



DAVID HELD'S SOCIAL DEMOCRATIC COSMOPOLITAN MODEL OF GLOBAL JUSTICE: A CRITICAL ASSESSMENT OF ITS PROSPECTS FOR PROVIDING GLOBAL ECONOMIC/DISTRIBUTIVE JUSTICE

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Abstract:

This paper explores the prospects of global distributive justice in the framework of social democratic institutional cosmopolitanism proposed by David Held. Held aspires to replace the allegedly partial and non-inclusive global market fundamentalism and unilateral security doctrine with a supposedly all-inclusive social democratic cosmopolitan order. Held holds that universalization of social democratic values and institutionalization of human rights provides a roadmap for providing global justice primarily in terms of autonomy and impartial reasoning. It has been argued that Held's institutional cosmopolitanism is based on a paradox in that his proposed model tries to control the overwhelming global influence of a few powerful nation-states by relying on the global governance institutions, financially and militarily dependent on the same states. Held's cosmopolitanism rules out the desirability of a social democratic world state equipped with analogous mechanisms and instruments possessed by a nation-state. In the absence of adequate legitimate global bureaucratic and coercive structures Held's discourse of social democratic cosmopolitan justice remains mainly a moral project lacking in global political will and government apparatuses.

Keywords: Cosmopolitanism, global citizenship, global governance institutions, supranational organization, world state

Introduction

Orthodox economics whether neoclassical or monetarist does not address the problem of economic justice. Orthodox economics is rooted in market rationality and views social issues from the standpoint of the same rationality. David Held is one of the major theorists who wrestle with and



propose solutions to global issues such as environmental degradation, need to regulate globally integrated markets, and global poverty. Held's cosmopolitan model of global justice addresses the legal, political, and economic dimensions of global issues that cause global injustice. Held proposes eight principles of his social democratic cosmopolitanism grounded in the metaprinciples of autonomy and impartial reasoning. He accentuates the need for universalization of social democratic values and construction of global citizenship with a view to promote global justice. Held proposes a conceptual framework for the partial desovereignization of the nation-state and partial sovereignization of a supranational organization in the context of cosmopolitan regime of sovereignty.

HELD'S SOCIAL DEMOCRATIC CONCEPTION OF GLOBAL JUSTICE

Held offers a vision of providing social democratic global justice through institutional cosmopolitanism under the umbrella of global governance institutions and a supranational organization. Held proposes an institutional cosmopolitan¹ conception of justice which holds that deliberation at the national level cannot be deemed legitimate in cases such as the use of non-renewable resources, the disposal of nuclear waste, and the regulation of financial trade (Held, 2006). In these and such other cases, Held contends that the deliberation and consensus-building is required not merely at the national level but at regional and global levels. Any assumption of indivisibility, illimitability, and exclusivity of sovereignty is already defunct (Held, 1995: 107-13; Held, 2013: 29). The nation-state in terms of its capacity for accountability is too small to resolve big problems such as global trade, environmental problem, and issues of security, monetary management, and new forms of communication (Held, 2006: 305). It is Held's contention that both state autonomy as well as the autonomy of citizens have been affected by the dynamics of the modern economies which are marked by the intersection of national, regional, and global economic forces. For example, information technology has made the economic units (i.e., currencies, stocks, shares, 'futures' etc.) far more mobile for all types of financial and commercial organizations (Held, 2006: 296). Thus, a globalized world economy represents a disjuncture between the idea of a sovereign nation-state and the globally integrated markets, beyond the regulatory mechanisms of the nation-state. In other words, the system of production and distribution, especially distribution is largely independent of a legitimate regulatory mechanism which is leading to the violation of Held's cosmopolitan principles of autonomy and impartial reasoning (will be stated below). Kant argued that we are 'unavoidably side by side'. Held offers a cosmopolitan response to the issues caused by this unavoidability.

¹ Cosmopolitan implies "the ethical and political space which sets out the terms of reference for the recognition of people's equal moral worth, their active agency, and what is required for their autonomy and development" (Held, 2010: 49).



With reference to the international human rights regime, environmental regimes, and diverse agreements of the arms control system, Held argues that they provide a cosmopolitan framework for law-making and exercise of political power in order to protect rights beyond the national borders (Held, 2013: 29). An important objective of Held's project is "regulation of the global economy through the public administration of global finance and trade" by global governance institutions (Henceforth *GGIs*) (Taraborrelli, 2015: 60). Held proposes that GGIs such as the IMF, the WTO, etc. should be open to public inspection (possibly in the context of 'elected' supervisory bodies), and accountable to proposed regional and global assemblies (Held, 2008: 112). He proposes a set of principles and supposedly universal values as a conceptual framework for the provision of global justice.

