

What's wrong with the thinking of international governance?

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Democracies under test

There is a huge gap between changes in development patterns that are needed to progress on the road of sustainable development and the actual reluctance or refusal of main empowered economic and political managers in big nations to go ahead with determination in this direction. In spite of frenetic diplomatic activity, intense collective expertise and a high number of international meetings, the nineties have been nearly lost regarding practical achievements for main issues as climate change, protection of forests and biodiversity. Democracy is a central value for most of us. But I am not sure that we can unambiguously be proud of the way many democracies are tackling the real issues of sustainable development. In these issues we can see new tests to reveal the value of present forms of political governance at the level of States and international coordination.

Sovereignty is seen by quite a number of parties as an absolutely superior value. To a large extent they prefer the death (preferably of others) to a renouncement to their own freedom to behave as they want. There are understandable reasons for that at the level of general principles, since sovereignty is the condition of political freedom of communities and citizenship. At the same time the fight for the political power within democracies is more and more determined by who has collected the more money and who has the more influence over medias, particularly TV. Extreme individualistic behaviours and huge interference of narrow business concerns degrade democratic life at the level of states. Meanwhile, the historical stage of predominance of national states seems to be a serious obstacle for achieving a superior form of sovereignty at the global level.

Nobody can support the idea that the present state of the world is the efficient expression of what billions of human beings are willing. But nobody can support either the idea that the gap between reality and the will of citizens of the world only originates in bad international institutional machinery or bad management within the system of United Nations. It is commonplace to criticize

existing international institutions of cooperation and coordination for environmental issues. Such a criticism largely covers hypocrite positions from parties that do not want the success of such coordination. When genuine good will is missing, there is no point in imagining that institutional change can solve the problems. At the same time, if existing democracies are not able to address current global environmental and developmental challenges, they will severely weaken the will of people across the world to defend them against various threats.

So, we have to fulfil two requirements. We should avoid resignation and we should avoid elaborating various fantasies just for the pleasure to keep hope in our future and faith in our action. Global issues such as climate and biodiversity cannot be addressed but with a huge progress in global governance, well beyond all existing practices of loose or bureaucratic international coordination. This being said, the big difficulty is linked both to disputes and hesitations about what enhanced global governance should look like, and to the absence of clear cut ways and means to make the giant step that would be required to get there. In the present situation, analytical reason can only nourish pessimism, even if moral reflexes make us to resist to such a feeling.

Good reasons to be pessimistic

Let us begin by the reasons to be pessimistic.

First of all, there are the huge differences of material conditions (access to natural resources, level of production and basic services, performance of public administration, etc.), development perspectives, resourcefulness, interests and perception of priorities across countries. All these differences are not counterbalanced by a common vision of issues, but on the contrary amplified by a strategic use of scientific uncertainty and controversies. In spite of the fact that all humans are linked together through physical, ecological, economic, cultural and political links, they do not share a common vision of the world.

Second, there is a common insensitiveness to long term issues, for whatever reasons you want.

Third, there is the fact that most states do not have the capability to endorse the values and choices they put ahead on the international arena, having poor control on their own situation and evolution, or being sapped by corruption or warfare.

Fourthly, international coordination among equals in defence of a global common good is not able to overcome the free riding or prisoner's dilemma issue: it is always better for you when others parties do the job for you. The larger a coalition to address global issues, the stronger are incentives for remaining parties not to join it. And even if there are some good willing parties, their commitment can only be useful if they are confident that the others do their own part, which is not the case.

