"Scales of Justice" and the Challenges of Global Governmentality

Ina Kerner
Humboldt University of Berlin

Abstract: This essay is a critical assessment of Nancy Fraser's recent account of the "scales of justice" in a globalizing world. In particular, I examine the third dimension of justice introduced by Fraser, that of representation. In light of how civil society in many countries of the global South is affected by a form of power that we can call "global governmentality", I argue that Fraser should not restrict her concern with problems of representation to issues of access to civil society, but also address problems arising from power mechanisms that currently shape and reshape it.

Key words: global justice theory, governmentality, development aid, NGOs, transnational civil society.

Methodological nationalism remains fairly widespread in the field of political theory. At first sight, there are even some good reasons for this. One might hold, for instance, that despite new forms of governance the nation state is still quite alive and that we should therefore continue theorizing it. One could also say that power often works locally, for example within the boundaries of a nation, and must therefore be assessed at this level as well. Upon closer examination, however, the problems of this ongoing trend become clear. For when employing methodological nationalism, transnational phenomena as well as their effects on the national sphere are hardly addressed. Furthermore – and this might relate to where most political theorists were trained and are based – the content of theoretical reasoning is often at least implicitly related to problems and conditions of OECD-countries. Given this, authors who methodologically transcend the frame of the nation state deserve positive attention, for their work promises to forgo the problems of methodological nationalism.

Among these authors is Nancy Fraser, who within the last years has undertaken the task of systematically globalizing her thought to transcend what she calls the "Keynesian-Westphalian frame" and "passé Westphalianism" (Fraser 2008b, 12, 71) not only in general, but also with regard to her own former work. Accordingly, *Reimagining Political Space in a Globalizing World* serves as the subtitle of her most recent collection of essays, *Scales of Justice.* And it is noteworthy that in this collection of essays Fraser does not only bring globalization into political theory. She also introduces the domain of the political as a crucial aspect of justice, thus expanding the two-dimensional redistribution-cum-recognition model of social justice that she had formerly proposed (Fraser 1995) by adding a third dimension, that of representation. So it seems that once we methodologically transcend the frame of the nation state, not only additional localities come into view but new issues appear on the theoretical agenda as well. But which kinds of global phenomena and which aspects of the political is Fraser addressing now? Is her new account sufficiently

broadened to address the old as well as the new problems that we are facing in today's globalized world?

In this essay, I will focus on one problem which I hold Fraser should and – considering the concerns that motivate her theorizing – should *want to* address, but omits: the power effects of relatively new forms of north-south-politics on civil society actors in the global south. Fraser introduces the third justice dimension, the dimension of representation that corresponds to the domain of the political, precisely because she is concerned with forms of political misrepresentation, which she considers as detrimental to justice. But as I will argue, when she addresses such forms of misrepresentation, she does not go far enough. For she is only concerned with matters of access to the sphere of representation – and does not also address power effects upon the form and the content of what is dealt with in this sphere, effects that, as I suggest, can also cause misrepresentation, even though of a different kind.

But there is also a second reason for discussing the aforementioned problem in conjunction with Fraser's globalized account of justice. If this problem is as severe as is sometimes argued (e.g. Edwards 2008), it should be addressed, in the realm of the political as well as in the realm of those strands of scholarship that attempt at helping to solve problems of injustice. Concerning the particular problem this essay is concerned with, Fraser's multi-faceted approach to justice, which explicitly deals with issues of representation, suggests itself as a suitable starting point for this endeavor. So in this sense, the following considerations are not exclusively considerations for theory's sake. They are also an effort to integrate an under-theorized but pressing problem into the debate on global justice.

In what follows, I will proceed in four parts: First, I will briefly point out how, in her most recent publications, Fraser has globalized her account of justice and thereby introduced the domain of the political into her theorizing. In the second part I will address what Fraser omits, which is the proliferation of conditioned development aid offered to NGOs in the global south. I will suggest interpreting this as a form of global governmentality with productive power effects on the political agendas of civil society actors. In the third part, I will briefly consider how Fraser herself addresses what she calls "globalized governmentality", how her conception relates to what I call global governmentality, why her account of justice remains insufficiently Foucaultian, and how her position should be pushed further in this direction. Fourth and finally, I will suggest how the problem that I have identified here, namely global governmentality, might be addressed in the light of Fraser's theory.

