unjust only if they are generated by “coercively imposed legal and political institutions.”\(^7\) Nagel makes it clear elsewhere that an inequality does not have to be purposefully produced as the goal of social institutions in order for it to count as unjust; the otherwise morally permissible actions of individuals, together with the workings of otherwise acceptable social mechanisms may produce arbitrary inequalities, and they count as unjust insofar that the coercive political institutions sustain or permit these consequences.\(^8\) He further adds the qualification that only coercive rules that are also imposed in the name of those subject to them generate the presumption against morally arbitrary inequalities.\(^9\)

It seems that Nagel’s political conception draws its motivation from the general idea that not all morally arbitrary inequalities are equally problematic from the point of

\(^{5}\) Ibid., p. 127.
\(^{6}\) Ibid.
\(^{7}\) Ibid., p. 128.
view of justice, and that arbitrary inequalities produced by agents are more troubling than “purely” natural inequalities, even though the individuals suffering natural disadvantages are no more deserving of them than those suffering socially produced inequalities.\(^{10}\) However, this general idea has to be further supplemented in order to establish the conclusions of the political conception, because quite obviously social mechanisms (such as global trade regimes, for instance) that are not coercively imposed in the name of all those subject to them can also produce arbitrary inequalities, and they satisfy the general condition of being the product of agency rather than of merely natural causes. Further relevant distinctions between different types of social mechanisms need to be drawn. Therefore, we need to identify the rationale for two aspects of Nagel’s political conception: first, that it is only coercively imposed (or sustained) mechanisms that create a problem of justification,\(^ {11}\) and second, that only those mechanisms enforced in the name of those subject to them give rise to the problem of justification. The general

\(^{10}\)Cf. his whole discussion in “Justice and Nature.”

\(^{11}\) This question is distinct from, though perhaps related to, the controversy rooted in Rawls’ theory regarding the proper subjects (or site) of justice. On Rawls’ view, the primary subject of justice is the basic structure of society, frequently identified with coercively enforced social and political institutions. Rawls’ critics maintain that noncoercive practices and the private choices of individuals are also under the application of the requirements of justice. See John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), pp. 7-11, and G. A. Cohen, “Where the Action Is: On the Site of Distributive Justice,” *Philosophy and Public Affairs* 26:1 (1997): 3-30. It seems to me that holding a specific position regarding site does not necessarily commit one to a specific position regarding scope, and vice versa. On the connection between the two problems, see Arash Abizadeh, “Cooperation, Pervasive Impact, and Coercion: On the Scope (not Site) of Distributive Justice,” *Philosophy and Public Affairs* 35:4 (2007): 318-358. It should be noted, though, that Nagel does not treat the two problems as clearly separate. For instance, in the context of defending the political conception, he writes that “[j]ustice applies […] only to a form of organization that claims political legitimacy and the right to impose decisions by force, and not to a voluntary association or contract among independent parties concerned to advance their common interests” (“The Problem of Global Justice,” p. 140). But the quoted claim is about site rather than scope: those defending the cosmopolitan position need not say that the various kinds of international institutions and regimes that currently exist are required, in their current form, to pursue justice at the global level, but only that the effects of their operation are proper objects of evaluation by principles of justice. That view is consistent with holding that different, currently not yet existing institutions are needed to implement justice at the global level.
reference to the involvement of agency as the precondition of questions of justice to arise does not, in itself, provide such rationale.

Nagel’s own description of the political conception provides some guidance. He writes that coercively enforced rules imposed in “our” name make “us” (i.e. those subject to the coercive rules) responsible for their effects, including arbitrary inequalities, and those (and only those) who are made responsible for the effects of the rules in this way “have standing to ask” why they should accept them, i.e. they (but only they) are owed justification for them. At other points, he implies that it is only properly collective agents’ acts, with corresponding collective responsibility, that trigger the demands of justice. He suggests that the requirements of justice depend on the existence of a threshold level of “collective engagement” that is currently satisfied only by institutions with strongly centralized decision-making performed in the name of those subject to them. I take these remarks to invoke a certain conception of collective agency and of the conditions of collective responsibility attribution, and an account of the conditions under which collective responsibility distributes over the individuals who are the constituent members of the collective agent. It appears that the proposal holds that the conditions that generate the justificatory burden for arbitrary inequalities are the same as the conditions that warrant collective responsibility attribution.

