

Refereed paper delivered at  
Australian Political Studies Association Conference  
6 – 9 July 2008  
Hilton Hotel, Brisbane, Australia

### **Is Global Justice a Mirage?**

Anthony Langlois  
Flinders University

#### **Abstract**

In a recent widely published article, “The Mirage of Global Justice”, Chandran Kukathas has argued that “the political pursuit of global justice is not a worthy goal, and that our aims in establishing international legal and political institutions should be more modest”. In this article I will examine Kukathas’ argument, and argue in turn that he is mistaken to decry the efforts of those who press for global justice. Kukathas’ argument is interesting and provocative. As we shall see, despite his professed support for international law and cosmopolitanism, and his concern about global inequalities and other forms of injustice, he argues that we should forswear the use of political power and political reform to secure the former or address the latter. Instead, Kukathas points us towards the possibility of a global convergence on moral standards in the future, which despite being belied by his focus on human diversity, he seems to view as a prerequisite for political activity toward global justice. Not only, then, is global justice a mirage: we are enjoined to a political quietism while we sit back and wait for Godot. I will suggest that the apparent mirage of global justice is a consequence of confusions within Kukathas’ argument. Kukathas is mistaken in his arguments about the relationship between power and justice, and this leads him to false conclusions about the role that political reform and political institutions should play in consideration of global injustice. It is Kukathas’ suggestion that we should eschew political engagement with matters of global injustice which would ensure that global justice remains a mirage.

In a recent widely published article, “The Mirage of Global Justice”, Chandran Kukathas has argued that “the political pursuit of global justice is not a worthy goal, and that our aims in establishing international legal and political institutions should be more modest” (Kukathas 2006a: 1<sup>1</sup>). In this article I will examine Kukathas’ argument, and argue in turn that he is mistaken to decry the efforts of those who press for global justice.

Kukathas’ argument is interesting and provocative. The suggestion that global justice is not a worthy goal will immediately raise the hackles of some, but this effect will be partly soothed by what follows: that “the pursuit of justice in the international order is dangerous to the extent that it requires the establishment of powerful supranational agencies, or legitimizes greater and more frequent exercises of political, economic and military power by strong states or coalitions” (1). Here it seems that the rhetorical excess of Kukathas’ title is toned down to a more reasonable programme. Rather than suggesting that global justice is a mirage, it appears that Kukathas disagrees with a certain set of propositions about what global justice might constitute – say, some super-sized version of the UN with authoritative military and economic intervention mandates against states. The aphorism about the corruptive consequences of power comes into play here, and many people instinctively shy away from such global institutional suggestions on these grounds. Kukathas tells us, harnessing this point, that power is power, and that we fool ourselves if we think we can draw distinctions between power created for good causes (such as global justice) and cordon it off from misuse, corruption, or the play of evil. He suggests that “The primary concern in the establishment and design of all legal and political institutions should be not to secure justice but to limit power” (1).

Curiously, however, Kukathas ends his essay in a manner which makes one sceptical as to whether he thinks even this more modest goal is acceptable. As we shall see, despite his professed support for international law and cosmopolitanism, and his concern about global inequalities and other forms of injustice, he argues that we should forswear the use of political power and political reform to secure the former or address the latter. “The state and other political institutions”, he argues, “are not instruments of moral progress” (28). Instead, Kukathas points us towards the possibility of a global convergence on moral standards in the future, which despite being belied by his focus on human diversity, he seems to view as a prerequisite for political activity toward global justice. Not only, then, is global justice a mirage: we are enjoined to a political quietism while we sit back and wait for Godot.

I will suggest that the apparent mirage of global justice is a consequence of confusions within Kukathas’ argument. There is no doubt that he raises very important concerns about the role of power in the discourse of global justice, and in particular, the role of power among those who are attempting to address issues of global injustice. However, Kukathas is mistaken in his arguments about the relationship between power and justice, and this leads him to false conclusions about the role that political reform and political institutions should play in consideration of global injustice. It is Kukathas’ suggestion

---

<sup>1</sup> Bracketed page numbers will refer to this hereinafter. The journal in which this piece was published only publishes commissioned articles, which is why this response is being published elsewhere. The journal issue is also published as a book: see Kukathas 2006b.

that we should eschew political engagement with matters of global injustice which would ensure that global justice remains a mirage.

## **Justice**

Justice can be understood in many different ways. Kukathas tries to cut through the confusion this may cause by identifying three different levels at which the idea of justice operates. At its broadest, the question of justice is the question of how we should live, the nature of the good life. Kukathas cites Plato's *Republic* and Marx's theory of communism as two examples – we could also talk about Islam or Confucianism, liberalism or conservatism, or any of a large number of other worldviews. These worldviews give us the basic assumptions and presuppositions by which we articulate our answers to the question of how to live, or how to live well, or how to live a good life.

The scope of justice is significantly narrowed at the next level, which considers the “proper distribution of benefits and burdens in society” (3). At this level we move from philosophical reflection on how we should live, to the institutionalisation of our conclusions in society. At this level, theories of justice concerns institutions, entitlements, rights, duties held by agents (individual and corporate) in the actual societies in which we live. Theories of justice would specify how these are related to one another, how they are justified, how they should be effected in society, and so forth. And this leads to the third level, which is about the practice of justice: consideration here is given to matters such as the consistent application of laws.

