

Global Justice and Research Ethics: Linguistic Justice and Intellectual Property¹

Radu Uszkai

Research Centre in Applied Ethics, University of Bucharest

Abstract. This paper aims to address two seemingly independent issues in the field of moral and political philosophy, namely the problem of global justice with elements regarding research ethics. The first section of the paper will be concerned with a short overview of the problem at hand, highlighting the particular way in which research (I refer mostly to publishing in academic journals) is carried out in the 21st century. While admitting that the matrix of moral issues linked to the current topic is more diverse, I will limit the scope of my analysis to only two elements. First of all, in the second section of my paper I will try to identify an answer to the following question: are researchers from non-native English speaking countries who seek to publish in academic journals from abroad in a position of inequality in relation to their peers from Australia, Great Britain or USA? I will explore the moral relevance of this question at a global level by presenting Philippe Van Parijs' conception of linguistic justice. My argument will rest upon the fact that the emergence of English as a lingua franca in research publishing has had more positive than negative externalities in relation to researchers from developing countries. The third and final part of my paper will be a critique of the current Intellectual Property system which, in my opinion, hinders the access of researchers from developing countries to new research available in journals indexed in international databases like Wiley-Blackwell, SAGE or JSTOR.

Key words: global justice, research ethics, linguistic justice, intellectual property, copyright.

Investing in research and development seems to be one of the contemporary mantras worldwide. In a bid to increase their scientific output, both countries and private companies invest part of their GDP and R&D budgets in making funds available for researchers to advance their research agendas which partly end up published as papers in journals indexed in international databases like Wiley-Blackwell, SAGE or JSTOR.

Taking into account this factor, it is no surprise that, according to a recent report, in 2014 Google Scholar indexed between 100 and 160 million documents and that “there were about 28,100 active scholarly peer-reviewed English language journals [...] collectively publishing 2.5 million articles a year” (Ware and Mabe 2015, 27). Moreover, “the number of peer reviewed journals published annually has been growing at a very steady rate of about 3.5% per year for over three centuries [...]; the number of articles has also been growing by an average of about 3% per year. The reason for this growth is simple: the growth in the number of scientific researchers in the world” (2015, 28). While an oligopoly, with Elsevier, Wiley-Blackwell, Springer and Taylor&Francis accounting for more than half of the articles published in 2013, the market for academic articles seems to be a good investment, with profit margins of nearly 40% (Larivière, Haustein & Mongeon 2015).

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The competition between researchers to get their papers published in high - profile journals like *Nature* or *Science* seems, at least at a first glance, to be unequal. Firstly, the funding opportunities available for researchers based in countries in the developing world are in no way close to the opportunities scholars from USA or the European Union have at their disposal. Moreover, just as Latin used to be the lingua franca of academic publishing up to modern times, publishing an academic paper in a journal nowadays is not just a matter of coming up with innovative ideas and having a grasp of the relevant literature in your particular field. A researcher should also possess a proficient level of writing in English, as this language emerged as the new lingua franca of academic publishing.

Last but (possibly more importantly) not least, there is the question regarding access to academic journals and articles. While in affluent societies this is not really a problem, with universities having the necessary funds in order to provide their students and scholars with access to international databases by paying yearly subscriptions, this is not the case in the developing world. The crux of the problem in this context lies in the current global Intellectual Property regime, as the poor access to academic publishing is partly due to the fact that copyrights on academic articles make ideas scarce, while alternative sources such as projects like Library Genesis and Sci-Hub are frowned upon, both on moral and legal terms. But more to this point in the third section of my paper.

As Thomas Nagel famously asserted in one of the seminal papers regarding global justice, claiming that we live in a world which is not characterised by justice at a global level seems quite uncontroversial (2005, 113). However, when moral and political philosophers address the issue of global justice, they tend to express concerns regarding big issues of human welfare. Famine, death from poverty-related causes (Pogge 2001, 6-24), the impact of climate change on developing countries or access to life saving drugs (Pogge 2010, 135-155) are to the forefront of the moral debate. On a related note, research ethics seems to be preoccupied with other issues than the question of publishing academic papers in relation to linguistic or intellectual property topics. Research fraud and plagiarism (Judson 2004), the problem of dual use technologies (Selgelid 2013, 3-13), privacy and informed consent in developing empirical studies (DuBois 2006, 102-121) or the question of the social responsibility of researchers (Hackett 2002, 211-14) are the main elements discussed in the field.