A brief clarification about the concept of responsibility may be useful here. It is customary to distinguish between responsibility as attributability on the one hand, and

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13 Ibid.
14 Ibid., p. 141, where he writes that “I doubt that the rules of international trade rise to the level of collective action needed to trigger the demands of justice, even in diluted form,” and in the same paragraph expresses his doubt that a theory of different levels of collective responsibility can be worked out.
15 Ibid., p. 142. The reference to centralized control is at p. 127.
substantive responsibility, on the other. To say that some entity is responsible for a state of affairs in the sense of attributability is to say that the state of affairs in question is an appropriate basis of morally appraising that entity. To say that an entity is substantively responsible for an outcome is to say that it has no valid claims on other agents to have helped avoid that outcome or to rectify it, etc.\textsuperscript{16} Responsibility as attributability is backward-looking, while substantive responsibility is forward-looking: it is about what particular agents are obligated to do. In context, it is clear that when Nagel discusses the conditions of collective responsibility attribution, he is referring to responsibility as attributability, and then goes on to draw conclusions about the presence or absence of (forward-looking) responsibility to mitigate morally arbitrary inequalities from the presence or absence of backward-looking responsibility for these inequalities.

A critical part of Nagel’s political conception is that having a central decision-making procedure is a necessary condition of a group of several individual agents to be collectively responsible for an outcome. The reference to centralized control or decision-making is made as part of Nagel’s rejection of the idea that the various participants of the global economy are collectively responsible for the inequalities that are generated by it. His point is that various agents that are not acting within a centrally imposed set of rules cannot be attributed responsibility for the aggregate effects of their otherwise permissible actions. To be sure, each of them may be held responsible for their own acts, and may be blameworthy if they act in impermissible ways. But the crucial point is that in the absence of centrally imposed rules, there is no such agent that could be responsible for the overall distributive effects, including seemingly unfair inequalities, of otherwise

\textsuperscript{16} For the distinction between responsibility as attributability and substantive responsibility, see Thomas Scanlon, \textit{What We Owe to Each Other} (Cambridge, Mass.: Harvard University Press), pp. 248-49.
separately permissible actions. And the implication is that to the extent that there is no such collective agent that is responsible for these inequalities, they cannot be unjust. In other words, the account implies a connection between centralized decision procedures, the existence of collective agents that are the proper object of collective responsibility attribution, and the possibility of injustice. The task now is to clarify this connection. As I mentioned in the introduction, Nagel does not himself provide the details of a theory of collective agency; instead, his remarks only gesture towards one. For this reason, the following discussion of collective agency and responsibility cannot be ascribed to him: I discuss it merely to strengthen and illuminate the various points that he makes.\footnote{17}

Collective responsibility and centralized control

The claim that links collective agency with centralized decision-making may draw support from an influential account of collective agency and responsibility developed by Philip Pettit, among others. This view holds that for an entity to qualify as an agent, and therefore to be the proper object of responsibility attribution, it must be able to evaluate and choose from the alternatives available to it, and must be able normally to follow through on its choices.\footnote{18} Several individuals constitute a distinct collective agent only if there are established procedures of evaluating options and making decisions, procedures that will occasionally deviate from the judgments that the individuals constituting the collective agent reach on their own. Through standing decision procedures the collective takes on agential powers of its own that are distinct from those of its individual members.

\footnote{17} It should be noted, however, that Nagel approvingly refers to Ronald Dworkin as another representative of the political conception (ibid., pp. 120-21), and Dworkin does provide an account of corporate responsibility that is consistent with the one discussed here (see reference in footnote 20 below). This may give some indirect support for the interpretive strategy adopted here.

And by having effective enforcement powers, it acquires the capacity to execute its choices by being able compel its constituent members.19

It is important to see why on this account of collective responsibility it is possible to speak of collective agents that are distinct from their individual constituents in a robust (though metaphysically non-mysterious) way, and what the normative significance of this possibility is. It may be helpful to start with the second question, to see why it might be normatively desirable to be able to identify collective agents with their corresponding collective responsibility. There are plausible examples, widely discussed in accounts of collective responsibility, in which a corporation consisting of several individuals is culpable of causing some significant harm to other individuals or entities, but it is also the case that none of its individual members acted in a way that would merit attributing to him or her individual responsibility for the harm. In such cases, absent the possibility of attributing responsibility to the group as a whole, one is faced with the dilemma of having to choose between two unattractive alternatives: either to declare that no one is responsible for the harm and therefore no one is liable to compensate for it, or to attribute responsibility – and thus liability – to some individual(s) alone even though their actions, taken separately, do not warrant this. In such cases there is what might be called a “responsibility shortfall”20: the sum of individual responsibilities does not add up to the level corresponding to the size of the harm suffered by the victims of the group’s acts. In cases like this, it would be morally desirable to be able to attribute responsibility to the group as a whole, and as an agent distinct from its members. It may be possible to extend

