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Poverty and Responsibility in a Globalized World

Abstract: This article seeks to explain some of the ramifications of globalization processes for the pressing problem of increasing global poverty. It distinguishes two competing approaches to explaining the causes of poverty-related injustice and justifying conceptions of obligations towards the poor. A first approach, the *assistance* approach, is mainly directed at identifying inappropriate worldwide income and asset distribution; the other, the *causal* approach focuses on the effects international regulations have on people's lives. This article explains that both approaches depend on the interpretation of the current state of economic and political interdependence. It is argued that both conceptions have their pitfalls, but that from a theoretical as well as pragmatic point of view, it makes sense to defend an 'integrated' perspective that also takes into account the responsibility of non-state actors.

1. Introduction

Complex developments allow multiple interpretations. While some argue that September 11 signaled the end of the era of globalization as governments insulated themselves against future terror attacks, for others, globalization has reached a culminating point through American unilateralism. But neither interpretation is really convincing.

Rather, we can see that the tight interdependence between the three main economic regions—the US, Europe, and Asia—has grown during the last few years. Not only have trade relations increased and new economic treaties developed, cooperation between states and corporations (so-called public-private partnerships) also has become common. Furthermore, the presumption of an American supremacy has become questionable, especially when one looks at Iraq, where the idea of targeted military support for nation- and democracy-building is dying with each soldier and civilian killed in the streets. In trade and market relations, one can observe a similar, slow shift toward power-decentralization. The Doha negotiations in Cancun showed the growing influence of well-informed NGOs and developing countries that were once politically weaker. This trend will make the previously unlimited dominance of the Northern countries more difficult to sustain.

What we seem to have is neither a world of small units connected mainly through bilateral interactions, nor a world governed by an overwhelmingly powerful hegemony. Rather, the emerging picture is of a fragmented world, consisting of formal and informal networks of different actors. Along with states there are other global players such as transnational corporations, international NGOs,

and international organizations (e.g., the UN, the IWF, the World Bank), all of which cooperate on various levels and can exert their influence in different directions. In 'top-down-relations', for example, international governmental organizations (e.g., NATO or the UN) make decisions on behalf of citizens. In 'bottom-up relations' transnational NGOs raise public awareness and media attention in order to introduce a topic into negotiations.¹

As the descriptions of economic and political relations shift, our views on one of the most urgent global problems—the continuing and in some regions increasing rate of poverty—also shift. Varying interpretations of the current state of the world can lead to conflicting views on the causes of poverty, who bears responsibility for addressing it, and just what practical measures should be undertaken for its eradication. Some are convinced that poverty is to a large extent caused by the politics of international economic organizations that impose an unrestricted neoliberal market model on developing countries. They believe that to eliminate poverty, one has to reform international institutions, or at least distribute economic assets in a fair way. Others think that the main reason can be found in the developing countries themselves, and that the only realistic measure against poverty is to get rid of corrupt elites.

Consensus, obviously, exists only about one issue: to have to live in poverty is an evil that should be eradicated.² Nobody wants to be forced to starve ('hunger artists' and ascetics do it more or less voluntarily), or be malnourished; nobody wants to live in drafty dwellings, exposed to wind, rain and vermin; to die from easily cured diarrhea; or to feel ashamed in public because of worn-out clothes or bad teeth. But as clear as this estimation is, determining who is obligated to eradicate poverty, and how far-reaching these obligations are, is just as forcefully contested.

2. Assistance Approach

To begin to address these questions, one may begin by looking at already existing legal agreements. Poverty seems so obviously a violation of current international agreements that set standards for a decent life. The International Covenant on Economic, Social, and Cultural Rights (ICESR), for example, which came into force in January 1976, established the juridically binding rights of every individual to a decent standard of living; to a just organization of labor; to social security during unemployment, illness, disability or old age; to employment opportunities; and to the protection of the family.³ Other conventions reiterate

¹ For a detailed notion of *governance* see, among others, Rosenau 2002.