Kukathas says that his concern is with the second of these levels: social or distributive justice. There are many different accounts of social justice, with differing views on everything from the nature of the person, to the scope of private property, to the role of religion in society. “Ideas about what justice requires are at least as numerous as the different communities that are to be found in a diverse society” (4). Kukathas concludes from this diversity that it is simply not feasible to talk about justice, not at the level of the nation state, and certainly not globally (where all the difficulties of diversity within a state would be multiplied). At first, Kukathas does not give us any reasons for this conclusion, other than that “diversity would make it difficult to advocate a single standard of social or distributive justice” (4). Among proponents of justice, national or global, there would be few who would accept the proposition that mere difficulty in achieving one's goals was sufficient grounds to conclude that they were undesirable or unattainable.

The phrase Kukathas uses, however, does point us to the key contradiction in the whole of his approach. While he dismisses the project of applying “a single standard of social or distributive justice”, his own approach to the matter of global justice is itself the application of a single standard of social justice – although he refuses to talk about it in these terms.

Kukathas moves very quickly from identifying social or distributive justice as his concern, to the problems which emerge from the diverse number of such accounts of

justice. What he initially fails to make explicit is that our accounts of social justice are derived from the assumptions and presuppositions which we use to answer the questions about how we should live well – the first sense of justice identified by Kukathas. Any discussion of theories of social justice must also be a discussion of theories of justice in the broadest sense, at the point where we start asking questions of justification. (See Miller 2001, and Bell and de-Shalit 2003) Why do people have certain rights or duties? Why should we respect people’s religious beliefs? Why should we accept their cultural norms? Why should we tolerate how other people live? The answers to these questions come from the broader level of our discussion of justice – the level at which we ask about the nature of the good life.

Kukathas acknowledges this more clearly in the next section of the article, where he moves closer to giving us some reasons as to why he thinks diversity makes talk of justice infeasible. The first part of this section is an elaboration of the ways in which diversity causes talk of justice to be disputed: there are disputes about the nature of justice, about questions of value, understandings of property, and “more general ethical disagreements among people” (9). Kukathas asks, given these disputes among people within states as well as between them, “how can justice be pursued across a variety of communities with different views about what justice demands?” He answers, “Under such circumstances, the most a society can reasonably pursue is the establishment of a framework or set of norms that might accommodate ethical disagreements, allowing different traditions to coexist” (10). This would seem to be a promising direction for a line of enquiry to take, but Kukathas chooses to ignore it – despite the fact that many accounts of global justice are predicated on just such an approach (Langlois 2001). Without giving any further elaboration, nor explaining why he chooses not to follow this idea, he goes on to introduce an alternative view, which is one that insists on a substantive universal account of justice, closely linked to a plan for creating global institutions to implement this substantive account. As we will see, he is highly sceptical of this account of global justice, and it is on the strength of this scepticism that he ultimately castigates global justice as a mirage.

It remains unclear, though, why Kukathas does not engage with the first alternative, what we might call the framework approach. Some suggestion is given in the next paragraph where he argues that in the context of disagreement over justice, one outcome is that institutions are created which have a diluted interpretation of justice. The argument here might be that such institutions are incapable of doing a lot, because their substantive agreements are minimal. Kukathas often gives the impression that this is in fact what the situation is like in the “real world”. In many of these observations he is surely quite correct. By the same token, we have to observe that this kind of framework has given rise in the last 60 or 70 years to such extraordinary movements as the human rights movement, which despite being constructed on a framework model, has nonetheless seen substantial agreement and material change in the conditions of the lives of large numbers of people. While a framework approach may not be able to achieve everything that partisans of justice desire in international relations, this example shows that it may nonetheless be a very productive movement in the right direction. Indeed, such framework approaches may well be significant agents in the development of the

cosmopolitanism which Kukathas states he supports, in his conclusion. It is unfortunate, then, that he does not consider the way in which they may allow for justice in international politics, but instead moves on to rule out the possibility of justice, as we shall see, on account of what he sees as the inevitable failure of models of global justice which are more substantive than the framework approach.

It is ironic that Kukathas turns in the bulk of the remainder of his essay to criticise a substantive account of global justice, and to argue on the basis of the failings of this particular substantive account that there can be no global justice – that global justice is a mirage. The irony exists because Kukathas is in fact critiquing one account of global justice in the name of another. At the broad level of justice, what he calls the first level, Kukathas is well known for having a very specific account of how human beings should live with one another: Kukathas is a classical liberal with libertarian tendencies, and he believes that people should live in such a way that the diversity of humanity is tolerated. (Kukathas 2003) His account of the human condition is one wherein he sets out a social and political theory which argues that all people should tolerate others. At a fundamental level, this *is* a single standard of social justice: toleration of difference is the basic principle for the organisation of political affairs (be they local, state or international). As I shall discuss in more detail below, Kukathas' justification for why we should tolerate others has both of the characteristics that he attributes to the account of global justice which he is critiquing. It is both a single standard of justice and a substantive account of how people should treat one another which he argues to be desirable over and against other accounts.