20 This is Stilz’s term, see ibid., p. 193. See also Ronald Dworkin’s discussion of corporate responsibility in Law’s Empire (Cambridge, Mass.: Harvard University Press), pp. 168-175, and Pettit, Responsibility Incorporated,” p. 194.
this insight from the case of harm to apply to the problem of unfair distributive inequalities. It is often the case that many individuals’ (and other kind of actors’) permissible actions generate morally arbitrary inequalities in such a manner that it would be mistaken and wrong to attribute individual responsibility to any one of them for the unfairness. In cases like this, it would be morally desirable to be able to say that the individuals and other contributing entities, taken together as a group, are responsible for the resulting inequalities.

To be sure, the fact that in such cases it would be morally desirable to attribute responsibility to the group as a whole does not by itself warrant the rightness of such responsibility attribution. A plausible reconstruction of Nagel’s political conception of justice sees it exactly as an attempt to clarify the conditions, relying implicitly on a theory of collective responsibility, under which responsibility for arbitrary inequalities arising in part as a consequence of many agents’ acting permissibly can be appropriately attributed to the group of such agents as a whole. And his point is precisely that when those conditions do not obtain, no one can be held responsible for the inequalities and they are therefore not unjust, however lamentable this may be. (In other words, in cases like that he is ready to embrace the first horn of the dilemma described in the previous paragraph). The suggestion is that one of the necessary conditions of such collective responsibility attribution is that the group agent is in some genuine sense autonomous or distinct from its individual members, and that this in turn depends on there being centralized and binding decision procedures governing group decisions. Unless there is such a distinct collective agent, we are stuck with the responsibility shortfall. And Nagel’s further point
is that talk of such a distinct agent is warranted only if the grouping is structured in a certain way, to wit, it possesses centralized decision-making and enforcement procedures.

What is the significance of central decision-making for the existence of a distinct group agent? The answer can be grasped if we take a look at the “debunking view” suggesting that talk of group agency is always superfluous and illusory. The debunking view holds that contrary to certain appearances, group agency is always completely reducible to individual agency. The group as such never has attitudes and choices that are distinct from those of its members; they are simply a logical function – such as majority or some other – of the relevant attitudes or choices of its constituent individual agents. If the debunking view is right, then the group’s responsibility can never exceed the sum of the individual responsibility of its members, and therefore the “responsibility gap” cannot be closed: we are left with the dilemma discussed above. However, contrary to the debunking view, groups with a certain structure do indeed qualify as distinct agents, whose attitudes (or at least many of them) are not any function of the corresponding attitudes of their members. Pettit illustrates this through the so-called “discursive dilemma”, which shows that groups that have to make consistent decisions over time about logically related issues must necessarily structure themselves exactly in a manner that at least some of their choices are not functionally related to the choices of their members.

The following example will clarify the underlying issue. Suppose that claims P, Q, and R are individually necessary and jointly sufficient to make true that S. If and only if all three of them are true is it the case that S. Suppose further that there is a group of three

21 Pettit discusses the debunking view under this description in “Responsibility Incorporated,” pp. 180-181.
persons A, B and C, that has to decide whether S is the case, and whose views on these propositions are distributed as follows:

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<tr>
<th></th>
<th>P?</th>
<th>Q?</th>
<th>R?</th>
<th>S?</th>
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<tr>
<td>A</td>
<td>No</td>
<td>Yes</td>
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<td>B</td>
<td>Yes</td>
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<td>C</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
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<td>A, B, and C</td>
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As can be seen from the table, each member of the group disagrees with one of the propositions P, Q or R, and therefore each must reject S as well as long as their individual judgments are to be consistent. However, a majority agrees with all three propositions, and therefore if we aggregate the members’ judgments about P, Q, and R proposition-wise and let the decision about S be determined by the outcome of these prior decisions about P, Q, and R, then each will be approved and the group will be committed to approving S as well. But S is rejected by each member individually. By contrast, if the individual judgments are aggregated only about S, then the group will reject S, since every one of its individual members reject it. The problem is that the group is quite likely to encounter each of S, P, Q, and R separately. Let us assume that this is in fact so, and the group as a whole has to form a judgment about each of P, Q, R as well as S. If the distribution of the individual judgments is as described in the table above, and if the group’s judgments are a simple function of the members’ judgments, so that it takes a simple majority vote on each of P, Q, R and S, then the group will make logically
inconsistent judgments – both that PQR, which logically entails that S, and that not S –, which in turn will lead to an inability to decide and act on certain issues.\footnote{Ibid., pp. 181-82. The example is slightly modified here. The problem was originally described under a different name in a specific legal context in L. A. Kornhauser and L. G. Sager, “The One and the Many: Adjudication in Collegial Courts,” California Law Review 81 (1993): 1-59. See also Christian List, “The Discursive Dilemma and Public Reason,” Ethics 116 (2006): 362-402.} Individually consistent judgments will lead to collectively inconsistent ones, as long as all group judgments are a simple function of the members’ judgments. Therefore, if the group is to retain its ability to make consistent decisions over time on logically related matters, its decision procedure cannot consist in a simple aggregation rule of the corresponding judgments of its members.\footnote{List and Pettit argue that it is not only majoritarian aggregation rules that lead to inconsistent results, but any aggregation rule that derives group decisions automatically according to some simple function – majoritarian or other – from the relevant judgments of its members. See Christian List and Philip Pettit, “Aggregating Sets of Judgments: An Impossibility Result,” Economics and Philosophy 18 (2002): 89-110.} It will have to adopt procedures that enforce logical consistency of decisions, but this will have the inevitable consequence that at least some of its attitudes will not be any function of its members attitudes. To continue with the above example, if the group had in the past already voted to approve P, Q, and R, then it will be counted as having already approved S as well, even though all of its members individually reject it.

As a consequence, all groups that have the disposition and ability to decide and act consistently over time on logically connected matters will have at least some attitudes and decisions that are distinct from the majority of their members’ views, or from every member’s views, as the above example illustrates. In the case of such groups it is warranted to talk of the group agent as distinct from its individual members, and therefore as a separate center of responsibility.\footnote{This is not to say that sometimes individual members and especially those occupying important roles in the group could be separately and individually responsible for their actions. The point is that sometimes this could prove insufficient.} It is also clear that only groups with
centralized decision procedures that empower some individuals in certain roles to make autonomous decisions for the group as a whole that can satisfy these conditions. Therefore, we are now in a position to identify a possible rationale for Nagel’s claim that only groups with centrally imposed and enforced decision procedures can be responsible for the inequalities generated within them by their members’ permissible actions. Only groups with such structures can qualify as distinct agents, and can close the responsibility gap, if any, that is left by its individual members.

Normative engagement

But as it has been noted above, in Nagel’s view centrally imposed and enforced rules are only necessary but not sufficient to trigger the requirements of justice. The rules have to be imposed in the name of those subject to them for the justificatory burden to arise with respect to their effects. It is plausible to understand the “in their name” condition as stating that the group makes a claim to acting with authority: it does not merely force its members to act in certain ways but claims to have a right to do so and thus expects them to comply not only out of fear but for moral reasons.\textsuperscript{25} Nagel makes two related claims in support of this further condition, which goes beyond the conditions necessary for collective responsibility attribution. The first claim is that rules enforced in this way (with claimed authority) make those individuals subject to them also responsible for their effects.\textsuperscript{26} And the second is that by being made responsible in this way for the effects of coercively imposed rules, these individuals “have standing” to ask for a

\textsuperscript{25} “The Problem of Global Justice,” p. 128.
\textsuperscript{26} “The Problem of Global Justice,” p. 129.
justification.\textsuperscript{27} In other words, if the group agent acts with authority, its responsibility for the actions and their effects distributes over its members. And when this is the case, the members are owed justification for them.