Held does not formulate principles of justice. He drafts principles of cosmopolitanism, aiming to provide global justice through GGIs, especially through a supranational organization. Held (2005a) proposes seven principles of cosmopolitanism: equal worth and dignity; active agency; personal responsibility and accountability; consent; reflexive deliberation and collective decision-making through voting procedures; inclusiveness and subsidiarity; avoidance of serious harm and the amelioration of urgent need. Principles 1-3 are 'constituting principles'², principles 4-6 are 'legitimizing principles'³, whereas the seventh principle lays down a framework that distinguishes between vital and non-vital needs and sets priorities between them (Held, 2005a). These principles are to be entrenched in the cosmopolitan democratic law (Held, 2005a). Later on, Held (2010) added one more principle, that is, sustainability. His eight principles, he argues, are in consonance with his two metaprinciples. The two metaprinciples are the principle of autonomy, and the principle of impartiality or impartial reasoning (Held, 2010). The principle of autonomy states that persons have equal rights and equal obligations in the political framework generating and limiting opportunities for them provided that they do not use this framework to deny the rights of others (Held, 2006: 264). For the first metaprinciple, Held draws on Kant's view of autonomy and public use of reason, whereas for his second metaprinciple (the principle of impartial reasoning) he draws on Habermas's idea of ideal speech situation and Rawls's idea of the original position. The second metaprinciple seems to be dependent on the first in the sense that reasoning is supposed to be 'impartial' only if it is a means for attaining autonomy as defined by the first principle. In other words, reason is not 'impartial' if it addresses any other end, for example, salvation in the Christian sense. Held's theory of justice is grounded on his proposed vision of a cosmopolitan order. His vision of the cosmopolitan order proposes a multilayered system of global governance which primarily interlinks cosmopolitan democracy with global citizenship. A democratic implementation of Held's eight principles and two meta-principles seems to depend on the global acceptance of social democratic values specified by Held.

² The idea that binds this cluster is that each person deserves equal moral concern, each is capable of making autonomous choices for him or her (Held, 2005a: 520).

³ It provides the basis for transforming privately initiated activities into collectively sanctioned regulatory regimes; legitimacy of public power depends on the degree to which principles 4, 5, and 6 fulfilled (Held, 2005a: 520).



Held argues that in a world characterized by the 'overlapping communities of fate' what have the potential to bringing people relatively together are social democratic values. The values of social democracy include "the rule of law, political equality, democratic politics, social justice, social solidarity, and economic efficiency" (Held, 2008: 16). It is Held's contention that social democratic values can perform the function of cross-borders solidarity, and have the potential to create a global community. Thus, national social democracies can be extended to a cosmopolitan social democracy. The project of cosmopolitan democracy demands strengthening of the administrative capacity and accountability both of regional institutions such as the EU, and international institutions such as the UN. It is Held's contention that justice, whether distributive/economic or retributive, cannot be provided at the global level in a non-democratic system of global governance. Thus, he proposes an institutional conception of cosmopolitan democracy.

Held's cosmopolitan democracy implies "deepening and extending (social) democracy across nations, regions, and global networks" (Held, 2006: 305). Held's vision of a cosmopolitan democracy consists of two components, namely, a bottom-up and a top-down component. The bottom-up component mainly comprises actions of international social movements and civil society actors at national and transnational levels whereas the top-down component demands the formal cosmopolitan rule of law leading to guarantees of civil and political rights including the welfare right of a basic income (Allen, 2011). Held analyzes classical and liberal regimes of sovereignty and argues that none of them is capable to provide global justice. He argues that the former is obsolete whereas the latter is based on double-standards. They are both characterized by democratic deficit in different ways and at different degrees. Thus, Held proposes a cosmopolitan regime of sovereignty for resolving global issues and providing global justice. Held's project of cosmopolitan democracy does not aim to establish a social democratic world state but a cosmopolitan regime of sovereignty based on global multilateralism.

Held's Proposal of Cosmopolitan Regime of Sovereignty

Held's idea of justice is closely connected with his view of sovereignty. Held argues that classical regime of sovereignty (or law of states) was replaced with liberal regime of sovereignty (law of citizens). According to Held, both liberal and classical regimes of sovereignty are characterized by the power logic. In both these regimes states are motivated by 'reasons of state' and ultimately use coercive means to deal with issues that spill over national borders (Held 2005a: 523). Classic sovereignty connotes the idea that it is government (whether democratic, dictatorial, or monarchical) that must be the holder of final and absolute authority within the boundaries of the nation-state (Held, 2005b: 162). It also conversely implies that no absolute authority exists over the nation-state (Held, 2005b: 162). Thus, the questions of accountability and democratic legitimacy were irrelevant at the international and global levels. In other words, governments were not deemed accountable, for example, for violation of human rights within the nation-states. A