Far from trying to argue that addressing publishing inequality in an already globalized publishing world is as pressing as tackling the causes of famine or facilitating the access to HIV drugs in poor countries my contention is that, due to the fact that there is a correlation between research and prosperity at a national level, we should at least aim at addressing in part the elements I sketched above. Moreover, I do not wish to assert that the paradigmatic issues surrounding research ethics are not important, but I do think that the prerequisites of publishing (both on linguistic and Intellectual Property accounts) do stand as serious moral problems with potential political implications and solutions. In particular, my aim in this paper is that of addressing whether there could

be a case for linguistic justice in the context of academic publishing at a global level and if the current Intellectual Property system is fair and equitable in relation to researchers and scholars from the developing world.

1. IS THERE A CASE FOR LINGUISTIC JUSTICE IN ACADEMIC PUBLISHING?

1. Van Parijs and the concept of linguistic justice

The intellectual incentive behind the idea of linguistic justice stems from the fact that, in many institutional or economic interactions, some speakers are in an advantaged position. Take, for example, the case of a migrant worker from Romania who wants to earn a contract in France. Besides the fact that he needs the required skills for the job he searches for, he should also possess, for a wide range of high-paying jobs, at least some minimal French speaking, understanding and writing skills, while his employer is not expected to have some sort of correlative duty with regards to Romanian language.

It can be argued that the case of academic publishing nowadays is not fundamentally different from migrant workers who seek employment in the West. Most scholars and researchers seek to disseminate their ideas in internationally indexed journals, most of them being incentivized to learn English (and to a much lesser degree French or German) in order to get their papers published or presented at international conferences. English, as I mentioned in the previous section, emerged as the contemporary lingua franca² in academic publishing but it was not the first one to get in this position. For example, up to a few centuries ago, scholars and scientists used to write and deliver talks in Sumerian, Greek, Arabic or Latin. While the use of Latin was prevalent in scientific and scholarly communities in the Middle Ages in Europe, in modern times it was surpassed and substituted by French, German and English.

This continued to be the case even in the beginning of the 20st century, but the situation has slowly changed nowadays, with English holding the dominant position in science publication. For example, in 1996, 90.7% of all the published work in the natural sciences was in English, with Russian being the second with a 2.1% share of the market of ideas. The situation was similar in the social sciences: 82.5% of the published articles were in English, with French (5.9%) and German (4.1%) coming on second and third (Hamel 2007, 57-58).

2] Some argue, however, that from a strictly linguistic standpoint English is not a lingua franca per se. However, we could use the term English Lingua Franca (ELF) as a denomination for the globally used English language. There are more speakers of ELF than the native speakers of English (the ratio is about four to one). For more details see House 2004, 556-57. For my purpose however, this strictly linguistic debate is not of real importance, due to the prevalence of publishing in English in contemporary scientific and scholarly practices. What matters, as Jennifer Jenkins and Constant Leung observe, is that "Nowadays, however, its most extensive use is as a lingua franca among speakers from different first languages, particularly, but not exclusively, non-native English speakers from countries with no history of British colonization." (2014, 1)

What is the explanation for this shift towards publishing in English? The answer is plain and simple and it has to do with the fact that there are more and more scholars who seek to publish in English and not in their native tongues: “an increasing number of scientists whose mother tongue is not English have shifted to English for publication. An empirical trace of this process can be identified directly in the fact that the number of contributions in English language journals by authors from non-Anglophone countries has grown significantly over the past decades” (2007, 60).

In comparison to their peers from developing countries who do not have English as their mother tongue, scholars from the UK, USA or Australia seem to be in an advantaged position. They have no costs associated with publishing besides being good researchers, because they do not have to incur the cost of learning English beyond just an acceptable level in order to be competitive with native speakers. A situation like this, Van Parijs argues, represents the prerequisite for a discussion regarding whether or not the idea of linguistic justice makes sense. And, according to him, it really does, as I will show further on.