I think it is clear that here Nagel refers to responsibility in the forward-looking sense: obviously, dissenting or blamelessly ignorant members of the group cannot be made morally culpable or blameworthy for the group agent’s wrongful acts, but they may be liable to share the burdens of correcting their effects if the relevant conditions are met.\textsuperscript{28} The suggestion may be that if the group agent acts with authority, then its members have \textit{moral reasons} to comply with its acts and thereby become liable to share the burdens of any valid claims that might be made against the group as a whole in connection with its acts.\textsuperscript{29} And given this liability and the possible costs that they may incur as its consequence, they (but only they) are owed justification for the group agent’s act, which in turn can be discharged only through egalitarian arrangements.

To recap, Nagel’s version of the political conception may be understood as relying on the following theoretical assumptions.

1) Only inequalities that are caused by agents who can be attributed responsibility for them can be unjust.

2) When an (apparently) unfair inequality is caused by several separate agents acting in normally permissible ways, the inequality can be unjust only if the

\textsuperscript{27} Ibid.
\textsuperscript{28} See also Stilz, “Collective Responsibility and the State,” pp. 198-99 n17, and p. 205. She reads Nagel’s position in a way that is similar to the one offered here.
\textsuperscript{29} “Collective Responsibility and the State,” p. 204. Nagel speaks of the “normative engagement” of those in whose name coercive rules are being imposed, which supports the same reading. See “The Problem of Global Justice,” p. 129.
several agents are part of a distinct collective agent that can be attributed responsibility for it.

3) Only groups with centralized decision-making and enforcement can constitute such collective agents.

4) The collective agent’s responsibility distributes over its members only if it acts “in their name”, i.e. with authority.

5) Members are owed justification for the collective agent’s acts and its effects only if they share in its responsibility in this way.\(^\text{30}\)

I submit that something like this agency- and responsibility-based account provides a plausible reconstruction of all the various points that Nagel makes in support of the political conception of justice. A final quote will, I think, provide further evidence that the main motivation for his conception comes from a concern with individual and collective responsibility for inequalities. In the context of rejecting the idea that arbitrary inequalities are always unjust, he writes that “[w]hat is objectionable is that we should be fellow participants in a collective enterprise of coercively imposed legal and political institutions that generates such arbitrary inequalities.”\(^\text{31}\) Injustice consists in arbitrary inequalities caused by responsible agents, either individually or collectively.

\(^{30}\) Nagel makes it clear that those (such as would-be immigrants) against whom the rules are simply enforced but not in their name are not owed justification. He suggests this is the case because as would-be immigrants are not asked to accept and uphold these rules, their role is entirely passive, whereas those “in whose name” rules are enforced are expected to actively cooperate—their will or agency is also implicated. See “The Problem of Global Justice,” pp. 129-130. He seems to imply that coercion without justification is morally problematic only if active engagement is expected of the coerced. I will return to this point below.

\(^{31}\) Ibid., p. 128.
I believe that the general theoretical stance expressed in 1) that links injustice to agency is open to challenge. In any case, it is not a conceptual claim but a substantive one that requires defense. However, I do not intend to question it here. I also think that 3) and 4) are quite plausible claims about collective responsibility and its distribution, and therefore I will accept them for the purposes of this paper. But I will argue that 2) and especially 5) are not supported by the other assumptions and cannot be sustained.

It should be noted that the assumption stated in 2) goes beyond the thesis discussed above (and held by many theorists of collective responsibility) that there can be a problematic shortfall of responsibility when there is some significant harm but no individual was acting in a way that would warrant attributing responsibility to him, or when the individual responsibilities seem not to add up to the level of harm suffered. That thesis is about responsibility as attributability, i.e. responsibility as the basis of moral assessment and of assigning or withholding moral blame or praise. By contrast, the assumption in 2) is not only about blame but also about forward-looking or task-responsibility: it draws a conclusion from lack of blameworthiness to lack of forward-looking responsibility. It suggests that if no one is to be blamed for an inequality, then no one has (forward-looking) responsibility to mitigate it. This line of thought may be seen as following directly from the assumption stated in 1), that is, that injustice presupposes the involvement of agency, and therefore merely natural inequalities cannot be unjust. However, even if one accepts 1) as I do for the sake of argument, as well as the thesis