I. GLOBALIZATION, JUSTICE AND THE POLITICAL

The "westphalian" version of Fraser's framework of social justice was based on problems concerning the class structure and the status order of societies. Against these,

she proposed the combination of redistribution and recognition.[1] She has enlarged this framework in two essays.

First, in *Reframing Justice in a Globalizing World* (Fraser 2008b, 12-29), Fraser stresses that in "postwestphalian" times, which are characterized by an emerging sense of the globality of many issues and events as well as by new forms of governance, the question of who is and should be implied when reasoning about justice and means of redressing injustice, a question which was formerly answered vis-à-vis the nation state, was now an open one; that this question had become a new subject for reasoning about justice itself. To give this new area of justice concerns a name, Fraser introduces the notions of framing and of representation – and it is exactly here where the political comes in. For representation is to the political what redistribution is to the economic and recognition is to culture: a means of redressing injustice concerning this sphere. So in times in which the proper frame for discussions of justice claims is not taken for granted any more, the political question of representation emerges as an additional matter of justice on the meta-level.

Forms of injustice that concern the political are not uniform, though. Fraser distinguishes three levels of such types of injustice. The first level – already known with regard to the nation state and thus from westphalian times – relates to issues of "ordinary-political misrepresentation" which refer to political decision rules that deny full political participation to some individuals or groups within a given frame (18-19). The second level of injustice, which became widely visible only with globalization, is "misframing" and refers to the way in which a political community's boundaries are set; the basic diagnosis here is that in a globalizing world, the nation state does not always serve as the appropriate frame for addressing issues of justice anymore (19ff.). The third level of political injustice, finally, concerns what Fraser calls the "grammar of frame-setting" (25) and consists in "meta-political misrepresentation", the failure to institutionalize "parity of participation" in deliberations and decisions concerning the "who" of justice, thus concerning the appropriate framing and internal rules of the units within which justice claims are to be taken up (26).

In her essay *Abnormal Justice* (Fraser 2008b, 48-75), Fraser comes back to her distinction of the three levels of representational issues and gives them a different twist. Here, she distinguishes among "what", "who", and "how" questions concerning justice-claims and asks for appropriate forms of redress when confronted with situations of dissent in the attempt to answer them. It is precisely these situations of dissent that she calls abnormal, even though she does concede that historically they have rather been the rule than the exception (50). But let's briefly go through the three questions one by one.

The "what" question refers to the substance of justice and has been of central concern to Fraser's thinking about social justice since the 1990s. Against one-sided approaches that focus on the economy or the cultural sphere alone, she calls for a "multi-

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1] For the debate that this framework has elicited, see Fraser 2008a.

dimensional social ontology" that integrates concern for socioeconomic redistribution, for legal and cultural recognition, as well as – now explicitly integrating the political – for representation. To evaluate justice claims with regard to these three areas, she suggests her principle of "parity of participation" for all three of them. This justice principle calls for the dismantling of "institutional obstacles that prevent some people to participate on a par with others" in social interaction. Fraser argues that such obstacles can relate to all three spheres of justice and injustice: they can consist in the impediment by economic structures that deny some people the resources to interact as peers (maldistribution), in the prevention of full participation as partners by institutionalized hierarchies of cultural value that deny the requisite standing to some people (misrecognition), as well as in decision rules that deny equal voice in public deliberation and democratic decision-making to some people (misrepresentation) (60).