The way in which Kukathas sets up the discussion, then, allows him to suggest that we can talk about international relations, and indeed relationships among people within states, without talking about justice. But this, as I have argued, is false. To bring this out in more detail, I will discuss the two arguments which Kukathas develops most fully in the remainder of his article. These are, first, that the primary concern of those who engage in designing and establishing institutions should be the limitation of the power of elites, not the pursuit of justice, and second (and relatedly) that the norms we seek to see established in political affairs (international and domestic) should be norms of toleration, not of justice. My argument in both cases is that Kukathas' argument requires him to draw on normative reasons which ultimately are reasons of justice (despite his reluctance to so categorize them). Power should be limited, and people should learn to tolerate one another, because both prescriptions enable more human beings to experience a good life, which is their due. And this, ultimately, is what is meant by talk of justice.

### **Limiting Power and the role of political elites**

The repeated refrain throughout Kukathas' essay is the need to limit the power of political elites. Kukathas has no trust in political elites. He clearly takes the view that they have no interest in anything other than more power for themselves. His aversion to talk of international justice is a subset of his aversion to giving any more power to political elites than what they already have. In particular, he articulates his critique of international justice by critiquing the work of two theorists who advocate the creation of

a certain set of international institutions to secure global justice. Kukathas sees this as nothing more than an opportunity for power hungry elites to grab more power for themselves. He all but dismisses any possibility that such institutions could be designed in such a way as to curb or control power, to direct it toward the achievement of good ends. “In the international domain, no less than in the domestic realm, the main political problem is how to keep power in check, not how to devise mechanisms to do good” (12).

Kukathas further elaborates this view by way of his critique of the cosmopolitan institutionalism of Allen Buchanan (2004) and Thomas Pogge (1989, 2002). While these authors present proposals for the creation of global institutions which would be mandated to engage in humanitarian interventions and poverty relief (respectively), Kukathas suggests that their proposals, if put into practice, would secure no such outcomes. Rather, “the outcome of their philosophical effort is, in effect, a justification of rule by elites, guided by (and unchecked by anything other than) a commitment to a view of justice. We should be sceptical of these efforts, for they promise only elite rule, not justice” (20). Why is this so?

The key reason seems simply to be Kukathas’ assumption that “political institutions cannot secure justice” (20). This is fleshed out in the following manner: political institutions can perhaps secure peace, but justice is out of the question, particularly when the institutions cover great swathes of territory and diverse peoples. Justice is unlikely because politics at best leads to balances of power; and, moreover, the larger the polity, the less likelihood of agreement on justice.

This argumentative strategy, however, is opaque. The issue of diversity is the principle consideration here. Any particular account of what justice is will be difficult to implement on any scale once we get past the solipsism of the individual, because people are different. Kukathas is right – the more people we taken in, the bigger the challenge. But this, surely, is a consideration of degree. The assertion that political institutions cannot secure justice, is to move from considerations of degree to the simple alternatives of yes or no, which are not at all adequate to the experiences of humans in society with one another. Kukathas himself suggests that people can live together harmoniously. They can choose to abide by common laws and under the rule of common authorities. Kukathas calls this peace, and suggests that it does not represent justice – rather, it represents compromise and a balance of power. However, he does not present us with any reasons (other than his own presupposition that justice is impossible) to suppose that the process of choosing to live together under common laws and authorities may have had serious and significant input from persons and groups concerned about justice. Or that such input – albeit in less than ideal circumstances, leading to a less than ideal form of justice – might nonetheless represent something identifiably like a form of justice (even if it was also an account of justice with which many might disagree).

Kukathas seems to be cloaking a philosophical position that the pursuit of justice by global institutions is inappropriate with experiential arguments about the difficulty of pursuing any given account of justice. This leads to confusion in Kukathas’ own account. As we have seen above, he argues that the pursuit of justice in international politics leads

to rule by elites; because the main political project is the limitation of power, the pursuit of justice is inadvisable. This seems to be his principle argument. Five pages later, however, after having considered some aspects of Buchanan's argument, Kukathas write:

Until there is in fact greater moral agreement (than presently exists at the global level) any attempt to restructure the international order in accordance with principles of justice risks sanctioning the enforcement of international norms that serve the interests of powerful states, without doing much to serve the interests of weaker states or their members. In any case, we should be wary of setting up institutions of international justice intended to protect the weak, because more powerful agents are often better able to exploit the resources these institutions provide. This is not a decisive consideration; but it is an important, cautionary one, nonetheless (25).

Most people, I'm sure, would agree with Kukathas that this is an important, cautionary consideration. On my reading of Buchanan and Pogge, both authors are well aware of the pertinence of such a consideration. The point of difference, however is that both authors think that we can take effective precautions to ameliorate – to respond to – this point. Kukathas, however, says quite explicitly that he does not believe that we can craft institutions in a way which will prevent such exploitation. And, more fundamentally, Kukathas does not hold this to be a mere cautionary point. It is, rather, the basic presupposition from which the rest of his theorising flows.