Three basic models for thinking international coordination

In spite of so bad initial conditions, international literature focused its efforts to overcome obstacles around three basic models of international coordination : building an epistemic community ; negotiating a mutually profitable agreement through exchange of concessions between States; elaborating principles and rules in reference to a virtual supra-state political community : Humanity. As a matter of fact, each of these models is struck by severe

drawbacks. The approach based on the building of epistemic communities is falling short, because of persistent scientific controversies and competition among rival communities aiming at taking the lead, but also because of a general loss of authority of science before economic and political leaders. The interests-based model does not provide convincing solutions to free-riding in order to support a global coalition, lacks of consistence¹ and should theoretically lead to an acceptance of the Victim-Pays Principle, which cannot be accepted by potential victims among LDCs on basic equity ground; beyond, the magnitude of uncertainty about the geographical distribution of real impacts prevent States to determine a full account of their own interests, which makes such a negotiation rather unpredictable for all parties. Regarding the third model, it reveals a huge gap between the real state of international relationships and the conditions to be met to raise Humanity up to the status of a unified political community willing to self-organize according to the general principles of fairness for all citizens. Such an idealistic approach is ineffective and may be misleading in focusing the debate on inappropriate targets such as an equal per capita allocation of CO₂ emissions rights across countries. What are needed are the concepts of justice that will help to push realistic progress from the present situation of international relations. Finding them calls for an appraisal of the main features of this situation: international coordination for global environmental issues.

The epistemic community model

This type of regime does not depend on a formal process of political negotiation between states, but may precede or go with it. Following Peter Haas², the general idea of this model is to expect coordination to result from the development of a network of scientists, experts, and leaders in political, NGOs and business circles sharing the same views and understanding on basic features of situations, causal relationships and operational values, and on top of all this, adopting the same framing of issues on how to act. On this basis, general influence exerted by the members of the network on leading circles in society is supposed to achieve the needed convergence of action.

This type of approach is usual in fields involving the setting of technical standards based on sound science and defined by international committees of experts, such as experts of WHO. It assumes a basic continuity between scientific knowledge and normative orientation of action. The central character is the expert as a mediator between scientists and decision-makers. Coordination variables are made of diagnoses, methodologies, classifications, standards and guidelines and good practice. Such infrastructure of data collection and treatment is generally a necessary requirement to give a practical existence to a science-dependent issue and can be seen as a first step towards coordination.

¹ Within the framework of self-interested behaviour, such a thing as an initial coalition to defend a global public good could never occur.

² Haas, P.M. (1990), *Saving the Mediterranean: The Politics of International Environmental Cooperation*. New-York, Columbia University Press.

The issue of international fairness in burden-sharing: The case of emissions quotas

In international negotiations, every party is claiming for a fair and equitable treatment. But each party has its own conception of fairness. It has been the case during the negotiation of the Kyoto protocol on climate change. The situation is not improved nowadays when the parties begin to consider the after-2012 period of commitments. It seems nearly impossible to find solutions that both pass viability and acceptability requirements and at the same time are said equitable on the basis of concepts of justice borne by each party. The feeling of being engaged in a dead-end and crossed by contradiction reflects the fact that we do not have at hand accepted tests to tell wrong from right among opposite claims, i.e. procedures of a justice. Whatever the efforts of normative theory, my own feeling is that the judgement on a fair distribution of rights and obligations is not independent of the institutional resources set-up by a political community the existence of which is a prerequisite to define a common scene of deliberation and accepted tests that make it possible to raise the question of fairness and find practical solutions to equity disputes. A discussion on justice cannot avoid its *embeddedness* in a given state of organisation of international governance. To this regard, idealistic approaches can only feed bad conscience.

At this moment, there is no well-shaped global political community to which could be applied general principles of justice such as John Rawls' suggested ones. Humanity is fragmented in nations and states, without a global government. Humanity is to be seen as mainly a society of states and peoples with some across the border political and business organisations. For this reason, all features of equity and fairness developed in the strict framework of a democratic nation the government of which is ruled by a majority rule have no direct relevance for our discussion. Meanwhile, democratic states already have to face with the pluralism of values and order of justification. This idea of heterogeneity can but be reinforced on the international arena. We then have to examine the consequences of pluralism on our approach to legitimacy and justice.

Defining a fair and equitable allocation of rights depends on the nature of the situation

In pluralist democratic societies, we know that different justification orders coexist and offer the milestones and procedures to regulate different parts of social life. They define specific conceptions of what is equitable and adequate regarding the status of persons and the value of things and actions.