² Despite some positive developments in China, international poverty statistics are still devastating. Almost half of the world's population lives in severe poverty, which means, among other things, that they lack access to adequate shelter, clean drinking water and nutritious food, and that they are at high risk for preventable illnesses, as well as for deadly diseases such as AIDS. Even in the wealthy industrial countries the number of the 'relatively poor' is increasing: the percentage of those who earn less than 60% of their country's average net income has risen steadily during recent years. World Bank 2000; for Germany see Bundesregierung 2001.

³ See especially part II of the ICESR: Art.2(1): "Each State Party to the present Covenant

the just mentioned rights but have a special focus: the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) details the obligations of states to abolish unfair treatment of women in public and private life, including education, health, work, and marriage.⁴ And, to mention a further important area of legislation, the International Labor Organization (ILO), founded in 1919, formulates international labor standards and protects the rights of workers and children, and the freedom of unions.⁵ But if it were so clear that poverty violates human rights, why do we continue to witness massive human rights violations day in and day out? And why hasn't more been done about it?

One political reason for the slow pace in mitigating global poverty is that despite these international agreements, current human rights legislation is still wanting in a number of respects. National governments, still the primary bearers of responsibility in the international context, have either failed to comply with their obligation to incorporate legislation on social human rights into their national laws or have done so only half-heartedly (Alston 1997). This situation results from, among other things, a lack of standards clearly describing under what conditions a 'social human right' is not being fulfilled and what mechanisms for fulfilling these rights would look like. Furthermore, the appropriate roles of any non-state actors, be they NGOs, transnational corporations (TNCs), and/or citizens have yet to be clearly articulated.⁶

The extant political problems mirror some still unresolved *theoretical questions*. Social rights remain highly contested, for at least two reasons. Firstly, it is unclear how far-reaching social rights are, that is, who is the subject of social rights. It could be just the compatriots, or all those who 'need' help according

undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures" (Alston/Steiner (eds.) 1996, Annex on Documents, 1175ff.) Part IV formulates international measures for implementation, Art.16(1): "The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein" (Alston/Steiner (eds.) 1996, 1180). See also General Comments No.3 of the Committee for the International Covenant of Social, Economic and Cultural Rights (ICSECR), to be read at UN Doc.E/1991/23, Annex III, and also reprinted in Eide 1995, 442ff.

⁴ The Convention on the Rights of Children emphasizes that children are entitled to special care and protected status, and support.

⁵ The ILO suggested, for example, that a so-called social clause should be integrated into the rule system of the World Trade Organization (WTO), setting core standards such as freedom for unions, abolishing forced and child labor, and banning racial and gender discrimination in the work place. At the 1996 WTO-Ministerial Conference in Singapore, it was mainly the Asian countries that turned down this proposal, arguing it was targeted to protect US and European products against cheaper products from the South. But the United States itself, despite publicly voicing strong support for the idea of social standards (Bill Clinton promoted the idea of a WTO-Social Clause in a speech given at the 50 anniversary of GATT in Geneva 1998), only ratified one core ILO convention (against forced labor) and was one of the main critics of social rights in all United Nation conferences during the 1990s.

⁶ For the historical development of the ICSECR and monitoring measures Craven 1995; for a detailed definition of state responsibilities in relation to the right to food see Eide et al. 1995 and Künnemann 2000; see also the website of FIAN, FoodFirst Information and Action Network: www.fian.org

to a certain standard, or all human beings. The question here is whether social rights are human rights at all.

The second theoretical problem is a continuing confusion regarding to whom social human rights obligations actually apply. Do they apply only to nation-states and their governments, or to all private actors, or, nowadays, also to NGOs, and TNCs? These questions raise the problem of the distribution of obligations, which is a specific problem of 'positive' rights. They require that the state or other actors take certain measures, but in situations where assistance is required, very often more than one person or institution is capable of fulfilling a corresponding duty. In contrast, the classical 'negative' rights (e.g., the rights to life, personal liberty, and property) correspond first and foremost to a universal notion of a duty to avoid harm by refraining from supporting unfair rules. This duty to avoid doing something can be easily conducted by everyone without first determining who actually is obliged to assist if more than one is able to do so.