shift occurred from classical sovereignty to liberal sovereignty in the form of the transfer of power from hereditary prince to elected prime minister or president (i.e., royal princes to democratic princes), replacing the aristocratic few with the democratic many (Held, 2010: 241). Liberal regime of sovereignty is entrenched in the principles of territorial sovereignty and that of formal equality among states. Whereas in the classical regime of sovereignty power logic worked in both national and international affairs, in the liberal regime of sovereignty it works mainly in the international domain. The liberal regime of sovereignty accepts democracy strategically. That is, it embraces democracy nationally but rejects it internationally. Democratic legitimacy and accountability are pursued nationally and national interest is maximized internationally. Held claims that the classic regime of sovereignty has become defunct whereas the liberal regime of sovereignty is unilateral/non-inclusive, anchored in the Washington economic Consensus⁴ (market fundamentalism) (Henceforth WEC) and the Washington security doctrine/agenda⁵ (Henceforth WSA) (unilateralism) (Held, 2010). These two policy programs are so powerful that they are deeply designing our age and crippling the public institutions both national and global (Held, 2005c: 7), thus profoundly affecting global distributive justice. Cosmopolitan sovereignty demands limited desovereignization of nation-states in the framework of cosmopolitan law. Held suggests the development and enforcement of a cosmopolitan law, overarching in the sense that national and regional 'sovereignities' and self-governing bodies/associations at diverse levels are to be subordinated to this imagined law (Held, 2005a: 521).

Held formulates his conception of 'global justice' as a partial critique of the Washington [neoliberal economic] Consensus, demanding global economic deregulatory policies, along with what Held calls WSA. Held contends that WEC and WSA have dug their own graves and that consensus is gradually growing against WEC (Held, 2010). From the point of view of WEC and WSA, the threat is the 'other' whereas from the standpoint of cosmopolitan sovereignty, the contemporary world is facing collective threats such as global environmental problem (Held, 2010). In an attempt to offer empirical evidence, Held argues that the countries that have not followed the WEC (such as China, India, Vietnam, Uganda etc.) are more successful than the ones that have shaped their policies in accordance with the WEC (such as Chile, Argentina etc.) (Held, 2010). In addition, successful diffusion of conflicts in the Balkans, Sierra Leone, and Liberia etc. is the outcome not of WSA but of "concentrated multilateral support and human security agenda" (Held, 2010: 115). In lieu of the WEC and the WSA, Held proposes what he calls, 'social

⁴ The WEC is a specific, US designed neoliberal economic project (Held, 2008: xiv). It deals with global trade, capital market liberalization, exchange rate flexibility, determination of interest rates, deregulation of markets, privatization, tightening of expenditure on social targets, balancing of budgets, tax reforms, protection of property rights, including IPR (Held, 2008: 55).

⁵ The central characteristics of the WSA are order through military dominance, pre-emptive strikes, coalitions of the willing, on binding international human rights laws, hegemonic, 'flexible multilateralism' or unilateralism where necessary, pragmatic use of the UN and NATO, otherwise reliance on US military and political power (Held, 2005a: 34-36). The WSA was promulgated by the Bush administrations (Held, 2010).



democratic globalization' and a 'human security agenda' as the essential elements of a cosmopolitan interventionist regulatory regime of sovereignty (Held, 2010). It appears that this interventionist regime is supposed to function through agencies and global institutions created by international agreements among the nation-states.

Held's Institutional Proposals

It is Held's contention that the crucial 'paradox of our times' is that the collective issues that the peoples across the globe are confronted with are increasingly of cross-border intensity and extensity, though the means and tools for addressing them are primarily confined to the boundaries of the nation-state (Held, 2010). Even though the USA is also a nation-state Held (2015) argues that it unilaterally wrote the rules of the world economy at Bretton Woods, but this unilateralism has been challenged after 9/11. Held presumes that the demise or limitation of unilateralism has replaced G-1 with G-20, "not because the U.S and Europe want to become more participatory but because they cannot resolve those [global] problems alone" (Held, 2015: youtube). Held essentially proposes an institutional cosmopolitanism and seeks universalization of human rights through institutionalization of world politics. Held seeks to conceptualize the reformulation of global order through cosmopolitan law and international social justice. Held seeks to formulate a framework of GGIs for transforming the world into a global social democracy, which, to Held will resolve the above-mentioned paradox. With an approving reference to Charles Beitz (1994), Held remarks that institutional cosmopolitanism⁶ seeks to bring the states under the authority of supranational institutions/agencies by reshaping global political structure (Held, 2013: 30). Hale and Held (2011) appreciate the functioning of transnational governance bodies such as the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, the International Health Partnership, the Forest Stewardship Council (an innovative, multi-sectoral private labelling scheme), the Bill and Melinda Gates Foundation etc. By the end of the twentieth century, the number of intergovernmental organizations had grown from a handful to more than 2,000 (Held & McGrew, 1999). Held's hopes are hinged on institutional cosmopolitanism which addresses diverse transnational issues through legal, political, economic and cultural cosmopolitanism. All these dimensions are directed to developing a cosmopolitan regime of sovereignty.