The "who" question, by contrast, refers to the scope or frame of justice and has to do with misframing, the second level of representational injustice that Fraser had distinguished earlier. According to her, unanimity regarding this question stems from the challenging of the hegemony of the westphalian frame by three distinct groups: by localists or communalists who seek solutions in subnational units – an example are independence-movements within nation-states; by regionalists or transnationalists, like strong proponents of the European Union, who go for larger, yet not fully universal units; and, finally, by globalists and cosmopolitans who transcend all boundaries by giving equal consideration to all human beings (56). Not entirely in accord with any of these three groups, Fraser herself suggests "reflexive and determinate" theorizing (61) to work through these conflicts – and proposes the "all-subjected principle" to solve them. "What turns a collection of people into fellow subjects of justice," she writes, "is neither shared citizenship or nationality, nor common possession of abstract personhood, nor the sheer fact of causal interdependence, but rather their joint subjection to a structure of governance that sets the ground rules that govern their interaction." The examples for such governance structures that she gives are the World Trade Organization (WTO) and the International Monetary Fund (IMF) as well as other organizations that "regulate the interaction of large transnational populations." (65)

The "how" question, finally, is connected to the third level of representational injustice and has to do with the modes in which "who" questions are assessed. Here, the hegemony of states and elites as agents of such assessments is challenged. Fraser suggests the application of the all-subjected principle to disputes over the "who", as well, and calls for "dialogical and institutional" theorizing (67) to tackle the problems arising here. According to her, that theorizing would have to integrate both the civil society as agent for democratic dialogue and formal institutions that have the capacity to warrant claims and make binding decisions (69).

II. GLOBAL GOVERNMENTALITY

In order to think about what is missing from Fraser's account of globalized justice, I would like to start off on a personal note. When I last went to Guatemala, in the spring of 2009, several of my friends there – most of them men who once studied agronomy and who have been interested in questions of land distribution for a long time – were working as gender officers. None of them showed particular excitement about this assignment, which was one among other tasks and responsibilities on a job with one of the country's peasants organizations, or rather, given the ongoing trend of NGO-ization of Guatemalan civil society, with one of the country's NGOs working on peasant issues.[2] The lack of excitement didn't stem from my friends' weak affinity with feminist claims, however. Rather, it was due to their perception of the organizations' political priorities and to knowing that their gender agenda comes from complying with the conditions and demands of the foreign donors that provide for large parts of the organizations' budgets. And such influences of foreign donor agencies on the agendas of NGOs are not an issue that is particular to Guatemala. Neither are they an issue that is restricted to demands about the integration of gender into the agenda of peasants organizations – in fact, gender-based organizations themselves have been severely affected by such influences. According to Sonia Alvarez, for instance, shifts in donors' priorities have led women's NGOs in many countries of South America to turn away from movement-oriented activities to more technical oriented ones (Alvarez 1999, 196-97). Islah Jad, for her part, has observed the transformation of Arab Women's Movements into a set of NGOs. Following Jad, this process has changed these movements in several respects. First, concerning their aims, she identifies a shift away from cultural, political, and charity concerns to social aims alone. Second, concerning numbers, she points to a decline of involved women and, along with this decline, a decreasing reach of the organizations in question. Third, she highlights an increasing hierarchization of the internal organizational structure of women's groups turning into NGOs (Jad 2004). And there are many more examples from these and from other parts of the world, as well (Hudock 1999; Townsend u.a. 2002; Bebbington u.a. 2008). Even governance studies have taken up this issue and discuss it – sometimes critically, but mostly stressing its potentials – under the headings of "soft power" or "soft forms of governance" (Brunnengräber/Randeria 2008; Göhler u.a. 2009).

I myself suggest calling this type of subscription of NGOs to the conditions, the thematic and organizational guidelines set by international donors "global governmentality". I hold that this form of power, or rather, its effects, is a serious problem that should be addressed when talking about justice in a globalizing world. So let me briefly explain how the conditioning of aid can be interpreted as a form of global governmentality.

2] It is particularly interesting in the context of Fraser's work to note that peasant issues in Guatemala are issues of the distribution of land, thus of maldistribution, as well as of racism and disrespect concerning indigenous norms and culture, and thus of misrecognition.