This is the reason why Kukathas argues from his rejection of Buchanan's account of how international intervention should be reconceptualised to the conclusion that "any attempt" to reconstruct international practice according to norms of justice risks leading to a global politics where the powerful pursue their own interests at the expense of the weak, even more than in today's world. Buchanan's theory is one of many proposals for international reform around the issue of international interventions. (Buchanan 2004) Showing that there are problems with Buchanan's account (which Kukathas does quite effectively) does not show that any alternative proposal should also be dismissed. For most analysts, the risks involved with global reform depend entirely on the nature of the proposed reforms. This is going to differ, however, for Kukathas, because his *a priori* assumption is that any project of reform *in the name of justice* is a non starter.

The bottom line is that Kukathas is opposed to any institutional manifestation of the pursuit of justice. Further evidence for this conclusion can be found in his comments which follow the above quotation. Buchanan has argued for international institutional reform in part because of ideas he has taken from Kant about the Natural Duty of Justice. As Kukathas summarizes, "Showing proper concern and respect for all persons, in Buchanan's view, requires doing what is necessary, within the limits of what can reasonably be expected of anyone, to ensure that those persons have access to the institutions needed to protect individual rights" (25). As Buchanan says, "Conscientiously acting on the Natural Duty of Justice means supporting institutional efforts to secure justice for all" (25). Buchanan's interpretation of Kant's Natural Duty of justice might be said to go like this: we have a natural duty of justice one to another; institutions help us to

act justly; we therefore have an obligation to support those institutions; such an obligation will often mean entering into those institutions ourselves. Kukathas says, however, “all that really follows from our having a duty of justice is that we must fulfill our obligations to act justly.” Buchanan’s response would surely be: yes, and in these cases acting justly *means* acting institutionally. Kukathas says, however, “if some people wish to establish institutions to govern themselves in order better to secure justice, there is no duty for us to take part.” Again, the riposte would be that *if* institutions do better secure justice, then there *is* in fact a duty to take part in them. Kukathas’ approach runs the risk of reducing justice to personal private actions. Of course, such a view would be consistent with his stated position that justice cannot be achieved through institutions and is not an appropriate part of political projects.

There is much that rides on the “if” in the riposte “that *if* institutions do better secure justice, then there is in fact a duty to take part in them.” But this too is surely the point where Kukathas is at fault, not his interlocutors. It is Kukathas that assumes in advance that institutions cannot contribute to justice, only elite rule. And it is Kukathas who refuses to engage the discussion in a way which might admit of degrees of effectiveness, or levels of success, that make reform proposals on balance more rather than less desirable or persuasive, rather than simply damning them all in advance. Let me illustrate this by considering Kukathas’ engagement with Thomas Pogge, the second of the two proponents of global justice that Kukathas addresses in detail.

Thomas Pogge, as noted above, is one of the foremost theorists of global institutional change in pursuit of justice, particularly global distributive justice (Pogge 2002). His main concern is the very large numbers of people who live in poverty – an issue which Pogge maintains can be effectively addressed with political will and appropriate reform of the global institutional architecture.

Kukathas response is that we can do things about global poverty without engaging in global institutional reform – and this is undoubtedly true. Those who are able can engage in charity. (But see Kuper 2002a&b and Singer 2002a&b) Governments, corporations and individuals can give. In addition, governments, corporations and individuals can change other forms of behaviour (such as trade practices, or financial regulations) which structurally embed poverty – although it should be noted that this is a form of global institutional reform, even though it does not call for the creation of new institutions (the actively Kukathas most seems to loathe). Thirdly, Kukathas notes, existing international institutions – such as the European Union – can change their policies to aid the poor.

Kukathas then goes on to concede that charity is probably not sufficient to resolve the problem of global poverty. He continues to argue against institutional reform though, on the basis that the failure of existing attempts to initiate unilateral reform show us that there is little chance of the success of more ambitious reforms. However, Kukathas fails to engage at all with Pogge’s arguments that in fact systemic reform is required, because it is systemic practice that inhibits and prevents the success of unilateral reform – particularly on some key measures, including those that Pogge calls the global resource privilege and the global borrowing privilege (Pogge 2004).

Kukathas highlights Pogge's proposed global resources dividend – a mechanism for transferring resources into an institution which would target global poverty – and criticises it briefly on two grounds. First, that it sets out to solve a wealth distribution problem by creating another political institution – how is it possible, he asks, that another layer of institutions will help when we haven't yet got it right? Second, he argues, creating another layer of institutions means entrenching the power of the world's elites. He thinks that neither good will nor institutional design will enable us to “get closer to eliminating global inequalities and securing justice” (27). Rather, this would all be another step towards increased global political inequality.