Before presenting his theory of linguistic justice it should be noted that Van Parijs is not against English being used as a *lingua franca* both in Europe and at a global level. Moreover, he considers that there is a case based even on a commitment to egalitarian global justice which justifies “a strong presumption in favour of the spreading, in Europe and throughout the world, of a single *lingua franca*, that is of one language which should enable us all to communicate with one another, irrespective of our mother tongues” (Van Parijs 2011, 50). Why and how did English acquire this special status? Firstly, he rejects the hypothesis that a *lingua franca* is rationally superior to other languages. Moreover, he also rejects alternative explanations for the adoption of English as a *lingua franca*, namely the hybrid character of its lexicon or the ethnic superiority of Anglophone countries. It is more likely, Van Parijs conjectures, that English became a *lingua franca* “basically because of a haphazard sequence of events that could easily have led elsewhere” (Van Parijs 2011, 22).

After clarifying the fact that the mere existence of a *lingua franca* is, in fact, just, he considers the broader moral and political implications of the current linguistic status quo. He begins by asserting that the concept of linguistic justice should not be confined only to aspects which relate to interindividual distributive justice. A more extensive perspective is in place, taking into account the global impact of the problem. As a consequence, Van Parijs considers that we need to talk about linguistic justice as a form of “intercommunity cooperative justice” (2002, 60).

A first framework to assess the idea of linguistic justice which Van Parijs advances is Rawlsian. Having some linguistic competence in a *lingua franca* is a skill which does affect the life of an individual. A researcher in moral and political philosophy from Romania who possesses the capacity to read, write and engage in conversations with her peers from foreign universities in English can progress as a researcher and become internationally relevant. Her competences can be seen, Van Parijs suggests, as a combination of her effort (to learn English) but also of the particular circumstances in which she developed her skills and personality. How would a Rawlsian analysis of this situation look like?

Unsurprisingly, the fact that a person has a certain mother tongue is an arbitrary feature of her personal identity, just as her race, gender or sexual orientation. As a consequence, the fact that our mother tongue is either English, Romanian or Urdu should not hinder or influence in any negative way our access to valued social positions, like that of a researcher in political philosophy.

A corollary of this perspective is that we should treat our natural linguistic skills just as Rawls does with other types of natural talents which are a result of the natural lottery: some people are either born in advantaged communities where the mother tongue is the lingua franca of the research and publishing world or with superior skills in learning and assimilating new languages. If we take into account the Difference Principle, Van Parijs asserts the following:

among those who occupy the worst social position [...] those with the misfortune of speaking the wrong language, or of speaking the right language with the wrong accent, are bound to be overrepresented. Rawlsian justice does not let them down. The difference principle requires that the expectations of the incumbents of this position be maximized, that they be higher than those associated with the worst position under any alternative arrangement. (2002, 60)

As a consequence, we should design appropriate institutions to take into account this inequality.

While promising, the Rawlsian approach to linguistic justice is not enough for Van Parijs because it has to face a serious objection, namely the problem of indeterminacy: “there is no reason to single out linguistic assets for special treatment: they can safely be lumped together with other personal assets” (2002, 61).

A more promising approach is one which emphasizes the use of English as a lingua franca as a problem of cooperation. By being competent in English, a scholar from Romania provides a public good to native speakers from Anglophone countries with the same research interests, because that skill facilitates communication between people who share that competence (Van Parijs 2011, 50).

The approach Van Parijs advances highlights the case of positive externalities and the existence of free riders who take advantage of the persons producing the positive externalities. This approach might be better suited to address the question of linguistic justice at a global level. In order to make this point clearer, I will adapt an example employed by Van Parijs. Two individuals, both researchers in the political philosophy of Robert Nozick, are only fluent in their native languages, English and Romanian. A fruitful conversation between them on the issue of side constraints is hindered by the fact that they cannot communicate due to the language barrier. However, after some time, the Romanian scholar learns English and the exchange of ideas takes place. In this case, while one researcher made the necessary efforts in order to facilitate communication, the other did not change in any way her behaviour. As a consequence, the native speaking English scholar enjoys at no cost a public good at which only the Romanian scholar contributed and worked to produce.