Held's legal cosmopolitanism addresses the tension between the liberal principle of national interest and the cosmopolitan idea of universalization of human rights; his political cosmopolitanism tries to bridge the gulf between the global issues and the need for legitimate global governance institutions; his economic cosmopolitanism strives to create a nexus between human rights law and international economic law; Held's cultural cosmopolitanism tends to

⁶ According to Charles Beitz and Thomas Pogge, institutional cosmopolitanism "aims to promote human rights through the introduction of a principle of global distributive justice," according to which "the reform of the basic international structure and the development of new institutions to redistribute resources to globally disadvantaged individuals and to guarantee them individual human rights" (Taraborrelli, 2015: xiv).



assume that social democratic values are universal and a global community can gradually emerge on the basis of these values. Thus, Held's legal cosmopolitanism seeks 'impartial' delimitation and regulation of actions both individual and collective within the structure of state, market, and civil society (Held, 2010: 104). The institutional requirements of legal cosmopolitanism demand submission to ICJ and ICC jurisdiction as well as creation of a new international human rights court (Held, 2005a: 523). In addition to relying on the ICJ and ICC, Held emphasizes the need for creating an international environmental court (Held, 2010: 105). Held's political cosmopolitanism involves multilayered governance at regional and global levels through diverse regional and global regimes. Institutional requirements in this case include "a network of democratic fora from the local to the global" as well as "establishment of an effective, accountable, international, military force for last-resort use of coercive power in defense of cosmopolitan law" (Held, 2005a: 524; Held, 2010: 107). However, Held does not approve of the use of coercive power for the purpose of promoting welfare of the global poor though such use of force is deemed legitimate at the national level.

The problem of global citizenship is also a part of political cosmopolitanism. It is within the context of GGIs that "the elusive and puzzling meaning of global citizenship⁷ becomes a little clearer" (Held, 2008: 115). The leading feature of Held's conception of global citizenship is participation in an array of fora, i.e., governance institutions, "from the city to global associations, in which they can hold decision-makers to account" (Held, 2010: 180). However, Held does not specify how the nature of participation in the regional and GGIs is supposed to be democratic. It is, however, through his idea of global citizenship that Held seeks to hold contemporary forms of power accountable and democratically regulated locally, nationally, regionally, and globally (Held, 2010).

Economic cosmopolitanism seeks to build a bridge between 'human rights law and international economic law' with the purpose of ensuring fair competition and cooperation as well as creating a transfer system within and across communities to address the most serious cases of preventable economic suffering (Held, 2005a: 525). The institutional requirements of economic cosmopolitanism comprise introducing global taxation mechanisms, restructuring market mechanisms, and creating a transfer system for the benefit of economically most vulnerable (Held, 2005a). Economic cosmopolitanism seeks to regulate the globally integrated markets and to alleviate the gravest avoidable cases of human suffering (Held, 2010). In order to promote the provision of global distributive justice Held also seeks the legalization of the right to basic minimum income across borders (Allen, 2011). Held's economic cosmopolitanism proposes a transfer system financed by "the creation of new forms of regional and global taxation" (Held, 2010: 109). He visualizes the possibilities of tax on consumption of energy use, or on carbon

⁷ Global citizenship seeks to guarantee autonomy of every human being "and recognizes their capacity for self-governance at all levels of human affairs" (Held, 2010: 115).



emissions, or on the GNP of countries above a certain level of development, or a global tax on the extraction of resources within national territories, or a transaction tax on the volume of financial turnover in foreign exchange markets (Held, 2008; Held, 2010). In order to promote global justice, Held argues that sustained social investments in areas such as sanitation, health, housing, and education are necessary because they provide the conditions of autonomy.

“Given the all-too-visible inadequacies of existing intergovernmental institutions, institutional innovation matters for normative reasons as well,” thus, Held recommends institutional innovation as “an important means to confront the challenges of an increasingly globalized world” (Hale & Held, 2011: xxiv). Held (2010) proposes reforming the UN Security Council as well as creating a new UN Economic and Social Security Council. Held (1995) advocates that the reformed UN Security Council be stripped of veto power. The purpose of the proposed Economic and Social Security Council seems to be the promotion of economic and social rights mentioned above. Held proposes the establishment of a complement to the General Assembly of the UN for addressing problems such as disease, food shortage, poverty as well as opening up of WTO, and IMF, and World Bank to public examination (Held, 2006). Held hopes that global economic priorities will increasingly shape global politics, and unilateralism will be replaced with “club-driven or executive-led (G1, G7, G8)⁸ multilateralism” (Held, 2006: 304). However, multilateralism may not be equated with cosmopolitanism.