Michel Foucault introduced the term governmentality in his lecture series *Security, Territory, and Population*, to describe a new and complex form of governance, of decentralized state power, which is organized through a diverse set of institutions, procedures, analyses and tactics and that addresses the population. Its historical precedent is pastoral power, the benevolent power of the shepherd who looks for his flock. The new form of governmentality Foucault talks about integrates central elements of pastoral power – its explicit aim, regarding the population, is the management and prosperity of the entire unit and the well-being of its single members. It is a form of power that does not so much work with compulsion or discipline but rather by establishing norms of the sound and the rational that are to affect its subjects' thinking and self-conduct (Foucault 2007).

In *Governing through the Social*, Christina Rojas has argued that aid to poor countries was a mechanism of global government of the sort described by Foucault, one of its basic means being the establishment of "a relation between donor and recipient regulated by the promise of transforming the recipient country" (Rojas 2004: 98).[3] Concerning the mechanisms of this mode of governance by aid, Rojas convincingly stresses the role of conditionality. But while in her analysis she mainly looks at how IFIs (international financial institutions like IMF and World Bank) as well as big bilateral donors like the US Aid Agency (USAID) have influenced the *states* that have been receiving their funds and programs, I hold that the governmentality paradigm aptly describes what often happens to political and social movements as well. This process has at least two steps. The first step is their transformation into "proper" NGOs with an appropriate internal structure for receiving foreign funds as well as aid workers/consultants. The second step, then, is that they adjust their rhetoric and, almost inevitably, their actions and agendas to the conditions and ideas of their donors. These adaptations are not an entirely voluntary act, since those kinds of institutions are in need of funds. But neither are they forced acts, since, in principle, the organizations could refuse the funds. Additionally, the donors who formulate the conditions for receiving the funds usually act with best intentions regarding the recipients' well-being, or even the well-being of the addressees of their recipients,

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3] In this light it is striking how, for instance, the German development corporation GIZ presents itself. If you go to the organization's English language website and click on "About GIZ", you can read: "Working efficiently, effectively and in a spirit of partnership, we support people and societies in developing, transition and industrialised countries in shaping their own futures and improving living conditions. This is what the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH is all about. [...] As a federally owned enterprise, we support the German Government in achieving its objectives in the field of international cooperation for sustainable development. We are also engaged in international education work around the globe. [...] We advise our commissioning parties and partners on drawing up plans and strategies, place integrated experts and returning experts in partner countries, and promote networking and dialogue among international cooperation actors. Capacity building for partner-country experts is a key component of our services, and we offer our programme participants diverse opportunities to benefit from the contacts they have made." (http://www.giz.de/en/profile.html; accessed March 3rd, 2011) So here, too, the implementation of development politics is presented as a mode of global partnership that improves people's well-being.

namely, the populations of the countries they are active in. Nevertheless, I hold that these acts are induced by power, and that what is happening here is a reshaping and thus the distortion of political agendas.[4]

III. CHALLENGING THE "SCALES OF JUSTICE" FRAMEWORK

It is not as if Nancy Fraser hasn't addressed possible forms and implications of governmentality in a globalizing world. In fact, her essay *From Discipline to Flexibilization? Reading Foucault in the Shadow of Globalization* (Fraser 2008b, 116-30) is dedicated precisely to this task. Here, Fraser diagnoses the emergence of "a new type of regulatory structure, a multi-layered system of globalized governmentality, whose full contours have yet to be determined" (Fraser 2008b, 124). Nevertheless, what she calls "globalized governmentality" does not include what I myself have characterized as "global governmentality", namely forms of transnational power relations between international institutions and OECD countries with their organizations of development cooperation on the one hand, and the states and civil society organizations that receive these kinds of "cooperation", often conditioned financial aid and consultancy, on the other hand. That Fraser doesn't herself address these forms of power when thinking about "globalized governmentality" does not mean that they were not compatible with it, however. According to her, globalized governmentality is characterized by first, new multi-leveled governance structures that transcend the nation state; second, the dispersion of regulating entities and the formation of networks of such regulating entities like states, supranational organizations, international nongovernmental organizations (INGOs) and quasi-NGOs (QUANGOs); and third, new forms of subjectification addressing and affecting actively responsible as well as flexible agents (125ff.). Given these three elements, I hold that the first two accurately describe current issues of development aid related forms of global governmentality, especially with regard to new forms of donor cooperation as well as the outsourcing of tasks formerly undertaken by state controlled development institutions to private sector firms. Concerning Fraser's third element, however, the new forms of subjectification, I do not think that it so far encompasses all of what happens in the course of global governmentality. For what Fraser does not address are power effects on collective actors like movements and NGOs in the global south, effects that refer to the identity, self-understanding and political agenda of the various institutions constituting civil society;