To this regard, a well-shaped situation is one that is entirely defined within a given justification order; qualities of persons and things strictly correspond to the justification order under consideration. For example, citizens voting for an election or members of parliament deliberating on a project of law are two situations strictly belonging to the civic order. Another example: a merchant trying to get the higher value from buyers for some goods on the market belongs to the market order. What is a fair procedure in one case is not fair in the other case. A badly shaped and contingent situation is one in which heterogeneous people and things are face to face and cannot not mobilise predefined tests and procedures in order to solve conflicts and find an agreement. Post-accidental crises may be of this sort. Between these two extremes, there are intermediate situations with elements belonging to a given order, but also with some

heterogeneous and ambiguous things and persons. By consequence there is a hesitation on the qualification of the situation and the nature of tests to use in an appropriate manner. International coordination for mitigating climate change belongs to the intermediate type of situation.

Four justification orders

Four orders are involved in the climate change issue³ : the civic, industrial, traditional and market ones. So we can raise the question: within which order should we consider the issue of a fair distribution of obligations to control emissions of greenhouse gases?

Were the issue belonging to the civic order? In that case we should mobilize arguments based on equality of the persons who constitute the relevant elementary units of the situation. Does it mean we should acknowledge an equal right of each human being on this planet to emit CO₂, on the assumption that atmosphere is a common good on which all citizens of the world have equal rights? It could be the case in an integrated global political community having a global government. But why should we allocate rights to states in proportion to their population⁴?

Were the issue a question of good running of the productive machinery worldwide? Within the industrial order, distribution of rights should reflect the needs of current production: each agent has to receive resources according to its role and contribution in production so as to allow him to fulfil expectations of other productive agents to which he is linked by a technical and social division of labour. In that case the best aggregated criterion is GNP, which is the index of current productive economic activity. Paradoxically, LDCs that refuse to enter the logic of quantitative limits of CO₂ emissions take this approach for granted for themselves, since they put forward the argument that any quantitative limit would alter their economic growth. It is also the same argument used by the government of the United States and the Economic counsellor of President Poutine in Russia.

Is the issue about promoting the trade and market order? Many NGOs fear that this is the case. But nobody has seriously made the proposal that emission rights derived from a global ceiling should be auctioned to countries. This could have been the simpler solution! The money from auction could have fed a Global Fund for the Sustainable Development of Humanity. The fact that this solution has been put aside means that, at least, other features than those of the trade order are relevant. Meanwhile the Kyoto Protocol sets the possibility to develop international trades of abatement obligations. This means that the trade order cannot be dismissed of the relevant situation, as well as a device of strategic flexibility and economic efficiency as a means to separate the treatment of efficiency and equity issues.

Can the issue be framed within the traditional order? The frequent reference to *grandfathering* is an indication that this suggestion is not entirely irrelevant.

3 See M. Walzer, *Sphères de justice. Une défense du pluralisme et de l'égalité* Paris, Seuil, Coll. 'La couleur des idées', 1997 ; L. Boltanski and L. Thévenot, *De la justification Les économies de la grandeur*. Paris, Gallimard, Col NRF-Essais', 1991, and O. Godard, « Environnement, modes de coordination et systèmes de légitimité : analyse de la catégorie de patrimoine naturel », *Revue économique*, 41(2), mars 1990, pp. 215-241.