CRITIQUING HELD’S PROPOSED SOCIAL DEMOCRATIC INSTITUTIONAL COSMOPOLITANISM

Cosmopolitanism: Conception, Values, Principles:

Held does not tell us as to how his proposed cosmopolitanism and interventionist regime of cosmopolitan sovereignty will work in the presence of nationalism, in “this world of jealous nations” (Friedman, 2002: 3). Strong group feeling that exists at the national level is absent at the global level. The members of one nation-state are commonly not willing to give taxes to promote welfare of the members of another nation-state. For example, the more well-off members of the European Union are not willing to transfer tax money for promoting general good in the less well-off member countries. The crucial weakness of Held’s vision of global democracy is that he “provides no real account of the preconditions which make such democratic political agency possible” (Kymlicka, 2001: 238). Whereas nationalism triggers solidarity and trust required for the provision of social justice within a nation-state, Held’s model of global institutional governance “is for the most part silent on the questions of collective identity” (Kymlicka, 2001: 239). Both Held’s top-down and bottom-up approaches seem to be unfeasible. The top-down approach is inadequate because Held does not offer rationale as to why people and companies will

⁸ The G1 implies the USA; the group of seven, i.e., G7 includes the USA, Canada, Great Britain, Germany, France, Italy, and Japan; the G8 includes Russia in addition to G7 (Held, 2006: 304).



give global taxes and what coercive structure will back the demand for such taxation. The 'bottom-up' approach of Held's social democratic cosmopolitan model of 'global justice' hinges on his presumption that social democratic values are or can become global.

The idea of cosmopolitanism proposed by the Enlightenment theorists such as Held has a high Eurocentric bias (Mignolo 2000; Delanty, 2009). "European local knowledge and histories have been projected to global designs" (Mignolo, 2012: 17). These values are not entrenched, among others, in countries such as China, Iran, Saudi Arabia, North Korea, and Afghanistan. Moreover, from within the Western world, postmodernist theorists such as Jean-Francois Lyotard, Gilles Deleuze, Michel Foucault, Richard Rorty, Jean Baudrillard, Jacques Derrida and others reject the metanarratives, including the universal value claims of liberalism, and social democratic values such as those imagined and proposed by Held. Postmodernism is embedded in an incredulous stance to metanarratives and totalizing discourses. It trusts the authenticity of 'little' narratives. It is Lyotard's contention that it is neither possible, nor even prudent, "to orient our treatment of the problem of legitimation in the direction of a search for universal consensus" (Lyotard, 1984: 65). "Foucault contends that the very ideas of absolute or universal knowledge and moral values are themselves historical phenomena" (Taylor, 2011: 2). Thus, Held's idea of existing or potential universality of social democratic values is strongly contested by most postmodern theorists as well. Moreover, Walzer (2002) contends that the Leninist and Maoist versions of communism are also the offspring of universalizing Enlightenment. Thus, Held's project of universalization of social democratic values and his metaprinciples of autonomy and impartiality seem to be highly problematic for providing an agenda of universal scope. For example, held offers an essentially Eurocentric paradigm of inclusiveness.

Citizenship and Democracy

Held's simultaneous acceptance of global citizenship and rejection of a world social democratic state makes his position on global citizenship paradoxical. The idea of citizenship is dependent on sovereignty which does not exist in Held's scheme of institutional cosmopolitanism. Citizens, in a democracy, among some other rights, have "a right to participate in public life, rights to vote, and to stand for public office, rights to education and other welfare, and rights to legal protection" (Bunnin & Yu, 2004: 113-4). Held's imagined global citizen does not, for example, seem to possess the right to vote and the right to stand for an office in GGIs and the supranational organization. Held's idea of cosmopolitan law does not recognize 'democratic sovereignty' of the citizen beyond the nation-state. Instances such as negation of the right to immigrate, and the right to vote beyond national borders illustrate the rejection of 'sovereignty' at the transnational level. In the absence of global sovereignty (i.e., a world state) the idea of global citizenship seems hollow. It should be noted here that global citizenship necessarily implies the acceptance of popular sovereignty. There can be no such thing as 'global citizenship' in the absence of popular sovereignty at the global level. In the absence of a sovereign world state, though, "I have commitments beyond the borders of this or any other country...but these are not citizen-like



commitments” (Walzer, 2002: 126). Thus, for instance, although the European Union is borderless in terms of flow of people, money, goods, and capital but Germans, French, and Greeks, for example, have not become citizens of Europe but have remained citizens of Germany, France, and Greece. This is why the citizens of one member nation-state cannot cast vote in the general elections of another member nation-state.

It is unclear as to how the individual (the so-called global citizen) can be understood as a legislator at the global level in Held’s global democracy. It may be true—as noted by Held—that the USA is no longer a unilateral power but the divisions among communities have become sharper. The electoral victory of Narendra Modi⁹ in India and Donald Trump¹⁰ in the USA seems to corroborate the view that the concept “of citizenship depends to a very large extent upon the presence of the common enemy from abroad” (Arendt, 1990: 79). On the one hand, Held argues that, without global citizenship, people cannot be “free and equal in determination of the conditions that shape their lives” (Held, 2008: 115); on the other, Held does not visualize the withering away of the nation-state and its replacement with a world state for the provision of global citizenship in replication of national citizenship. On the one hand, Held’s idea of global citizenship seems to be lacking in a globally acceptable organizing principle; on the other, it decouples the principle of popular sovereignty from citizenship at the global level.