32 Stilz makes the distinction between blame-responsibility and task-responsibility, which corresponds to backward- and forward-looking responsibility (or liability). She makes it clear that even when a collective agent is blame-responsible for a wrong, it is possible for many of its members to be only task-responsible to correct or compensate for the wrong. See “Collective Responsibility and the State,” pp. 194-95. Scanlon’s distinction between responsibility as attributability and substantive responsibility is similar; see footnote 16 above and the accompanying text.
about the conditions of collective responsibility attribution, one still does not have to accept the claim stated in 2). Consider a case like arbitrary inequalities generated by the global economy, and let us assume that there is no such collective agent that is blame-responsible for them. Let us further assume that many of these inequalities would exist even if every participant in global trade acted in normally permissible ways. If we make these assumptions, then global trade is a case where several agents jointly cause arbitrary inequalities, yet none of them are blameworthy and there is no distinct collective agent that is blame-responsible. Still, the case is different from a purely natural inequality insofar that the inequalities are the result of agency, even though of individually blameless agents. Therefore, if Nagel’s view is that the lack of a collective agent, together with the corresponding lack of collective responsibility make it the case that the inequalities in question cannot be unjust, then his explanation must rely on the lack of blame rather than on the lack of agency, since the inequalities are undeniably the result of agents actions, even if blameless ones. However, there is no straightforward argument from the absence of blame to the absence of forward-looking responsibilities on the part of the blameless agents. If the inequalities in question are the reasonably foreseeable products of global trade, and there are feasible ways of arranging global trading that would predictably mitigate them (without comparable moral costs), then one might be inclined to say that participants of global trade have a moral duty to organize themselves in those ways, even if it requires creating global institutions that rise to the level of collective agents according to the account of collective agency discussed above. In other words, absence of blame responsibility for arbitrary inequalities is consistent with the existence of task responsibility to establish institutions that could mitigate such
responsibilities. A duty like that would appear to be consistent with, and only a mere extension of the duty recognized by Nagel, too, to leave the state of nature and create such legal institutions that make the enjoyment of basic rights possible.\textsuperscript{33}

Indeed, there is a puzzling discrepancy between Nagel’s attitude towards violations of such rights (which he calls prepolitical) and his attitude to arbitrary inequalities. With respect to the first, he recognizes that individuals may not be able to honor the duties imposed on them by the prepolitical rights of others without appropriate institutions,\textsuperscript{34} and therefore recognizes a duty to create such institutions that are necessary to discharge these duties. But if individuals cannot reasonably avoid violating the rights of others without institutions, then they cannot be blameworthy for those violations (in the absence of institutions). They are exactly in the same relation with respect to these blameless rights violations as they are with the arbitrary inequalities that are caused in a blameless way. However, in the case of rights he acknowledges the arising duty to create coercive institutions that enable individuals to respect the rights of others, but he does not recognize a parallel duty to create institutions that would enable them not to impose undeserved inequalities on others. There may be a good reason to treat violations of negative rights and the causing of socioeconomic inequalities in a different manner, but that reason cannot consist in the fact that the latter may be caused by agents in a blameless manner, because the same is true of many rights violations (in his own

\textsuperscript{33} “The Problem of Global Justice,” p. 133.

account). In the first case, Nagel is ready to keep blame-responsibility and task-responsibility separate, while in the second case he is not. More precisely, in the case of negative rights he accepts that absence of blame-responsibility does not rule out having task-responsibilities, while in the case of arbitrary inequalities he rules out the possibility of task-responsibility in the absence of blame-responsibility. This distinction appears arbitrary, and I therefore conclude that the assumption stated in 2) cannot be sustained, and thus Nagel’s conception, to the extent that it depends on that assumption, does not succeed.

One might make the same point in this way: on the one hand, if morally arbitrary inequalities are problematic from the point of view of justice, then we have forward-looking responsibility to create institutions that enable us to mitigate them where such institutions are absent. On the other hand, if morally arbitrary inequalities are not problematic, then they do not become problematic when it is the case that there is an agent that can be attributed backward-looking responsibility for them. To recall, to say that an agent has backward-looking responsibility for a certain state of affairs is simply to say that it is appropriate to take that state of affairs as the basis of morally appraising the agent. But, as Scanlon notes, “[n]othing is implied about what this appraisal should be”\textsuperscript{35}. one of blameworthiness, praiseworthiness or indifference. Whether it should be one or the other is to be decided independently, on the basis of the morally relevant features of the state of affairs. Therefore, if morally arbitrary inequalities are not independently problematic, then they cannot form the basis of the blameworthiness of the agent that has backward-looking responsibility for them. Conversely, if they correctly form the basis of the blameworthiness of the agent that has backward-looking responsibility for them, then

\textsuperscript{35} What We Owe to Each Other, p. 248.
this must be because they are independently problematic. And if they are independently problematic, then it is plausible to claim that we have forward-looking responsibility to establish institutions that are necessary to mitigate them.