4 See for example S. Kverndokk, (1995), « Tradeable CO₂ Emission Permits: Initial Distribution as a Justice Problem », *Environmental Values*, 4(2), pp. 129-148

Atmosphere has been significantly used for many decades, at least since the beginnings of the industrial revolution. Hence the idea of historical responsibility put ahead by some experts⁵. The opposite view can be supported as well: past usages of atmosphere were not hidden practices and have been accepted by each country in this world until the nineties, even if countries did not have a clear conscience of climatic consequences of such usages. To this regard, according to arguments derived from customary law, historically permanent and mutually accepted usages generate rights for the users. It would generate an injustice to violate those rights, even for a good cause as the protection of climate. It would be not only unrealistic but contrary to the sense of justice to ignore that countries have incorporated for long this usage into the material development of their productive infrastructures. In 1990, the atmosphere was a common good with implicit rights of usages. It should be noticed that some LDCs countries develop similar arguments to obtain acknowledgement of historical rights of native peoples on natural resources: the same foundation linking present rights to past practices is searched for. If these arguments are not rejected at first hearing in other negotiations, they cannot be rejected for the climate change issue either, without abandoning the discussion to pure opportunism.

From this quick examination of a complex issue, it is clear that there is no unique criterion of a fair distribution of rights and obligations. Main criteria in debate for many years such as population, GNP, and past emissions at a reference year, do not distinguish a criterion of fairness, which would be the population one by evidence, to more realistic ones such as GNP and grandfathering. We have to acknowledge that these three criteria express what is both realistic and fair within a given justification order. So the main issue is not to choose a criterion but to know and decide about the very nature of the situation we have to grasp. At this moment we do not have an agreement on this fundamental question.

A backward action of the implementation regime on conceptions of justice

One specific feature of the situation is the influence of a choice of one mode of coordination on the conceptions of an equitable allocation of rights and obligations. Even if an agreement proceeds in two steps, the first one defining the initial obligations of each party and the second one defining the implementation regime, there is a requirement of coherence between the definition of what an equitable distribution is and the rules of the implementation regime. The reason for this link is quite simple: the choice of the operational regime of coordination plays a key role in the choice pertaining to the qualification of the situation, i.e. its attribution to a main justification order and hence to the right conception of justice to develop.

With this background, what are the consequences of international emission trading? The first one is that an equitable distribution is not the same if it is supposed to be the final intangible one, for example the one derived from non

5 See M. Grubb (1995), « Seeking fair weather: ethics and the international debate on climate change », *International Affairs*, 71, (3), pp. 463-496. In a recent paper, A. Gosseries (2003), « Historical emissions and free-riding », in L. Meyer (ed.), *Historical Justice*, Baden-Baden, Nomos, proposes reasons why present generations in the North may have an obligation to compensate the South populations for climatic damage, even when we accept the statement that present generations bear no responsibility for the behaviour of past generations. It is sufficient, says Gosseries, that the North present generations are the beneficiaries and South population the victims of past behaviours.

transferable quotas, or an initial allocation that can be changed through emission trading. When emission trading is allowed, actual emissions at the end of the day will differ from the initial allocation received. Moreover trade will allow reducing overall abatement costs. Then an economic surplus will appear which raises a new problem of equitable sharing. Can we expect that the logic of markets will ensure a fair sharing of the surplus? There is absolutely no reason to get this result, but only by chance, if we stick to a substantial conception of justice. So the initial allocation should be changed when quotas are transferable to take account of the type of unequal surplus sharing markets will produce.

There is another effect. An issue of topic justice⁶, closed on the allocation of a given physical good (CO₂ emissions) is transformed into a larger issue of distributive justice since, once emission quotas are tradable, they are valuable assets giving access to general economic wealth, which raises a new issue of a fair international distribution of wealth. It is no longer relevant to discuss about equality of rights to emit CO₂. What is relevant is the economic welfare achievable for each party on the basis of its allocation and trade opportunities. But there is a limit to this transformation. Since we do not agree about the fair distribution of the global economic wealth, we are puzzled by the transformation of the justice issue from a topic one to a global one. So we are tempted to avoid an excess globalisation of issues that would ask us to fight against all international unfair inequalities through the sole regime of mitigation of climate change! We are then embarked in a movement of oscillation between a topic and a global definition of the issues. We could only solve this problem by designing criteria for an intermediate type of justice issue. It remains to be done.