Assessing Held’s Institutional Cosmopolitanism

The Predicament of ‘Cosmopolitan’ Law

The central problem of Held’s envisioned cosmopolitan law is that it lacks centralized legislature, judiciary, and executive. To resolve this problem Held essentially proposes institutional cosmopolitanism. However, no monopoly of ‘legitimate’ violence exists across the planet for the coercive implementation of cosmopolitan law. Thus, in the absence of centralized law-makers, law-enforcers, and interpreters international law is not binding in the sense that national law is. A centralized, powerful institution for the enforcement of law exists in the form of the territorial nation-state at the national level. No such centralized institution exists at the global level to protect the individuals or states from each other, and, thus, to provide justice. Thus, currently, GGIs (such as ICJ) are either not committed to provide global justice or are unable to enforce their decisions. Held’s metaprinciples of autonomy and impartial reasoning demand that “if justice is to be dispensed impartially no power can act as judge, jury, and executioner” (Held, 2005c: 20). Europe’s apparent commitment to the international law is allegedly rhetorical, for example, some researchers wonder as to “which of the two, the United States or the EU, has been the worse violator of the international law” (Singh & Mayer, 2014: 8). Justice John Marshall Harlan of the USA allegedly asserted that even if such legislation leads to glaring injustice it has to be accepted

⁹ Prime Minister of India since May 2014 till date.

¹⁰ President of the United States from January 2014 to January 2021.



if “it is consistent with the constitution of the United States” (as cited in Mayer, 2014: 198). America-controlled Cuban territory, Guantanamo Bay, demonstrates “the relative ease with which powerful states might evade at the same time legal constraints and civil society oversight through off-shoring rights violations” (Mayer, 2014: 205). It is not clear as to why the US and other powerful nation-states would accept the global citizenship rights in accordance with a cosmopolitan law even when that law demands the limitations on the constitutions of such nation-states.

Responsibility to Protect (R2P) is a significant example of the practice of ‘cosmopolitan’ law that denies the notion of indivisibility, illimitability, and exclusivity of sovereignty. However, in spite of the acceptance of R2P by the UNO, “atrocities crimes are on the rise” (Hehir, 2019: 1). Moreover, “abuse of the norm [R2P]—for instance by the USA and UK for Iraq in 2003, by Russia for Georgia in 2008, and by France for Burma in 2008—also helped to clarify what it [R2P] was and was not” (Farer & Julio, 2014: 8). “R2P is a neo-imperialistic scheme serving for the hidden agenda of Western domination over non-Western states” (Chomsky, 2011). As the GGIs are themselves dependent on financial and military support of powerful nation-states it seems that a ‘cosmopolitan’ law cannot be enforced in the absence of analogous mechanisms and instruments possessed by a nation-state. The replication of these instruments at the global level is difficult to envisage in the absence of a world state. Moreover, the emergence and political participation of a global community is an integral requisite for the legitimization of a cosmopolitan law.

The Nexus between Global Governance Institutions and Major Powers: Paradox of Held's Proposed Model

Whereas the IMF and World Bank are regarded essentially as GGIs through which advanced countries, led by the US, offer development loans and balance of payments support (Sen, 2003), the WTO¹¹ is an international organization that administers the international trade rules such as TRIPS (Trade-Related Aspects of Intellectual Property Rights) that requires “to make national law compatible with a global standard” set by the WTO (Neale, 2005: 107). TRIPS¹² provides global standards for the protection of intellectual property rights worldwide. It is in the context of regulating world business through the WTO that the USA operates as a ‘price-maker’ while most other countries are ‘price-takers’ (Sen, 2003: 119). Other powerful nation-states also enjoy influential status in GGIs. “G20 nationals have taken a rising share of senior positions in global organizations like the IMF and World Bank” (Wade, 2013: 78). A comparative analysis easily shows that major western powers have profound political influence over agenda setting for global financial and economic governance as compared to big developing countries whose leadership

¹¹ Though the WTO was established on January 1, 1995, its historical roots go back to the post-World War II era when its sister organizations, the IMF and the World Bank were founded (Sen, 2003).

¹² These rights protect ownership of knowledge, expressions, and ideas in the areas, for example, of books, movies, music, drugs, and computer software.



influence is negligible (Wade, 2013). According to a World Bank estimate, “the current trade protection by the industrial nations costs the developing world US\$50 billion in lost export revenues” (as cited in Neale, 2005: 101). The WTO, IMF and the World Bank, far from trying to providing global justice, are “one-sided and specialized...multilateral organizations in which the delegates of the most powerful countries have the final say” (Habermas, 2009: 99). The IMF economists are ‘third-rank students from first-rate universities’ whose misconceived policies were partially responsible for the aggravated crisis in Russia and East Asian countries (Stiglitz, 2000). Thus, the rules laid down by the GGIs usually do not promote global economic justice but serve the interests of powerful countries such as the USA. Whether it is international law or GGIs they are highly disproportionately dependent on the financial and military strength of the USA. Global governance institutions such as the IMF, the WTO, and the World Bank make rules that protect the benefits of the affluent and powerful countries against the poor citizens of the less developed countries.