I now turn to what may be the most puzzling feature of Nagel’s political conception. As I noted above, he claims at several points that only those are owed justification for the arbitrary inequalities produced as a result of coercive rules in whose name the rules are being imposed and enforced, and who, according to Nagel’s analysis, are thus made responsible for the effects of those rules on individual life prospects. To recall, this claim was argued on the ground that those in whose name rules are being made and enforced are not simply coerced, because they now have moral reasons to comply with the rules and to uphold them, in light of the authority claims of the state. Their active engagement is implicated, which is not the case with respect to outsiders (such as would-be immigrants) who simply suffer the impact of the rules but who are not morally expected to comply with or uphold them. They are simply coerced. Given that outsiders are (in his view) merely passive with respect to these rules, responsibility for their effects does not distribute to them. And therefore they have no standing to demand justification for them. This claim holds independent interest even if my previous

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36 Nagel does not deny that would-be immigrants are subject to coercion as a result of border policy. This issue has recently been the subject of controversy between Arash Abizadeh, who holds that border regimes are coercive and therefore need to be justified to potential immigrants as well, and David Miller, who maintains that border protection is not coercive in the normatively relevant sense and therefore no justification is owed to potential immigrants. See Abizadeh, “Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Borders,” Political Theory 36 (2008), 36-65, and David Miller, “Why Immigration Controls Are not Coercive: A Reply to Arash Abizadeh, Political Theory 38 (2010), 111-120. Nagel agrees with Abizadeh that border protection is coercive, but he sides with Miller in denying that justification is owed to outsiders, given that the regime is not made in their name and they are not asked to uphold it.

37 Nagel actually oscillates between saying that they are not owed any justification and are simply coerced, and between the claim that the fact that border policies respect their prepolitical basic rights is sufficient justification for them. See “The Problem of Global Justice,” p. 130. But then it is not clear why the latter,
arguments to defeat the argument from collective responsibility all fail. Let us assume, for the sake of argument, that Nagel is right to hold that arbitrary inequalities can be unjust only if there is an agent who can be attributed backward-looking moral responsibility for them. It would still not follow that only those have any ground to complain against the effects of the collective agent’s actions whose agency is normatively implicated in what the collective agent does. It might still be coherently objected that everyone whose lives are significantly affected by the collective agent’s actions are owed justification.

Nagel’s reasoning regarding this issue makes two implicit claims. The first is that only those may rightfully insist on being given justification for coercive rules who share (forward-looking) responsibility for them. The second is that outsiders are not morally expected to comply with border rules but are merely forced to. In other words, their reasons for not violating the rules regulating border-crossings are purely prudential; they have no moral reasons not to do so. Insofar that they conform to the rules, they do so only out of fear of the coercive force of the state, but they are not morally obliged, even pro tanto, to comply with them.

It may be useful to start with the second claim. As an observation about the actual attitudes displayed by current national governments towards potential immigrants, it does not appear to properly reflect current practice. Both representatives of nation states and theorists who defend the practice of nation states to unilaterally determine border policy claim that states have the authority to do so; they do not see themselves as engaging in
sheer coercion but as practicing a rightful exercise of power. One might suggest, of course, that the actual attitudes of governments are not relevant for the underlying normative issue. Whatever national governments may claim, they are merely coercing outsiders without authority. However, this appears mistaken on the merits and not just as a matter of currently existing attitudes. Individual nation states’ coercive control of their borders is not an isolated practice that all states (with an effective government) coincidentally engage in one by one, independent of one another. Rather, this practice is a fundamental part of the functioning of the interstate system that assigns this right to each state, and each state’s right is recognized at least in principle by all other states. Another way of putting this is to say that individual states are participating in a scheme of distributed coercion that is necessary to sustain the overall system of nation states. And this system of distributed coercion can be justified only if, and to the extent that the system of nation states itself is morally justifiable. In other words, every person in the world is subject to the interstate system of coercive border control, and everyone is owed a justification of it; they are owed justification not necessarily for the coercive border control as practiced by each state, one by one, but for the global scheme of distributed coercive border control.