Meanwhile, emission trading has another paradoxical result. In separating efficiency and equity issues, it makes it politically possible to give more weight to a search of redistributive justice than with non transferable quotas: with access to a market, when the available quotas are significantly different of the needs, it is possible for a state to look for the missing quotas on the market, the only limit being its willingness to pay. So, with emission trading, it is technically conceivable to target an international per-capita allocation, which would be unconceivable with non transferable quotas. At the same time, introducing the market destroys the interest to aim at an equal per-capita allocation, since the main issue of the game becomes sharing wealth. What is then the rationale of fixing a long run convergence of per capita emissions as the main benchmark of international coordination?

In search for ways-out

Since the basic models for international coordination do not provide solid expectations of solutions, we are condemned to look for ways-out based on other assumptions or supplementary features.

The imperial power

The first way out, for which there are historical examples, is the imperial solution. It is based on the political and military domination of one state on all others and asks that, for a long enough period, national self-interest of this state

⁶ Here I introduce a distinction between 'topic' and 'global' justice issues. This is near what Jon Elster (1992) intended with his distinction between global and local justice. See *Local justice*. New-York, Russell Sage Foundation. In the context of climate change, the expression 'local justice' would be misleading.

coincides with the common interest of all countries and Humanity. It happened in the eighties for the regime of elimination of CFC. Since the United States is the candidate to this imperial role for the next decades, this solution depends on the conversion of this country to climate action, so that it would take the lead of a transition to a low-carbon post-industrial society. This way-out is not compatible with the building of a multi-polar world.

Linking negotiations for public and private goods

The second way-out bets on the linking of negotiations on climate change (a public good) to negotiations that awake huge concern among all parties, to the point that they all want an agreement. This approach worked when the US and USSR governments once perceived global environmental issues as useful field to warm up their relations with the background of strategic military negotiations on nuclear disarmament. Such a linking strategy could be tried by the EU, main Asian countries and LDCs of other regions if the EU took the lead of a huge programme of R &D and technological transfer focused on the priority needs of LDCs and new industrialized countries. But Europe is now well behind Japan and the United States for the effort in scientific and technological research.

A progressive aggregation of domestic policies

The third way-out – is it really one? – lies on a progressive aggregation of national policies that were initially based only on domestic considerations. The hope is that some long run convergence will be observed in due time to solve the problems. Based on proximity of domestic policies various coalitions could emerge. Through a progressive integration, helped by finding equivalences among domestic policies and taking dissuasive measures against rogue states persisting in free-riding, more ambitious objectives could be progressively adopted. There is no assurance that such a process can converge or that it can do it sufficiently quickly to solve the climate issue.

New public-private and business –NGOs partnerships as an alternative to actions of states

The fourth way-out is one in which business circles and civil society decide to let states where they are and take initiatives for concrete programmes of CO₂ abatement. It leads to underline the key role of new partnerships between private and public bodies, in which private business is supposed to bring finance and technical competencies, but also directly between private business and NGOs. Based on the concept of coalition of the willing, this strategy is fashionable in the literature today, presumably « pour ne pas désespérer Billancourt ». This way-out nevertheless raises a political enigma: how international and domestic environmental NGOs could have sufficient resources and influence to impose significant changes in development patterns to business firms and economic operators in the field of energy, industrial and agricultural production without being able to reach a similar influence on governments? Anyway, such a way-out would be but a partial one: the most important game for the climate change issue is played in transportation and changes in lifestyles.

Conclusion

Main models used to think global environmental issues have met severe drawbacks. Possible way-out are not dramatically more credible in the present circumstances. Certainly quick and big progress is not at hand without a dramatic change of the international political situation. We should prepare to

progress by collecting low-hanging fruits (energy efficiency, double dividend strategies) and making small steps, and at the same time see in scientific communities and NGOs social forces that should redouble pressure on both governments and business firms to avoid regression or accelerate a move toward sustainability.

Regarding social scientists, climate change and other global environmental issues certainly are stimulating challenges for developing further work to elaborate conceptions of justice adequate to the level integration and forms of coordination of the international society.

Additional readings on the subject

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