A third area of uncertainty concerns the question who has to take on the duties if the original duty bearers are unable or unwilling to fulfill their obligations. This is, one can say, a second-order distribution problem, which also does not occur with negative duties.

Recently, John Rawls has developed a means for legitimating a right to assistance at the *international* level that also determines the right subject and the duty bearer (Rawls 1999). The 'duty to assist other peoples', an important step towards global justice recently integrated into his *Law of Peoples*, shows that he has become aware of the importance of global poverty.⁷ The nature and objects of the assistance are precisely described: those societies that do not pursue an aggressive foreign policy and that lack the material and technological means as well as the political culture to become members of the community of well-ordered societies should be assisted (Rawls 1999, 106ff.). The aim of material and technical assistance should be to install just and democratic institutions which might include educational programs as well as population-control policies. This is a 'functionalist' justification for a right to assistance, where the claim for developmental aid is justified because such aid provides the necessary means for building up a fair and democratic social structure.

At first, one may be surprised that Rawls does not argue for a principle of global distributive justice. A second glance, however, reveals the reasons for his reservation. First, such a principle does not include a cut-off point, i.e., it does not define when the redistribution has reached a satisfying level. As a consequence, he fears there may be new injustices because poorer societies could demand revenue-sharing from richer societies, even if they had the same starting conditions but failed to establish a fair and efficient institutional structure (Rawls 1999, 117). This objection is not very convincing, however. One can ask, first of all, why at the national level Rawls argues for a 'difference principle' without a cut-off point. Within the nation-state, he finds inequality is justified when it favors those who are worst-off and he does not require any threshold that determines the end of redistribution. He may think there exists stronger

⁷ He discusses this aspect in relation to criticisms of Beitz 1979 and Pogge 1994 who both have pressed him to integrate an international 'difference principle' but which he rejected.

solidarity among nationals, but he does not justify this in his work (see Pogge 2001a).

Another and more pressing point against Rawls's proposal is that assistance going to poor societies struggling to democratize tends to taper off as soon as a more or less stable order has been established. But the aid, if one holds to Rawls's standard, could also disappear if it turns out that a real 'democratization' is not to be expected. It is true that such a principle of assistance would require that affluent states increase their development aid and set up food and educational programs. In the long run, this could lead to an improvement in the living situation of a huge number of people. But due to the narrowly defined assistance targets, only a portion of the needy peoples around the world would benefit. 'Burdened' societies that only aim at developing a hierarchical social structure and not at becoming a democracy would get no national developmental aid or credits from international financial institutions. Although the duty to assist would improve the living standard of peoples, it would do so to very different extents. That differential treatment of the global poor would not be a problem in itself, but requiring a process of democratic reform seems unfair to the needy people in non-democratic societies (see also Kreide 2002). In most cases, citizens under a dictatorial regime suffer economically and socially and cannot be held responsible for the regime. They are often too exhausted or oppressed to change the situation. It is also objectionable insofar as it may be a cynical ploy intended to instigate democratic revolt among oppressed peoples in response to worsening economic situations.

Also, this targeted-assistance approach does not take into account those states that have undertaken measures that they thought would strengthen their economic growth but that nevertheless failed. Countries like Thailand and Argentina servilely followed the structural adjustment programs imposed by the International Monetary Fund but the schemes did not reactivate their economies and plunged many more people into poverty (Stiglitz 2002). One could argue that these states cannot be held responsible for what they did, and therefore should be candidates for aid, or that at the very least, one should take into consideration their efforts to improve the situation of the poor. That means a 'right to assistance' is not guaranteed unconditionally, but is contingent upon specific political conditions that must be fulfilled before assistance is granted. Political scientists disagree, however, on the extent to which strong political conditionality (transition towards democracy and market-friendly reforms) in foreign aid assists in poverty reduction. Foreign aid can support or even create the development of a 'rent-seeking society' if reform proposals are not appropriately adapted by the recipient country (and not controlled by the donors).⁸ Aid to countries with 'good policies' also risks the so-called endogeneity problem: because the recipients expect an uninterrupted flow of aid, their policies may deteriorate and