The crux of the conception of linguistic justice that Van Parijs endorses in his analysis of a lingua franca (the fact that English is the current one is irrelevant in this particular case) is that it seems to have a structure of a public good (2011, 51). First of all, a lingua franca is non rival with regards to consumption. If the Romanian scholar communicates in English, as in the previous example, she does not reduce the amount of words or phrases uttered or written in philosophy papers by others, be they native speakers or speakers of a different language. Furthermore, the exercise of a lingua franca is non-excludable: the cost of prohibiting and monitoring the consumption of a language would be too high, at a global level.

We need some form of linguistic justice, Van Parijs argues, because the laissez-faire status quo of today incentivizes native English speakers to free ride on the efforts of foreign scholars (whether from developing countries or not). The current arrangement is not fair and, as a consequence, it needs to undergo a moral level-up:

Justice between linguistic communities could analogously be conceived either as a fair sharing of the cost of permanent commuting (the learning of the 'dominant' language by the present and all subsequent generations of native speakers of the 'dominated' languages) or as a fair sharing of the cost of a one-off move (the replacement of the 'dominated' languages by the 'dominant' language as a common mother tongue. (2011, 62)

To conclude, linguistic justice should be viewed as a form of fair cooperation³ between native lingua franca speakers and foreigners. While the bulk of the examples employed by Van Parijs have to do with structural institutional issues (for example, how should the EU evaluate, assess and compensate non-native English speakers) one example employed alludes to the use of English as a lingua franca in academic publishing. If we have separate research communities on the basis of the mother tongues used in research, then the emergence of English as a lingua franca in science publication has paved the way for the cohabitation of different scholarly communities at a global level. It is on the basis of Van Parijs' personal efforts that he managed to make his ideas available for a broader public:

for example, the native Anglophones who read these words benefit from my having laboriously learned from age fifteen how to understand, pronounce, read, and write the words they happily learned as toddlers and how to order them more or less the way they do. Had it not been for this learning effort, they would never have had access to the insights I am in the process of sharing with them. (2011, 52)

In a similar way, Romanian scholars who publish papers in international journals in English underwent the effort of learning the lingua franca of today, and not just the necessary research efforts in order to disseminate their results to the international scholar community. They should, Van Parijs would argue, be compensated for their efforts in

³ Linguistic justice could also be viewed as a form of equal opportunity and as parity of esteem. An extended analysis would be, however, beyond the scope of my paper. For more details see Van Parijs 2011, 87-133.

order to achieve a fair cooperation between scholar communities worldwide. But should they, however? Does the idea of linguistic justice hold water?

2. Positive Externalities, Spontaneous Orders and Euvoluntary Transactions. Is There Still a Case for Linguistic Justice in Academic Publishing?

While intuitively plausible, I consider that the idea that non-native English speakers should be compensated on the basis of publishing papers in English and producing positive externalities to native English researchers. Take the following though experiment: you and all your neighbours from the block of flats where you live have a passion for the opera. At some point, a new neighbour moves in. She is a well-renowned opera singer from your country with a quirky habit: she enjoys singing your favourite opera aria from Bizet's famous *Carmen*, *Habanera*.

By stipulation, I assumed that the externalities the soprano produces are positive, not negative, because both you and your neighbours are opera aficionados not inclined to knock on her door each morning when she takes her shower. Moreover, just like in Van Parijs' examples, these positive externalities have the form of a public good. Firstly, your consumption of *Habanera* does not interfere with the capacity of your neighbours to do the same. It is also non-excludable because the cost of monitoring and prohibiting others to listen to it would be too high and, as a side note, illegal. Should you and your neighbours compensate the opera soprano for her habit of singing in the shower? The most plausible and intuitive answer would be, I presume, that she is not entitled to anything besides a simple 'congratulations', because both parties (her and the opera aficionados from your block of flats) benefit following this transaction.