Kukathas' argument here is unsatisfactory because he does not engage any of Pogge's substantive arguments on these topics; nor do I have the scope here to rehearse Pogge's views. However, for the sake of completeness I will make the following observations. Regarding the first point, none of our existing global institutions have a purpose or mandate even remotely similar to what Pogge is suggesting. Kukathas' argument would hold more sway were he to offer an evaluation of Pogge's specific proposals, instead of a generalised attack on institutions, *carte blanche*. Pogge's proposals highlight the need for careful institutional design. Kukathas simply dismisses the possibility that attending to design could have any consequence – even after having voiced concerns about the processes that might be engaged in for distributing the resources that such a proposal might make available for those suffering poverty (See Jamieson 2005 and Kuper 2004).

Kukathas' conclusion that past experience tells us that all such efforts will only lead to further global inequality is at best a prejudiced reading of history. If taken seriously, such a view would be the death knell to all attempts at political reform anywhere. Instead, a fair reading of history shows that in some places at some times large scale institutional reform has had great beneficial change for societies, and that justice – on a variety of different formulations – has indeed been advanced by such activity.

Kukathas then turns to the matter of general conclusions from his reading of the debate on global justice. He says that his aim has been to “seek the appropriate response” to the conditions of gross injustice and inequality which presently transpire on a global basis. He goes on, “The main thesis [my argument] advances is that the solution does not lie in establishing or expanding political powers to address these problems”(28). Such an approach would not “establish an acceptable understanding of justice”; rather, it would merely “provide another opportunity for political elites to pursue their own particular ends” (28). Notwithstanding this conclusion, Kukathas says he is not a political realist (in the sense of realism in international relations, that is, of *real politik*), nor does he reject international law – he is, in fact, a supporter of cosmopolitanism. However, “The main assumption of the essay in this regard is that the development of cosmopolitanism should no be the product of political reform. It may well be that there will be a convergence across the globe on common moral standards in the years to come, Unless that happens, however, we cannot even begin to think in terms of global justice.” (28).

Kukathas' essay finishes in a very unsatisfactory manner. He tells us he wants an appropriate response to global injustice, and then suggests that the least appropriate response is to engage in political reform. Once again, he tells us he is not rejecting cosmopolitanism – although most cosmopolitans are avid defenders of the need to engage in political reform. Instead, Kukathas advocates a political quietism which should continue unless there emerges (spontaneously it seems, for it must be without our political advocacy) a convergence on common moral values in the future – the only point at which we should contemplate the pursuit of justice.

In his conclusion Kukathas gives no indication as to what alternative there might be to engaging in political reform, which he condemns across the board. Nonetheless, he does make comments which give some indication as to how he thinks we should consider and come to terms with our experience of living together in a global world. In my final section I shall argue that Kukathas cannot escape considerations of global justice, and that even his own attempts to propose an alternative account for global relations is nonetheless ultimately bound to considerations of justice. Kukathas is right to assert that there are myriad ways of thinking about justice; he is wrong to think that this diversity undermines our capacity to conceptualise and work for justice. Indeed, his own account is best understood as an alternative model of justice, not as an alternative to justice among our models of how to structure global relations.

### **Tolerance and Justice**

Kukathas says, “my thesis in this essay is that justice should not be pursued globally.” Kukathas' main objection to the desirability and feasibility of pursuing justice is the problem of diversity. He says, “any commitment to accommodating a diversity of ways of life would make it difficult to advocate a single standard of social or distributive justice. I suggest that it is neither possible nor desirable to pursue justice in this sense within a single nation-state. Consequently, we should not pursue social or distributive justice at the global level.” (4)

Kukathas is mistaken to assume he can do without a model of global justice. He himself presents us with a model of global justice – one based around the existing Westphalian system of international relations. Kukathas argues that his model is a model of toleration, not a model of justice; indeed, he argues that considerations of justice have no significant role in accounting for a global order of toleration. I argue, however, that toleration is not a stand alone concept, and that its ultimate justification rests on considerations of what human beings owe one another – considerations of justice.

According to Kukathas, then, the international global order, along with individual states, should “be conceived as a network of independent jurisdictions bound not by any shared (or imposed) understanding of justice but simply by a commitment to mutual toleration” (5). Having said this, he then immediately states that “the most important imperative in the international order is to avoid war.” The creation of peace is what justifies the existence of international institutions and organisations.

Neither peace nor toleration, however, are self justifying concepts. Peace, understood in the way Kukathas presents it - as the avoidance of war – may in some circumstances be a very bad thing. Similarly, we do not tolerate people doing whatever they want just because they can. No functioning assemblage of humanity, on whatever model one chooses to consider, simply accepts toleration of any and all behaviour, or peace at all costs. The forms of toleration and peace that we do embrace, are embraced on the basis of an account of how we want to live together as human persons. As Kukathas notes, indeed, as is central to his argument, such accounts are wildly diverse among human persons. Nonetheless, justifications of peace or toleration must depend on one or another of such accounts in order for them to have any veracity – and indeed, as the proponents of framework theories of justice argue, many such accounts have high degrees of commonality.

Kukathas' own account of global toleration depends on one such theory of justice, understood at this broad level. He is not particularly explicit about this in "The Mirage of Global Justice", but the consequences of his broad theory of justice and its particular philosophical orientation are nonetheless clear to see. The most obvious example of this is his repeated assertions that politics should be about limiting power, and that, indeed, political reform is not an activity that right thinking people should engage in. Given the great diversity of approaches to politics, most of which advocate some form of political activism, it seems odd that Kukathas could claim to be denying the legitimacy of people's views and behaviour on political reform, while in the same context arguing that he supports toleration, and rejects the imposition of "a single standard of social or distributive justice." On this score – the legitimacy and justifiability of political reform – Kukathas himself has a very exacting single standard.