38 See e.g. Miller (Oxford: Oxford University Press, 2007), pp. 201-230, and Michael Walzer, Spheres of Justice (Basic Books: 1983), pp. 31-63. Possibly, Nagel might avail himself to a conception of legitimacy that distinguishes it from authority. On some authors’ understanding, legitimacy is simply the permissibility of the use of coercion, without a corresponding obligation on the part of the coerced to obey, whereas authority includes such an obligation. See e.g. Allen Buchanan, “Political Legitimacy and Democracy” Ethics 112:4 (2002): 689-719. But since Nagel himself does not distinguish between the two, I leave this possibility aside.

39 The phrase ‘distributed coercion’ is borrowed from Thomas Christiano, “Immigration, Political Community, and Cosmopolitanism,” San Diego Law Review 2008. Christiano uses the expression in the same context, in support of a conclusion similar to mine.
border coercion and for the overall system of nation states of which it is a necessary constituent part.\(^{40}\)

If that is so, it would seem to imply that every person in the world has moral reasons to comply with and uphold border controls, at least insofar that the state system as a whole is to some degree justified. And then, by parity of reasoning we would have to say that their normative engagement is implicated in the system as a whole, and they are thus made responsible for its effects as well. But then again, the alleged asymmetry between fellow citizens and fellow human beings is not tenable.

Let us finally turn to the suggestion noted above that justification for the effects of rules is owed only to those who (on the account of collective responsibility and its distribution on which Nagel’s account appears to rely) are responsible for them. Let us assume for the sake of argument that contrary to the reasons suggested in the previous paragraphs, Nagel is right that nonmembers’ agency or will is not normatively engaged in upholding border policies, and they are therefore not responsible for them. Because they are not responsible for them, they are not owed justification for the impact on their lives of these coercive rules. But no reason is given (and none suggests itself straightforwardly) as to why justification for a certain impact is owed only to those whose agency is somehow normatively implicated in producing that impact. We do not normally think, for instance, that harms should be compensated only for those who were somehow involved in producing them; quite to the contrary, it intuitively seems more urgent

\(^{40}\) The distinction made in this last sentence strikes me as an important one. It seems more plausible to suggest that what needs to be justified to everyone globally is not the impact of the policies of individual states on the lives of noncitizens, but rather the whole system that allows individual states to pursue policies that have such external effects. I would like to note that it is not my view that such external effects, in themselves, are necessarily morally problematic. I defend this point in “Against the Principle of All Affected Interests,” *Social Theory and Practice* 38 (2012), pp. 483-504.
moral...compensate the harm of those who in no way were responsible for it. Suppose a corporation is responsible for some significant harm, and that among those suffering the harm are some of its own employees. It does not appear to be the case that the corporation’s employees ought to enjoy any kind of priority in compensation simply in virtue of the fact that they share its liability. To be sure, justice is not primarily about harm but (in Nagel’s own account) about morally arbitrary inequalities. Might it be the case that inequality behaves differently than harm in this regard? This raises another important question about Nagel’s political conception, also noted by Thomas Christiano. If arbitrary inequalities are in themselves prima facie morally problematic, then they should not behave differently than harm in this respect. In this case, it is prima facie wrong to cause such an inequality among persons whose agency is normatively implicated in the process in the way Nagel suggests, but it seems equally wrong to cause such inequalities among persons some of whose agency is not so implicated. On the other hand, if arbitrary inequalities are not in themselves morally problematic, then it is not at all clear how they can become so simply in virtue of the fact that they obtain among persons whose agency is implicated in the process of generating them. I conclude that there is no good reason offered for the restriction of the need for justification for arbitrary inequalities to persons who are (in the sense suggested by Nagel) responsible for them.

Conclusion

The interpretation of Nagel’s version of the political conception of justice offered here suggested that it can be plausibly seen as relying on a theory of collective

41 Christiano, “Immigration, Political Community, and Cosmopolitanism,” pp. XXX. Cf. also the discussion in the text accompanying footnote 35 above.
responsibility that explains why backward-looking responsibility for arbitrary inequalities can be properly established only if the agents who contributed to it are under the same coercive state institutions. However, I have shown that even if we accept the account of collective responsibility on which it relies, the political conception is unable to show that arbitrary inequalities cannot be unjust in the absence of such a responsible collective agent. Furthermore, even if the argument from collective responsibility had succeeded, it would be insufficient to establish the conclusion that justification for inequalities is owed only to those over whom the responsibility of the collective agent distributes. Therefore, the political conception fails.