In my opinion, the case of publishing articles in English journals is similar to the previous though experiment. Scholars from non-native English speaking countries benefit from learning and publishing in the lingua franca of the day both on a personal level (they integrate themselves in international scholarly communities) and on a professional level (employed scholars with funding for their research benefit from publishing in prestigious or at least international indexed journals because they have to report the papers to the institution that provided the financing and they also improve their resume). Native speaking English scholars also benefit from this phenomenon, because they engage with new ideas from all over the world and so scientific communities grow larger and larger.

On a different note, it is worth emphasizing that Van Parijs has a Hayekian insight with regards to the emergence of English as a lingua franca. The haphazard sequence of events that led to the adoption of English as a lingua franca that Van Parijs alludes to is analogous to what Hayek calls 'kosmos', or spontaneous order, as opposed to 'taxis', or designed order (1973, 37). It appears that there was nothing designed in the adoption of the norm of publishing in English in international journals, only self-interested scholars and journals who wanted to publish new and insightful papers and disseminate the products of knowledge from the natural or social sciences. Trailing on the intellectual

tradition established by Bernard Mandeville, Hayek argued that even languages (alongside money, the market, morals or law) are examples of spontaneous order: namely norms and institutions that emerged in order to resolve coordination problems between individuals with imperfect information (1978, 249-67). It might be argued that the norm of publishing academic articles in English is a result of a coordination game between English and non-native English speaking scholars from across the world. With the common interest of engaging in a fruitful academic debate, scholars voluntarily stumbled upon this arrangement which is clearly superior to a situation in which conversation between scientific communities is impossible due to linguistic reasons. Not all equilibriums are acceptable from a moral standpoint, however. In this particular context, I believe that the question of linguistic justice, as formulated by Van Parijs, is already addressed by states worldwide. First of all, in all states with a functional education system English classes occupy an essential place in the school curricula. Secondly, NGOs from Anglophone countries regularly teach, in a free-admission system, English classes to all types of interested non-native English speakers.

Last but not least, the question of the character of transactions between English and non-native English scholars seems to be avoided by Van Parijs' proposal. In a broad (albeit classical liberal) framework however, the problem of the voluntary/non-voluntary character of a transaction is highly relevant in debates regarding justice. Michael Munger argues that some political and moral philosophers have a problem with market exchanges because the transactions are not really voluntary or, as he calls them, 'euvoluntary' (2011, 193). A truly voluntary exchange has the following five characteristics (2011, 194). Firstly, the parties involved in the transaction own the items of the exchange relationship and the capacity to transfer the items to other individuals. Post-exchange, neither participant should feel regret, as the perceived benefit of the exchange is present. Last but (more importantly) not least, no individual taking part is coerced under the threat of violence or of a dire situation (a situation in which, if the exchange does not take place, one party may be irremediably harmed).

A large part of our day to day exchanges have the structure of a euvoluntary transaction. Some of them, however, are not truly voluntary in the above mentioned sense. Munger gives a relevant example (2011, 196-197) to illustrate his point. Suppose you are thirsty and enter in a grocery store where the price tag for a simple bottle of water is \$1,000. The natural reaction would be to search for another grocery store where a bottle of water would only cost \$1 and buy it from the cashier. In this instance the exchange is euvoluntary. However, if you're in the desert and the only chance of quenching your thirst is from a four-wheel-drive taco truck with a price tag of \$1,000 then your decision of buying that bottle of water might be voluntary, in the ordinary sense in which we use the word, but not euvoluntary because this transaction would violate the 5th feature of a

truly voluntary transaction: you were in a dire situation in which, had you not bought that bottle, you could have died from thirst⁴.

Are the transactions between non-native English scholars who publish academic papers in English on the one hand and Anglophone scholars and international journals on the other euvoluntary? I can see no reason why not. In a trivial sense, scholars are the owners of their expression of ideas and they engage in this transaction because they perceive the benefits of the exchange to be higher than the costs (associated with learning English and researching a particular topic). Also, while some researchers do regret publishing a particular paper, they do it taking into account different reasons that have nothing to do with a concern for linguistic justice: either the paper was sent to a wrong journal where the peer-review process takes too long, or the thesis of the study was insufficiently defended or argued for.