"Justice", say Kukathas, "may be understood in many different ways. At its broadest, justice could be said to be the subject of any general account of how people should live" (3). Kukathas does advocate an account of how people should live together. It is a form of liberalism which places notions of toleration front and centre. Kukathas is much clearer about this in some of his other writings. Take, for example, his recent book *The Liberal Archipelago* (Kukathas 2003), to which he refers us. Again, picking up on the theme of diversity in the context of how we should live as humans, and under what institutions, he says that "...our understanding of the nature of human diversity will have a substantial bearing on whether we can intelligently ask such questions." He follows this by arguing that there is such a thing as human nature; that our diversity is not, as John Gray thinks, "a primordial attribute of the human species", but rather is epiphenomenal. Difference, for Kukathas, is circumstantial, not essential. (It should be noted that there exists a strong tension between Kukathas' dismissal of difference here in the cause of underwriting a theory of liberalism, and his employment of difference in the article under discussion to dismiss theories of justice. But that discussion shall have to be had on another occasion).

The philosophical anthropology he builds around this argument is the foundation for "the defence of liberal principles as universal principles" with which his book is concerned. (pp 41-2) Kukathas argues that our basic interests as human beings are "in not being

forced to embrace, or become implicated, in ends we find repugnant.” (64) Later in his book, in the chapter that specifically considers liberal toleration, Kukathas argues that “the freedom protected by toleration is freedom of conscience.” He goes on, “in the end, there is a strong case for protecting conscience because of its fundamental importance for human beings to live good lives” (131). Or again, “The argument here, however, is that a commitment to discovering what is true about the good life or about proper moral practice requires a social order whose fundamental disposition is to toleration. Toleration is the condition of rational inquiry and therefore of moral inquiry” (134). Whatever else may be said of Kukathas’ defence of liberalism, it is nonetheless clear that in his broader work he defends an account which fulfills the criteria for justice, conceived at a broad level, as “the subject of any general account of how people should live” (3).

Kukathas may respond to this by arguing that in his paper he was not concerned with theories of justice at this broad level. Instead he was concerned to treat what we saw him call the second level of justice – social or distributive justice. This sort of maneuver will not get him very far, however, because the diversity among theories of social justice that he highlights is directly related to diversity at the broad level; the normative contours and the metaphysical underpinnings of social justice theories are derived from these broader, theories of justice, or, as they are often termed, accounts of the good life.

This is clearly the case, for example, in the thought of Buchanan and Pogge. Both advance a philosophical conception of cosmopolitanism, which, among other things, advocates individualism, universalism, and generality. Thomas Pogge expresses it in these terms:

Three elements are shared by all cosmopolitan positions. First, *individualism*: the ultimate units of concern are *human beings*, or *persons* – rather than, say, family lines, tribes, ethnic, cultural or religious communities, nations, or states. The latter may be units of concern only indirectly, in virtue of their individual members or citizens. Second, *universality*: the status of ultimate unit of concern attaches to *every* living human being *equally* – ... not merely to some subset, such as men, aristocrats, Aryans, whites or Muslims. Third, *generality*: this special status has global force. Persons are ultimate units of concern *for everyone* – not only for their compatriots, fellow religionists, or suchlike (Pogge 2002, 169).

Cosmopolitanism – despite coming in many shapes and sizes – is nonetheless a clear case of a well delineated broad theory of justice. Both Buchanan and Pogge have offered contributions which then articulate this level one broad theory into a more concrete level two theory, a theory of social or distributive justice. As we have seen, Kukathas objects to many of the specifics of both these theories. But his underlying philosophical criticism is that Buchanan and Pogge are advocating a single standard of social or distributive justice, for all people, everywhere. He repeatedly asserts that such an approach is untenable in the face of global diversity.

The stakes are very high at this point in Kukathas' argument. Diversity has been wheeled out to trump theories of social justice – in particular, theories of social justice have been accused of seeking to apply single standards of justice. And Kukathas has indicated that an alternative, not based on justice at all, but based on toleration of our diversely different ways of life, may serve as a better way of conceptualising international affairs. Global justice is a mirage; global toleration, Kukathas argues, is possible – in fact, is already the working model that we operate with.

Kukathas' critique of approaches like Buchanan and Pogge however founders at exactly the point which he takes to be the key to his criticism: that diversity undermines the imposition of a single standard of justice. As we have seen, a little unpacking of Kukathas' position shows that he is no less guilty of promoting a substantive philosophical account of what it means to be human and to live the good life together, an account which leads him to promote a single standard of social or distributive justice. This takes its form in his theory of the liberal archipelago, which – despite its capacious manner of accounting for human diversity – is nonetheless a theory which Kukathas promotes as the best or most appropriate way of thinking about how we should dwell together as human persons.