4] These effects of power on the political agenda of specific groups might be reminiscent of the third dimension of power that Steven Lukes has put forward in *Power: A Radical View*, namely, "that people's wants may themselves be a product of a system which works against their interests" (Lukes 2005, 38). In some sense I do think that there are some similarities. But besides the fact that other than in Lukes' case, the focus here is on global phenomena, the governmentality framework provides for a way of arguing that does not imply any commitment to determine what people's real interests are. Nevertheless, I do hold that in the case of global governmentality, too, something like the distortion of political wants is happening.

power effects that I think we nevertheless can conceptualize as somehow similar to the subjectification or subjection of individuals.

So what is missing from Fraser's take on governmentality in a globalizing world is identifying new entanglements and power relations between governing institutions and their old and new subjects. She does look at institutional change beyond westphalianism when she addresses the first two of the elements of globalized governmentality that she identifies. She also mentions changing modes of subjection when she addresses the third element that she has distinguished. Nevertheless, the subjects of governmentality she looks at are the same as in pre-globalized forms of governmentality: individual subjects only.

This lack of attention to new entanglements and power relations between governing institutions and their possible subjects, especially those between states and related institutions in the global north and states and civil societies in the global south, is also reflected in the way in which Fraser conceptualizes transnational civil society under the all-subjected principle when talking about redressing forms of injustice. I would like to argue that this conceptualization is too Habermasian, or, in other words, not Foucaultian enough. For if we take the effects of global governmentality, the possible modification or distortion of actor's agendas, seriously, the dialogue in those transnational arenas of civil society might look less democratic than it appears at first sight. Fraser is very aware of all sorts of impediments to participatory parity – but she doesn't address the problem of distorted participation. With regard to the basic principle of her justice theory, power is conceptualized as something that remains external to civic dialogue. It is in play when some people are *prevented* from participation in terms of parity (16) or when they are *excluded* from participation altogether (26). What Fraser does not address is situations in which they do participate, are taken seriously and loudly voice concerns, but in which the content of these voiced concerns might be affected by productive forms of power that are connected to global governmentality. Taking up on considerations of Dana Villa's, we might say that Fraser doesn't sufficiently address the self-surveillance of the civically virtuous world citizens and NGOs (who have internalized the hegemonic conceptions of the common good or at least their main donor's conceptions of what their basic goals should be, which usually go together with a conception of the common good) or communicatively rational agents (who have internalized the hegemonic conception of what constitutes "the better argument" and proper organizational conduct) (Villa 1992, 715). In Fraser's globalized theory, power functions as a barrier to civic participation rather than as something that might run right through such participation. Power, that is to say, is conceptualized as repressive rather than productive.[5]

5] Interestingly, Fraser has addressed the problem of global governmentality in one of her most recent essays on feminism. Looking at the ways in which second wave feminism has, even if unwillingly so, played into the hands of neoliberalism, she writes: "In the postcolonies [...] the critique of the developmental state's androcentrism morphed into enthusiasm for NGOs, which emerged everywhere to fill the space vacated by shrinking states. Certainly, the best of these organizations provided urgently needed