Are scholars physically coerced into publishing papers in English in journals indexed in international databases? With the exception of dictatorial regimes like North Korea (for which we lack the data), it seems fair to say that scholars are not coerced into publishing. What about the last condition? Are non-native English speaking scholars harmed in a different way if they do not engage in publishing according to the norms of the status quo? While their lives would not be in danger, an argument could be forged in the following manner: if scholars from non-native developing countries do not publish in English, they might perish from the international relevant scholarly communities of their research area and they would have worse academic resumes than their national peers who do engage in this practice. Contending this point, I do not see it as a strong enough argument so as to highlight the fact that these transactions are not truly voluntary. A Romanian scholar, for example, still has the option of publishing in Romanian journals. Moreover, the type of coercion exemplified in the desert example is quite different from what might happen to a scholar who refuses to publish academic papers in English. If anything, the existence of this contemporary lingua franca has had many positive externalities even on scholars from developing countries, because it managed to contribute to the global availability of science.

II. ACADEMIC PUBLISHING IN THE AGE OF GLOBAL INTELLECTUAL PROPERTY

In 2012 Library.nu, a digital library popular in scientific communities both from the affluent West and (more importantly) from the developing world was shut due to the fact that it was accused of copyright infringement, only to be survived by two (still operating at the time I write this paper) websites: Library Genesis, which provides free access to copyrighted academic books (Cabanac 2016) and Sci-Hub, an online search engine that

⁴ The more general point Munger is trying to make is that, whether or not truly voluntary, exchange is just because it improves the status of both participants to the exchange. This argument is not relevant however to my discussion of linguistic justice and I will not focus on it.

provides access to copyrighted academic journals. On a different but related note, in the beginning of 2013 Aaron Swartz, a famous programmer and internet entrepreneur committed suicide after he was indicted by the federal government of USA for computer crimes (Gustin 2013). More precisely, he was arrested after he downloaded most of the articles hosted by JSTOR (4.8 million papers) and planned on making them available to the general public through peer-to-peer file sharing.

What do the previous examples have in common? They clearly highlight the clash between formal rules that endorse the copyright of authors or editors in the expression of ideas and the informal rules associated with the fact that ‘culture wants to be free’. In a series of previous articles I have tackled a similar topic to the one which I will dwell on in the remaining section of the paper. On the one hand, I have argued that there is a clear incompatibility between Global Justice and pharmaceutical patents (Cernea and Uszkai 2012), while with regards to copyrights I have tried to show that they are not compatible with some of the rights from the Universal Declaration of Human Rights (Uszkai 2014). Moreover, in a recent study (Uszkai 2015, 183-199) I developed a Bleeding Heart Libertarian framework to assess and critically evaluate the process of globalization that Intellectual Property underwent in the past couple of decades.

The globalization of Intellectual Property is a recent phenomenon:

Prior to the beginning of the 20th century the adoption of IP laws has been, more or less, an endogenous phenomenon. Copyrights and patents reached an almost universal status, but it wasn't until the adoption of TRIPS (the Trade-Related Aspects of Intellectual Property Rights Agreement) in 1994 that IP really became a global issue. Exogenous factors, such as the benefit of being a member of the WTO (World Trade Organization) brought about a level of compliance from almost all the countries in the world. To put it in another way, the globalization of IP can be tied to this particular moment in history. (2015, 185)⁵

The issue of a globalized legal framework regarding the expression of ideas is closely linked with questions regarding Global Justice and research ethics in our contemporary ‘publish or perish’ academic culture. The major two aspects I wish to address are the following: (i) does it make sense to think of a copyright as a property right? and (ii) are copyrights compatible with a Rawlsian moral and political framework?.