The key step in drawing this out further is to consider why we should understand Kukathas' toleration as a form of justice – why, as I commented earlier, it is not a stand alone, self justifying concept. This is achieved readily enough by asking the following sorts of questions: why should we tolerate? What makes toleration good or desirable? Why should we put up with the views of people who differ? Why should we accept cultural practices alien to our own? Why should we let people believe things – even things which are patently wrong – if they want to?

Any attempt to try and answer these sorts of justificatory interrogations of the idea of toleration is going to have to make some form of appeal to a basic conception of how we *should* treat other people. We tolerate the behaviour and views of other people, because we believe that this is their due as human beings; we believe that, as human beings, these people have certain capacities, certain attributes, a certain nature, which means that it is only appropriate for us not to force upon them our way of being. It is a recognition of worth, of value, of due regard toward the other. For Kukathas, as we saw above, this is conceptualized through a philosophical anthropology that characterizes humans as reasoning creatures who seek to find and live the good life, a quest that has as a central precondition the toleration of free inquiry and the pursuit of reason.

This formulation of tolerating the other by recognizing them as, like us, a pursuer of the good life, applies not just at the interpersonal level, but also – and crucially for Kukathas' approach – at the global level. The considerations that we employ for why we would not overrule a friend's opinion on a matter of conscience, are essentially the same considerations we employ for why it is that nation-states operating within the Westphalian international order agree to live together as harmoniously as possible despite their differences. Kukathas says, "One way of describing this model of global order is as an archipelago of interdependent jurisdictions not subject to any common power, existing

under norms of mutual toleration.” However, he is completely mistaken in his next comment, that “Justice has no significant part to play in accounting for such an order” (7).

On the contrary, justice plays a highly central role in accounting for such an order (Rawls 1999, Martin and Reidy 2006). While such an order may not embody the cosmopolitan justice sought by Buchanan and Pogge, the Westphalian system is built upon very determinate notions of justice, which are intricately bound up with the international norm of state sovereignty (Brown 2002). Indeed, at one point Kukathas criticises Buchanan’s and Pogge’s approach because, among other reasons, it may jeopardize self rule – the capacity of states to exercise their sovereignty (the analog for individuals is their capacity to pursue their own conception of the good life). What intrigues me here is why it is that Kukathas is suddenly concerned about self rule, given his disavowal of justice, because the Westphalian system has been characterised by arguments about the natural justice that is acknowledged when people are given self rule (Philpot 2001). Such arguments were especially powerful in the twentieth century as many peoples sought freedom from oppressive colonial relationships: the impetus for the existence of many a sovereign state was the unjust treatment it’s people received at the hands of those who would not allow self rule (Crawford 2002). In the Westphalian system the very reason why state sovereignty is taken to be sacrosanct is because of the way in which it facilitates self rule by “peoples” – and this is in turn justified because it is only just and right that people should control their own destinies. The contemporary states system cannot be understood without reference to the way in which justice to individuals and communities is served by, and only by, mutual recognition of sovereignty. Whatever else one might say about the Westphalian international system, it is an error to say that it is constructed and maintained without reference to ideas of justice. To be sure, many other considerations come into play: power politics, realpolitik, pragmatism, the self interest of elites, the national interest. The pursuit and practice of justice in global affairs is never pure. But nor is it fairly characterised as absent. (Keene 2005)

Kukathas himself says, “The virtue of the Westphalian ideal is that it divides power, recognizing as it does the diversity of claims of political authority, and that it appreciates the importance of avoiding war” (6). Again, if we ask the question “in virtue of what is the division of power and the recognition of diverse claims of political authority a good thing?”, the answer – or answers – we shall receive will be denominated in terms of justice. The historical emergence of Westphalia out of the wars of religion, of which Kukathas speaks, with the generation of the principles that religion of a state would be mandated by it’s sovereign, but that the ruler also had to protect the status of minority religions – these are also principles that were argued for and justified according to notions of justice: that despite the power of the head of state, it was only just that dissenting views be tolerated; that despite the religion of the empire or one’s strong neighbour, it was only just that one’s state should practice it’s own religion.

Global justice is no mirage. For all the injustice that exists in the world today, it is nonetheless the case that the international system functions on the basis of a discernable set of principles and processes, which have emerged, as Kukathas rightly argues, out of

the Westphalian system. Again, as Kukathas points out, this system has as one of its great strengths the capacity to continue to function as a system despite the great diversity of forms of political association that exist within it – and, as a corollary of this, the great diversity of ways of understanding and institutionalising justice (See Brown 2002).

Toleration may well be the key virtue that maintains this system. But toleration is no end in itself. Toleration is justified on the basis of broader, more fundamental principles, principles of justice, derived from the account of the nature of the good life. Ironically, it is on the basis of these principles of justice that Kukathas might be able to more effectively argue against the narrower and more substantive account of justice as presented by Buchanan and Pogge – that their account does not give enough credence to the autonomy and individuality of others – be they nations or individuals. That it is too paternalistic, too prepared to impose one view over another. On the other hand, one might argue that it is precisely the principles of justice which support toleration, which also delimit the scope of toleration. As argued above, not everything is tolerated. Even the sluggish international cooperation of the Westphalian system agrees that activities such as wholesale slaughter of minority ethnic groups is not to be tolerated. Thus, and this would be the position of Buchanan and Pogge, the logical extrapolation of the norms of justice which support the Westphalian system as it has evolved thus far, also support the continued development of substantive standards of justice in international affairs – standards which build on those already embodied in the principles of toleration which guide the Westphalian order which Kukathas supports. The question is not whether global justice is a mirage or not, but which model of justice can – should – be effected in the international arena.