<center>IV. CONCLUSION</center>

Thinking within the triad of redistribution, recognition and representation, one could hold that the effects of global governmentality that I have talked about are unintended effects of efforts to global redistribution – for at least ideally, this is what development cooperation is all about – in the realm of representation and politics. So these effects could be seen as somewhat similar to the unintended effects of affirmative forms of redistribution in the realm of recognition that Fraser herself has addressed in her well-known essay about affirmative vs. transformative measures of redistribution and recognition within the westphalian frame – the images of the lazy "welfare queen" or, to complicate matters a bit, of the recipient of German "unemployment insurance no. 2" who is unwilling to work, are only two examples out of many. Within the frame of the nation state, these unintended effects have led Fraser to the rejection of affirmative measures of redistribution, in other words of measures which are aimed at "correcting inequitable outcomes of social arrangements without disturbing the underlying framework that generates them," and to favoring transformative modes of redistribution, namely modes aimed at "correcting inequitable outcomes precisely by restructuring the underlying generative framework." (Fraser 1995, 82) But is this a solution that could be globalized? And if so, how would that look like?

If we really wanted to interpret the mentioned effects of global governmentality as unintended as well as problematic consequences of development cooperation, understood as an attempt at global redistribution of wealth and knowledge, one globalized "Fraserian" solution could be the critique of such measures and the attempt to think of more transformative forms of redressing global maldistribution. In fact, much of such work has already been done in the transdisciplinary field of post-development studies, be it within its strand connected to normatively infused postcolonial theories (e.g. Rahnema/ Bawtree 1997; Ziai 2007) or to its rather economist and sometimes neoliberal versions (e.g. Moyo 2009).

But it could also be that the mentioned effects of global governmentality are consequences of new forms of global governance that we either cannot easily or do not want to eliminate. In that case they had to be addressed in a different way when thinking about global justice.[6] One version of doing this could be to integrate the distortion of

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material aid to populations bereft of public services. Yet the effect was often to depoliticize local groups and to skew their agendas in directions favoured by First-World funders" (Fraser 2009, 111). And concerning transnational feminist activism and the ways in which it was able to build "a presence in 'global civil society' from which to engage new regimes of global governance" Fraser notes that it became entangled in similar problems – as an example she states that campaigns for women's human rights have focused overwhelmingly on issues of violence and reproduction, as opposed to, for instance, poverty (112-13.). So far, however, Fraser has not integrated these insights into the conceptual frame of her globalized justice theory.

6] At first sight, there might be a difference between a political and a theoretical take on the power effects of global governmentality. Politically, all a theorist might be able to do is to address them, to put the problems they create on the agenda of reasoning about global justice, hoping that this enhances a general

political voice into the account of forms of injustice, in other words to count with deeper forms of abnormalities with regard to justice claims and disputes than Fraser already does.

In her essay on *Two Dogmas of Egalitarianism* (Fraser 2008b, 30-47), where she speaks about different ways of dealing with the "how" question of justice, Fraser distinguishes what she calls the "normal-social-scientific" approach, which she rejects, from the "critical-democratic" approach, which she endorses. The "normal-social-scientific" approach is characterized by the assumption that the "who" question of justice can be answered by scientifically determining who is affected by a particular issue (Fraser 2008b, 41). The "critical-democratic" approach, by contrast, combines a "critical-theoretical conception of the relation between social knowledge and normative reflection" with "a democratic political interest in fair public contestation" (42). To date it is unclear whether this latter approach is conceptualized critically and democratically enough to be able to deal with the justice deficits that arise from global governmentality, or whether for that end we must add a "new-entanglements-and-power-awareness" dimension to it. Neither do we know how that would translate to the arenas that discuss the "what" question. But globalization doesn't only create political problems; it creates theoretical ones as well. Solving the latter might still be easier than solving the former. Yet, it remains a complicated task.

ina.kerner@sowi.hu-berlin.de

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awareness of them. The integration of these problems into a theoretical frame, by comparison, is another task, one that appears to be more complicated than simply stating that the problems in question do exist. But there seems to be an intermediate level, as well. Activists and practitioners who are affected by the problems in question, as well as scholars who are working on the level of policies, often think about solutions, too. These might, sometimes, be local in scope, or rather focusing on the symptoms than on the reasons of a justice deficit. Nevertheless, they can be good starting points for theoretical considerations of a more general nature. Concerning the problems created by global governmentality, the ideas put forward by Hudock (1999) can serve as a very good example in this regard.

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