Two mechanisms are especially relevant in this regard, namely, international resource and borrowing privilege and international patent regime complemented by international treaty privilege, and the international arms privilege (Pogge, 2007: 51). The persistent presence of these mechanisms is partially but significantly responsible for the continuation of democratic deficits in the global political scenario. International resource privilege enables non-representative and authoritarian regimes to sell in the name of trade liberalization the natural resources of their country to transnational companies against the interests of the people of that country whereas international patent regime restrains a government, for example, from managing to produce the generic versions of patented or brand-name medicines even when they are life-saving. International borrowing privilege allows heads of states to borrow huge sums of money from the IMF in the name of the people. Authoritarian and non-representative regimes also enjoy treaty privilege which enables a person or group *de facto* in power in a country to undertake treaties on behalf of the people of the respective country. International arms privilege allows heads of states or the oligarchical state administrations to use state funds to import weapons required to coercively control people in order to remain in power and sell public assets and natural resources for making personal wealth. On the one hand, these privileges motivate the prolongation of authoritarian regimes, on the other, they enable despots and oligarchical state administrations to borrow huge sums of money for personal gain in the name of the country and the people. Only a modicum of the borrowed money is actually spent on the public good and general welfare programs (Pogge, 2007). The USA supported anti-communist authoritarian regimes during the Cold War; it favored authoritarian allies during its war on terror, such regimes were also supported for the promotion of cultural adjustment programs. The USA’s support for authoritarian regimes still continues.

The international patent regime affects the poor of less developed countries most. It was, for example, because of the international patent regime that major pharmaceutical multinational corporations in 2001 went to court to prevent South African government from providing life-



saving generic drugs to HIV-positive citizens of that country (Singer, 2002). In the same year, 2001, some prominent Americans, through letters addressed to them, fell victim to a disease called anthrax. Bayer's product, 'Cipro' was found to be the most effective antibiotic against the disease. Bayer held the patent for the medicine. The Canadian government announced that it would approve of "compulsory licensing" in this emergency condition. The U.S. Secretary for Health, following Canada's lead, prompted Bayer to slash Cipro's price or the U.S government would buy a cheaper generic version of the drug (Singer, 2002). Such examples of double-standards demonstrate not only inability of global governance institutes to provide global capitalist justice but also capitalism's rootedness in nationalism. International laws and norms play a significant role in causing civil conflict and keeping authoritarian regimes in power in countries characterized by resource richness and democratic deficit (Hardy, 2011). It may be noted here that the jargon of 'resource curse' helps to conceal privileges provided to authoritarian and non-representative regimes by the global governance institutions. It is not clear as to why major powers would support a democratic cosmopolitan law rather than continuing to use international law strategically, causing civil unrest and promoting authoritarian regimes.

"Held seems to end up blaming Washington for the dire condition of poor countries today" (Scruton, 2005: 51). He remains hopeful about GGIs. What Held does not adequately realize is the absence of alternative in case of USA's refusal to employ coercive means to do away with crimes against humanity (Farer & Julio, 2014: 224). Indeed, Held's cosmopolitan vision essentially seeks to replace the WEC (market fundamentalism) and WSA (unilateralism) with his proposed global social democracy. This situation exhibits a paradox: on the one hand, Held proposes the replacement of the WEC and WSA with his proposed institutional cosmopolitanism; on the other, the success of Held's project of cosmopolitan justice is allegedly dependent on cooperation of the USA. One side of the paradox is that Held proposes to do away with WEC and WSA whereas the other side is that "a cosmopolitan democratic project with the sole remaining superpower standing both outside and hostile" is highly problematic (Dryzek, 2006: 152). The crucial difference between the WEC and WSA, on the one hand, and Held's cosmopolitan vision, on the other, is that he seeks to shift his reliance from the USA to international institutions (Scruton, 2005). However, contrary to Held's groundless expectations international institutions do not seem to have the slightest interest in pursuing Held's vision (Scruton, 2005: 47). The transnational unity of the nation-states—an improbable scenario—has "a chance of being realized only if the superpower (the USA) takes a leading role in this reform movement" (Habermas, 2009: 100). Held does not seem to be adequately mindful of the phenomenon of the dependence of transnational unity and GGIs on the USA. This phenomenon exhibits the potential undemocratic structure and bias of these institutions. The ground reality of global economic justice is that the structure of the global economic order "is determined by a tiny minority of its participants whose oligarchic control of the rules ultimately also rests on a huge preponderance of military power" (Pogge, 2002: 361). Thus, reliance on GGIs is indirect reliance on the USA and other major powers. Held's social democratic cosmopolitan model is critical of the hegemonic influence of the USA and other major



powers but the reliance of his model on GGIs is indirect reliance on the same powerful states. The most significant institution of Held's proposed social democratic cosmopolitanism is the proposed supranational organization.