## **Conclusion**

Kukathas acknowledges the widespread poverty and oppression existant in our world, and claims that his aim has been “to seek the appropriate response to these conditions.” He continues, “the main thesis... is that the solution does not lie in establishing or expanding political powers to address these problems” (27). “The main assumption of the essay”, he adds, “ is that the development of cosmopolitanism should not be the product of political reform.” We are left with a mystery, then, as to what the appropriate response to conditions of poverty and oppression could possibly involve. Kukathas denies us the use of political means; he counsels against the construction of institutions and tells us the state should not be used in pursuit of the good. Under these restrictions, it is not surprising that Kukathas thinks of global justice as a mirage. On the one hand, by endorsing international law and cosmopolitanism, he holds up the prospect of justice at work on the international level. On the other hand, he denies us the means to see it come to pass.

My argument has been that Kukathas is confused and mistaken in this denial, at a number of different levels. His article does not argue in support of his key main assumptions: that politics should be about the limitation of power and that political reform should not be used to pursue justice. Rather, he chooses two cases (Buchanan and Pogge) that when selectively read fulfill the fears of those who hold these assumptions in the first place,

thus falsely appearing to justify them. More fundamentally, his argument that we should pursue toleration rather than justice in international affairs also fails to be persuasive. The globe is too diverse, Kukathas argues, for any one single substantive standard of justice. He then proposes what amounts to one single substantive standard of toleration, modeled after the existing Westphalian international order. His justification of this model of toleration however depends on a set of concepts which are inextricable from considerations of justice. These include concepts such as self-rule, the limitation of power, the desirability of democracy, liberalism and cosmopolitanism. Ultimately, as in Kukathas' broader work to which he refers us, he is committed to one single substantive normative account of how humans should live together, and it is that account of the good life, that account of justice, which ultimately does inform his argument. It is Kukathas' own argument against justice which turns out to be the mirage, along with any substantive indication as to the appropriate response to global injustice.

## References

- Bell, D. A. and A. de-Shalit, (2003) *Forms of Justice: Critical Perspectives on David Miller's Political Philosophy*, Rowman and Littlefield, Lanham.
- Brown, C. (2002) *Sovereignty, Rights and Justice: International Political Theory Today*, Polity, Cambridge.
- Buchanan, A. (2004) *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law*, Oxford University Press, Oxford.
- Crawford, N. (2002) *Argument and Change in World politics: Ethics, Decolonization, and Humanitarian Intervention*, Cambridge University Press, Cambridge.
- Jamieson, D. (2005) "Duties to the Distant: Aid, Assistance, and Intervention in the Developing World", *The Journal of Ethics*, 9: 1, 151-170.
- Keene, E. (2005) *International Political Thought*, Polity, Cambridge.
- Kukathas, C. (2003) *The Liberal Archipelago*, Oxford University Press, Oxford.
- Kukathas, C. (2006b) "The Mirage of Global Justice" in Ellen Frankel Paul et al (eds), *Justice and Global Politics*, Cambridge University Press, Cambridge.
- Kukathas, C. (2006a) "The Mirage of Global Justice", *Social Philosophy and Policy*,
- Kuper, A. (2002) "Facts, Theories, and Hard Choices", *Ethics and International Affairs* 16:2, 124-6.
- Kuper, A. (2002) "More than Charity: Cosmopolitan Alternatives to the "Singer Solution", *Ethics and International Affairs* 16:2, 107-120.
- Kuper, A. (2004) *Democracy Beyond Borders: Justice and Representation in Global Institutions*, Oxford University Press, Oxford.
- Langlois, A. (2001) *The Politics of Justice and Human Rights: Southeast Asia and Universalist Theory*, Cambridge University Press, Cambridge.
- Martin, R. and D. A. Reidy, (2006) *Rawls's Law of Peoples: A Realistic Utopia?* Blackwell, Oxford.
- Miller, D. (2001) *Principles of Social Justice*, Harvard University Press, Cambridge MA.
- Philpot, D. (2001) *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations*, Princeton University Press, Princeton.

Pogge, T. (1989) *Realizing Rawls*, Cornell University Press, New York.

Pogge, T. (2002) *World Poverty and Human Rights*, Polity Press, Cambridge.

Rawls, J. *The Law of Peoples*, Harvard University Press, Cambridge, MA.

Singer, P. (2002) "Achieving the Best Outcome", *Ethics and International Affairs* 16:2, 127-8.

Singer, P. (2002) "Poverty, Facts, and Political Philosophies", *Ethics and International Affairs* 16:2, 121-124.