1. The Moral Significance of Artificial Scarcity. Are Copyrights Really Property Rights?

While not exhaustive, the two main strategies to argue, from a moral standpoint, in favour of a copyright (or for any type of Intellectual Property, for that matter) are the natural rights (or Lockean) and the utilitarian approach⁶. While pushing the argument

5] For a short history of the historical evolution of Intellectual Property legal regulations see Uszkai 2015, 184-85.

6] A more extensive map of the arguments involved in the debate surrounding Intellectual Property can be found in Menell 2000. Furthermore, due to the scope of the current paper, I will only insist on the

from different philosophical assumptions, scholars on both sides agree that some sort of legal protection for intellectual production (from new pop music to top-notch academic publishing and research) is needed in the form of property right which grants something closer to a monopoly right on behalf of the original author or an editor (who bought the copyright from the original author) to decide who has a right to copy and replicate the original idea/particular formulations and expressions of an idea.

Unsurprisingly, moral and political philosophers who work in the natural rights/Lockean tradition highlight the moral significance of self-ownership. Due to the fact that we own ourselves, we also own both our labour and the fruits of our labour. The apparent tension between material and immaterial objects is discarded by Spinello (2011), Merges (2011) or Cwik (2014). While it is true that Locke's examples when discussing the process of appropriation revolve around physical objects (acorns, apples, land), the framework (or at least so the argument goes) could be easily extended so as to cover immaterial objects such as ideas and their expression. Mental labour is still labour and it belongs to the creator of ideas, whether he is a researcher in philosophy or an opera composer. It is by the same process that he appropriates an idea from the public domain of ideas, just as we appropriate material objects from common property. As a consequence, a scholar who comes up with new and innovative hypothesis or who simply works and publishes an academic paper or a book is morally entitled to be granted a property right in the form of a copyright with regards to the idea he produced.

On the other hand, utilitarians (or, more broadly, consequentialists) who argue in favour of Intellectual Property emphasize the essential role incentives play in a variety of intellectual and creative activities such as composing music or writing fantasy novels and research papers. Some sort of incentive is important in relation to immaterial objects like ideas because, with the advent of technology, the cost of replicating and copying an idea is at its lowest. Moreover, once produced ideas resemble typical public goods. They are non-excludable and non-rivalrous in consumption mostly due to their ontology. It is on the basis of these elements that utilitarians consider that, if they would lack the power to exclude, creators would not have an incentive to be productive in their respective fields (Landes and Posner 2003, 18). While ideas are naturally abundant, the goal of the Intellectual Property legislation is to create artificial scarcity, in order to incentivize producers of immaterial goods (i.e. ideas).

To sum up, researchers are entitled to the fruits of their labour based on their previous self-ownership right to their own person. This entitlement is translated, from a legal standpoint, in a property right which utilitarians argue that serves as an incentive in order for her to be productive in her research activity. Moreover, a copyright (just like any

key elements and philosophical assumptions of the natural rights and utilitarian theories. For a more in depth presentation of both the arguments in favour of copyrights but also a critique of those arguments see Uszkai 2014, 9-16 and Uszkai 2015, 186-94.

other property right), is transferable to other parties (in the case of academic publishing, the other parties are journals or publishing houses).

Besides the fact that it goes against our common intuitions regarding the relationship between property and (natural) scarcity, artificial scarcity is morally significant at the confluence between global justice and research ethics on the basis of the following argument. For scholars and students from the universities and research centres from the prosperous West, the impact of artificial scarcity is marginal in their development as researchers, because the institutions mentioned before are more than able to pay for yearly subscriptions to international databases like JSTOR or to purchase the latest academic books from top publishing houses.

Otherwise put, a researcher from Oxford or Harvard has no problem in keeping up with the latest development in her research field. Her peers from universities based in developing countries however are not in the same situation and it all has to do with artificial scarcity. Why? Simply because if the access to ideas is artificially rare, then it costs more to keep up with the latest research developments, trends and papers from a research field and the most affected by this state of affairs are poor universities and poor researchers from the developing world due to the lack of funding from both private and public institutions in those countries.