⁸ Tanzania is an often cited example. It received \$13 billion (US dollars) in aid between 1970 and 1992, but had in 1992 a very low growth rate and its debt reached \$7.5 billion dollar in 1994 despite favorable world market prices for coffee. One main problem was that the administrative and commercial elite generally resisted bringing about a shift from personal clientelism to rational market economy. See, for example, Tetzlaff 1996, 150.

administrators will become lax in their implementation. Furthermore, as recent experiences have shown, aid directed toward the government sector as a reward for 'good policies' can lead to a 'crowding out' of the private sector, which in turn diminishes economic growth (Langhammer 2002, 12-13).

In light of these disadvantages, some authors propose indirect aid instead of country-related support. For example, basic health and nutritional needs can be met by giving pharmaceutical companies incentives to conduct research in the field of tropical diseases (for example Sachs in WHO 2001). Another proposal suggests *common pools* to finance international common goods such as research and research implementation in areas like health, nutrition, education, IT infrastructure, public management and so forth. Donors and, to a lesser extent, recipient countries can subscribe to the pools by making mandatory payments and the contributions could be administered by an international treaty. This would have the advantage of avoiding domestic governmental disputes and would enable funding to bypass recipient governments.⁹

On the other hand, while political conditionality is problematic, there is little dispute that the poor are inevitably the ones who suffer most under bad governments and that any assistance has its greatest effect in those countries with at least some elements of political participation and a public sphere. Restructuring in favor of the poor can only be successful if national groups or a political opposition can take part in the process of defining and implementing policies. The question of *ownership*, that is, the question of who feels responsible for realizing new policies will only be solved through the cooperation of different groups acting at different levels of decision making.¹⁰ In countries with indications of a lively civil society, these initial democratization processes should be sustained through measures that, among other things, increase public accountability through greater transparency, better institutional oversight of governments, and decentralization.¹¹ However, if the goal is poverty reduction, linking aid to the conditions of democracy-building is not always the best option.

Rawls, we have seen so far, does not attempt to justify a juridical claim on behalf of every individual, nor even on behalf of every people. Rather, he formulates a claim that is only valid for those people that are willing to set up a fair basic structure, including democratic procedures. Accordingly, the duty bearers are those peoples who already belong to the community of the well-ordered societies, which thereby narrows the circle of those who are obligated. Those peoples who may have their share in causing poverty, as well as those who may have the money to assist are not obliged to help. In summary, the

⁹ S. M. Ravi Kanbur has proposed the 'common pools' in Kanbur et al. 1999. A *Global Resources Dividend* is a further alternative to avoid the pitfalls of conventional assistance. The global poor own a share of all natural resources (oil and gold, for example, but also air, water and land) which, as can be argued from a moral point of view, belongs to all humanity. Those who produce, sell, use, and pollute these resources should compensate those who are involuntarily excluded from using them. The allocation of the compensation could rely on the expertise of economists, lawyers, and scientists who would make transparent and effective rules that direct money towards those most in need of assistance. Pogge 1998, and in a slightly revised version Pogge 2002, 196-216.

¹⁰ For this diagnosis see Tetzlaff 1996, for an example representative of this perspective.

¹¹ For these policy implications see Klasen 2002.

functionalist approach is too restrictive in its determination of who may make a claim for assistance, and in its definition of the reach of duties.

3. Social Autonomy Approach

In recent years, only a few theorists have explored conceptions of 'positive' freedom *other* than the 'functionalist approach' in relation to social or economic human rights. These theorists do not agree with the functionalist position that one can only speak of freedom when one is free of external obstacles or when one enjoys positive freedom and can participate in processes of political self-governance.

