

## National Partiality and Global Duties

### Research Proposal

Idit Shafran Gittleman

The notion that states have an obligation to integrate – or at all consider – interests of foreign individuals and communities, has roots reaching far beyond (and before) the current era of global interdependence. The building blocks of political science lay the foundation for the very existence of states and sovereigns, as well as for international and constitutional law and even modern economics.

The perception of common humanity is in my opinion the backbone of ethical policy, and the moral justification to expect sovereigns to act as trustees for humanity, as the GlobalTrust Project suggests. Investigation of the evolution of principles of political philosophy would reflect that states are indeed expected to act with responsibility to the fate of foreign civilians. Indeed, such a requirement to account for the wellbeing of citizens of other nations seems so fundamental, that disregarding the interests of such foreign parties would accordingly be considered unethical bias.

However, hardly anyone denies that to a certain degree, states are allowed or even required to place their citizens' interests above those of foreigners. Although not without different views, there is a common agreement according to which, national partiality is of the sort of legitimate favoring, and thus – permitted. (as opposed to racism for example).

In my dissertation *Partiality during War*, I address one aspect of this tension. I explore the aspects and boundaries of the ethical justification for a state to cause harm to civilians of enemy states during times of war, when unavoidable in order to protect its own civilians.

While some philosophers believe that associative duties shouldn't play a significant role during war and an equal weight should be given to all civilians, regardless of their national affiliation, I argue otherwise. I claim that co-patriots share special duties towards one another, and that consequently, when dealing with questions of the ethics of war, one must consider reasons of national partiality. I further argue that such consideration indeed should also have substantial implications on our understanding of the laws of war (some of which were addressed in my dissertation).

The situation of war is, so I believe, an interesting case study to the dilemmas associated with the topic of the GlobalTrust center. A state of war signifies the most radical polarization between the interests of two (or more) states, and would therefore be an appropriate "start line" foundation to examine the most elementary expectations to account for foreign interests, or the most elaborative permissions to be partial. The strict demand to still account for some interests of enemies (and other foreign countries), even when it sometimes clashes with the interest of protecting its civilians lives, reflects a polar dimension of the challenge of combining both the right to national partiality with the obligations of states to act as trustees of humanity.

If accepted to the Global Trust project, I plan to pursue the questions that are in the main agenda of the Center, (as I understand it), while relying on some conclusions and methods of evaluations applied to the moral debates of the ethics of war. I still don't master the precise details, of course, but I believe that in the paper that will emerge I will discuss these questions using doctrines such as proportionality and necessity - commonly used when analyzing dilemmas accrue during wartime.

To illustrate, consider the following question I aim to explore:

Some philosophers claim that when act X of war entails collateral damage, in order for X to be permissible, it is not enough that X's collateral damage would be proportionate to its legitimate cause, but it is rather also required that X's producers would make positive efforts to reduce harm, and that the damage would be unavoidable; namely, that there would be no better alternative to X.<sup>1</sup> Yet, what exactly counts as *unavoidable* is a complex question. It would seem that there is always more that can be done. More risk could be imposed on soldiers, more efforts can be made, and also – more money can be deployed. For example, states might be required to put resources into developing protective means such as Iron Dome shielding themselves, not only for the sake of their own protection, but also for the sake of minimizing the necessity of massive attacks. Also, we might want to demand that states invest money in acquiring other harm-minimizing measures that will make those of collateral damage-creating force in war time unneeded, even if it's the kind of use of force that would be justified during the war, had no protective means been available.

Given that we request that states risk their soldiers for the purpose of reducing harm, shouldn't we first request of them that they invest money to attain this very end?

How then do we set the boundaries of this demand? Do we require a prioritization of these purposes, on account of other essential needs – social welfare, health, education, civil infrastructure, etc.? When, for example, would the alternative be recognized as too pricy so that X would still be permissible?

---

<sup>1</sup> There is a legal doctrine to that effect too. See: Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

Article 57 2 (a) (ii)

With respect to attacks, the following precautions shall be taken:

(a) those who plan or decide upon an attack shall:

(ii) take all feasible precaution in the choice of means and methods of attack with a view to avoiding and in any event to minimizing incidental loss of civilian life, injury to civilians and damage to civilian objects;

I believe that exploring these questions might be helpful in reaching conclusions regarding the wider questions, seeking to find the right balance between the duty to refrain from harming other states, the duty to take other states' interests into account, and the *special* duty owed to compatriots only, to consider their interests first.

The literature of the morality of war presents two main interpretations to the laws of war. One such interpretation suggests a moral reading of the laws, according to which the roots of the common principles of the way a war should be fought, reflect pure moral reasoning background, while the other reading suggests a contractarian view, according to which the rules of war are contract-based, reflecting a sort of agreement between the parties, intended to maximize their utility.

These two views can, I will argue, also be applied as alternative frameworks in which the more global questions regarding the scope of the right to national partiality (should such a right exist) within the global obligations towards humanity, could be deliberated.

These are indeed two perspectives of the same concern I wish to explore in my research. Whenever a state can demonstrate, from an ethical point of view, an acceptable justification and permission to act in bias toward citizens of another state, it would be less expected or obligated, in terms of global politics, to take into consideration the interests of foreigners when exercising its domestic regulatory functions. Naturally, not all justifications or permissions for national partiality are of the same standing and extent. In examining these with the tools of political science, the greater the moral permission to partiality, the less we would expect, or demand, giving regard to foreign party interests in determining policies or actions.

Moreover, beyond the investigation of the ethical grounds for currently acceptable demonstrations of sovereignty and their impact on foreign entities, my proposed work would aim to propose some criteria to serve as reference in future application of such research as part of the possible implementation of mechanisms to regulate the accommodation of interests of foreign entities in conflicting situations.