The United Nations as a supranational organization with a few newly-proposed organs (such as the UN Economic and Social Security Council) is at the top of Held's multilevel model of global social democratic cosmopolitanism. However, the United Nations is a profoundly undemocratic organization and serves the interests of the big powers, primarily those of the US, resulting in the fact that the US "marginalizes the United Nations" (Habermas, 2006: xxii). It is so mainly because the UN, for its security and peacekeeping operation as well as for its social assistance programs is dependent financially and militarily on the USA. USA's global hegemonic position is one of the major reasons for the failure of the United Nations "to bring human warfare to an end" (Weiss & Thakur, 2010: 60). The most powerful member of the UNO, i.e., the USA uses coercive means because of its pragmatic efficacy, "while rejecting that same logic when others use it" (Weiss & Thakur, 2010: 60). Held's proposed metaprinciples of autonomy and impartial reasoning do not seem to be able to work through a supranational organization, dependent financially and militarily on the USA. Held contends that a reformed UNO would be able to promote global justice. However, Harold Rogers, a representative of the U.S Congress, asserted that "there is only and only one true constituency for reform at the UN, and that is this body: the United States Congress" (Congressional Record, 1998:18853). Moreover, "the social democratic consensus assumed by Held is...largely rejected in the USA—the one country on which...everyone depends for positive [i.e., *successful*] action" (Scruton, 2005: 51). Thus, Held's reliance, for promoting global justice, on a supranational organization is indirect dependence on the USA and other major powers. This scenario implies that Held's institutional cosmopolitanism remains trapped in a non-democratic system of global governance without global government. Moreover, liberals and cosmopolitans, developed countries and less developed countries, all have conflicting views for reforming the UN. To the so-called third-world countries, the reform of the UN means constraining the economic and political power of the powerful states. There are hardly any prospects for the reformation of the UN if such reform primarily conflicts with the interests of the US and other major powers because they hold both the power of the purse and that of the gun.

The undemocratic nature of the UNO is manifest by the fact that the number of permanent Security Council members is not more than five in a house of 193 member countries. In addition, for example, the UN Economic and Social Council (ECOSOC) does not equally represent all members but is more representative of the interests of the big powers (Galtung, 2000). Even the survival of the UN is dependent on one or the few big powers (Galtung, 2000). Moreover, neither the military power nor communities in general so far are cosmopolitan; they are nationalist. Thus, American or NATO forces have not demonstrated their potential for fighting injustice anywhere in the world. In connection with the question concerning whether to intervene in Bosnia to stop Serb ethnic cleansing operations perpetrated against Bosnian Muslims, Colin Powell, then



Chairman of the Joint Chiefs of Staff remarked that “all the Balkans are not worth the bones of a single one of his soldiers” (Keller, 2001: 67). The UN has been unable to resolve the problems of security and social justice across the globe. The UN has repeatedly demonstrated its failure to approach global problems in a multilateral framework. Held does not inform us as to how the money will come for the UN’s operations, and how the power of criminal regimes will be toppled if such regimes are working for the advantage of the big powers or if a big power directly commits a crime by violating the cosmopolitan law. Held’s imagined ‘club-driven’ or executive-led multilateralism does not seem to have the potential for promoting social justice globally. Held’s cosmopolitan vision does not adequately address the pragmatic nature of the problem of conflicting interests of powerful states and less developed as well as developing countries. The above analysis suggests that Held’s proposed principles of equal worth and dignity, accountability, consent, collective decision-making through voting procedures, avoidance of serious harm, and amelioration of urgent needs are very unlikely to be promoted through the UNO that he desires to reform. Moreover, in the contemporary world the nation-states exist in a global state of nature and a global civil society does not exist. Even if the UNO is reformed in accordance with Held’s proposals it will not enjoy monopoly of legitimate violence. It will not be equated with a social democratic world state. It will not be able to perform the functions the nation-state does to establish justice at the national level.

Conclusion

Held proposes a social democratic cosmopolitan framework of justice based on his eight principles and two meta-principles. He rules out the idea of a social democratic world state, and proposes an essentially institutional framework of justice that mainly relies on global governance institutions and a reformed UNO for the provision of global justice. Held seems to underrate the fact that the global governance institutions are profoundly influenced by the big powers and the UNO borrows its power from the USA. Thus, the dream of reforming the UNO on the lines suggested by Held seems to be utopian in that the UNO cannot be reformed unless the USA is tamed, and Held does not offer a program for the solution of this problem. Moreover, Held almost neglects the problem of protecting a reformed UNO from the influence of other big powers such as Russia. In the absence of a world state Held does not adequately account for the problem of fair implementation of international/cosmopolitan law across the planet. Held’s view of global democracy is mainly top-down that does not seem to have the potential to succeed in the absence of shared universal values required for the success of global democracy. Held also does not specify any procedure for ensuring the unbiasedness of his proposed use of military force in case of violation of cosmopolitan law. In spite of the failure of the UNO, the ICJ, and global governance institutions regarding the provision of justice at transnational level Held hopes that a multilayered institutional structure from local to global would provide global justice.



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