Henry Shue offers a rationale for why one should not acknowledge rights to assistance only in relation to the exercise of other rights but should instead attribute to them a constitutive value at the level of a legal principle (Shue 1980). In his opinion, it is possible to distinguish 'basic rights' from other rights. Basic rights are those that every person must possess if he or she is to be able to exercise any rights at all. Without a right to freedom from bodily harm, to a certain minimum standard of living, and to a few civil rights and liberties, it is impossible to make use of any other rights. The basic rights are mutually dependent: if one does not have a guaranteed claim to material security, one cannot exercise one's civil rights and liberties; on the other hand, without protection from arbitrary arrest and terror, material security is not worth much. Thus, Shue's approach goes one step further than Rawls's. While he does continue to view the claim to assistance and even stronger social rights as a condition necessary for the exercise of other rights, he does not prioritize civil rights and political liberties, but emphasizes the interdependence of the three categories of rights. Similarly, the concept of a German philosopher and legal theorist, Robert Alexy, rests entirely on the premise that the necessary preconditions must exist to make it possible for one to provide a *decent standard of living* for oneself and one's family. For this to be achieved it is argued that the corresponding material conditions must be accessible.

These views, however, fail to recognize the fact that goods can have very different effects on the welfare of individuals and can be used by different individuals in different ways (Sen 1993). A person's quality of life cannot be determined in terms of the amount of goods possessed in comparison with others. Which goods people require and in what amount depends to a decisive degree on what needs they have and what capabilities they have or want to develop. Children, for example, do not *yet* have all capabilities necessary to enable them to make use of the resources allocated to them. But also the handicapped, the ill, and the elderly often are unable to look after themselves. They may need resources to buy certain medical assistance and equipment but may also need the support and care of others including medical professionals, social workers, neighbors, friends, and family to develop, regain, or exercise their capabilities.

Developing capabilities demands resources but also the *targeted support* of others if people for whatever reason are unable to develop them by themselves.

So rights to assistance do more than just provide the material preconditions needed for people to take advantage of their freedoms, pursue their goals, and realize their plans without threat of impediment by others or through inventions of the state. They also make it possible for people to 'develop' themselves on a personal level. It should enable them—within reasonable limits—to pursue their vision of 'the good life', even if they do not themselves possess the necessary means or capabilities. There must, in the words of the German philosopher Ernst Tugendhat, be "personal space for the development and flourishing of the self" (Tugendhat 1993, 108).

At this point, it can be seen that social rights cannot simply be reduced in the functionalist manner to the provision of the means for the exercise of civil rights and liberties, for they have an *intrinsic value*. It lies in the pursuit of different activities and the development of capabilities that enable one to pursue a concept of the good. This goes beyond the concept of positive freedom insofar as one is no longer speaking of spaces for action created and secured by the state through the provision of resources, but rather of self-development. Included are measures beyond money transfer such as education, care, supervision, and medical treatment. The aspect of action that comes into play with the shift towards a 'flourishing approach' suggests that one speak of *social autonomy*. The *autonomy* side of this concept has to be understood as self-determination in its fullest sense as one pursues his or her individual life plans as long as possible without any help and without being patronized. *Social* autonomy, however, entails also that if one cannot take care of oneself for reasons one is not responsible for, others who are well able to offer resources and services are asked to do so. Accordingly, social rights secure a claim to be able to develop the capabilities required to independently carry out a life plan regarded as valuable. This moral claim is universal as it cannot justifiably be denied to anyone and can be understood as a *moral universal* right.

This means first, that such a moral universal right is formal in the sense that it demands and allows context-specific interpretations to be made of the conditions of a given society. And second, it is above all of heuristic value, and is to be understood as a principle by means of which social rights may be concretized and spelled out in moral and political discourses. Therefore, the moral right to social autonomy requires specification in various political contexts by citizens. Knowledge of the economic and institutional requirements must flow into the political discourse together with knowledge of the individual resources of the citizens in question. Great differences exist in terms of which capabilities are regarded as valuable in different environments. Diversity in needs and interest will probably be relatively limited when what is at stake is the securing of existential human needs such as access to an adequate supply of food, appropriate housing and health care.