The status quo regarding property in the realm of ideas is not only unfair on the previous argument, but it might also be philosophically unwarranted. Firstly, it is rather unclear why individuals should be granted a property right on the simple basis that they created something (Kinsella 2001, 27). Moreover, strictly on Lockean terms, the appropriation of ideas in research seems to be, taking into account the globalized version of Intellectual Property legislation, in conflict with the Lockean proviso of leaving enough and as good ideas and expression of ideas for everyone (Tavani 2005). On the utilitarian side of the debate, empirical studies have shown that the correlation between copyrights as incentives and productivity is rather weak (Boldrin and Levine 2008). If Boldrin and Levine are right, then the following conclusion is not at all surprising:

It is not obvious that such forced scarcity is the most effective way to stimulate the human creative process. I doubt whether there exists a single great work of literature which we would not possess had the author been unable to obtain an exclusive copyright for it; it seems to me that the case for copyright must rest almost entirely on the circumstance that such exceedingly useful works as encyclopaedias, dictionaries, textbooks and other works of reference could not be produced if, once they existed, they could freely be reproduced. (Hayek 1988, 36-37)

Earlier I mentioned that the relation between ideas and property, as espoused by the utilitarians in favour of Intellectual Property, goes against our usual intuitions. I consider that this point is crucial and it needs some sorting out. The reason why I consider property rights as incompatible with the realm of ideas has to do with the ontology of immaterial as opposed to material objects. Chairs, laptops or bicycles are characterised by natural scarcity. If we would live in a world of abundance, the rationale behind granting a property

right in bicycles would be obsolete, as anyone could have a bicycle any time she would want it. Property and scarcity are linked as there is the possibility of conflict between individuals with regard to scarce goods: “The purpose of property rights would be that of avoiding or minimizing the possibility of conflict and that of increasing the costs of free-riding or trespassing” (Cernea and Uszkai 2012, 218) and also a way of internalizing externalities (Demsetz 1967, 351- 59). Needless to say, this is not the case in the realm of ideas where a copyright takes the legal form of an intellectual privilege (Bell 2014) which restricts the access of researchers from developing countries to academic papers and books and forces them to use alternatives like Sci-Hub and Library Genesis.

2. Rawlsian Intuitions and Copyrights in Academic Publishing

While some Rawlsian scholars would not agree with the following thought experiment, I maintain that it does make sense to speak of the Original (researcher) Position (Uszkai 2015, 194-196) and of the broader, global implications of the Difference Principle. Behind the veil of ignorance individuals do not know their natural talents or their social (global) positions: you could end up either a rich individual in Silicon Valley or a poor researcher in South Africa or Somalia. According to Rawls (1999, 266), social and economic inequalities should be arranged so that they are both to the greatest benefit of the most disadvantaged and attached to positions available for all individuals. If the global society is not a zero-sum game but a “cooperative venture for mutual advantage” (Schmidtz 2006, 185), then a treatise like TRIPS or the process of Intellectual Property globalization are clearly unfair.

If the fact that you are born either in the USA or Somalia is contingent, the broader implications for you (if you are a philosophy student, for example) in the context of the existence of copyrighted research papers are evident: “Due to artificial scarcity, philosophy books are more expensive. Who is affected the most by this situation? It surely isn’t the young philosopher from the most advantaged countries in the world. For a potential philosopher from Somalia, though, copyrights act so as to prevent them from exercising their analytical talents.” (Uszkai 2015, 195) Moreover, ‘pirate’ alternatives like Library Genesis or Sci-Hub seem to be private initiatives that seek to mitigate the unfair consequences of the globalized Intellectual Property legislation.

III. CONCLUDING REMARKS

To sum up, the purpose of my paper was that of exploring the moral and political confluence between Global Justice and research ethics. I focused on two issues which I found to be of utmost importance, namely on whether concerns for linguistic justice are in place if English is the lingua franca of academic publishing and on the moral implications of Intellectual Property at a global level. While interesting, I found the positive externalities of the availability of English as a lingua franca to outweigh the concerns for linguistic justice. Last but not least, regarding copyrights in academic publishing, my arguments revolved

around the fact that the artificial scarcity they create restrict the access of researchers from the developing world to fresh new academic books and papers.

radu.uszkai@cadi.ro

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