However, through the political concretization of social autonomy, much stronger variations in capability development will arise. The acquisition of the ability to deal with high-tech equipment, for example, is not necessarily regarded as an urgent task in some developing countries. A further dimension, however, is that it is not only the type of capability that underlies the discussion but—even in

the realm of basic human capabilities—the standard of its realization can and must be interpreted. In the Democratic Republic of the Congo, for example, the most urgent demands in the area of pediatric health care are the provision of oral rehydration salts and free access to vaccination equipment, a standard which, from the perspective of Germany would be unacceptably low.

Let us turn now to the question of who is the subject of these rights and who is obligated to fulfill them. As we have seen, *everybody* has a moral right to develop one's social autonomy based on one's interest in developing a good life. *In principle*, it follows that *everybody* has a duty to fulfill this claim, which results from the claim to social autonomy that can be reciprocally legitimized. To illustrate this assumption imagine the following often-cited hypothetical situation: a man shouts for help in the rough sea, still close to the shore where many people are on the beach, witnessing his fight with the waves. We can say—even without long, hypothetical debates about the legitimacy of a claim to life—that everybody has a duty to help. How the *realization* of duties can be best coordinated, is a different question. To stay with our example: does it make more sense that the person closest to the man get into the water, or the one that is best trained, or the person with a boat? But before deciding who is the best candidate to rescue the man, all are equally obliged to help. Even a person who cannot swim can take part by encouraging a fellow bystander who is a swimmer to dive in. So *distributing the duty* in relation to social rights is not a question of *who* is obligated in the first place (everybody) but how to *best realize* the obligations. In the literature, duties that not everybody is obligated to fulfill are called special duties. I will return to the issue of distributing duties later in the article.

One could object at this point that obviously a just international order calls for more than simply a fair distribution of resources or access to them. Merely keeping an eye on the distribution of acquired economic goods or on *outcome distribution* is not sufficient to reduce poverty. Given the interconnectedness of politics, economics and finance, it is overly simplistic to ignore the many rules regulating international financial and cultural exchange, trade, and working conditions. Rules over the extension of credit, copyrights on intellectual property, the disposition of a country's natural resources, and labor standards all affect the realization of human rights as well as the living situation within a society. And furthermore, it is quite unrealistic or even too moralistic to expect people, even the wealthy, to regularly donate a portion of their income, when it is not obvious why exactly they are responsible for the existing poverty.

4. Causal Approach

To circumvent these difficulties, some theorists have approached the problems from another angle. Thomas Pogge in particular has put forward two important innovations (Pogge 2002; see also O'Neill 1998). On the one hand, Pogge introduces an 'institutional' change into the discourse on human rights (Pogge 2002, 52ff.). One starting point of his considerations is to take seriously Article

28 of the Universal Declarations of Human Rights, which reads: “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.” This Article highlights the fact that human rights are embedded in a world order consisting of trade and financial relations, international law, and political agreements that affect the interpretation and realization of human rights. Sometimes, these rules contravene successful realization of human rights. In Pogge’s view, human rights require fair ‘surroundings’ for their successful implementation. Rights are moral claims that an institutional order should respond to by creating conditions that enable enjoyment of the freedoms and goods protected through human rights. Here the term *institution* does not refer to a collective of actors or concrete organizations, but to those rules of the game within a social system that coordinate the interactions between individual and collective participants. Article 28 demands that every social order be organized to guarantee all participants access to all human rights. Its successful implementation, therefore, would inevitably lead to a reduction of worldwide poverty (Pogge 2002, 27ff.). Whereas the previous approach focused on the justification and realization of social claims requiring redistribution of money and the creation of care structures, the approach here focuses mainly on the ability of the international rule system (as it is manifested in agreements on human rights, and in those by the WTO and organizations such as the World Bank or the International Monetary Fund) to achieve poverty reduction.

The second change of perspective that Pogge undertakes is linked to the innovation just described and reveals what a shift to fair international institutions would require. Pogge describes the duties associated with human rights first and foremost as *negative duties*. This means that there exists a negative duty to *refrain from* participating in an organizational system that “avoidably fails to realize human rights” (Pogge 2002a, 166). Positive duties also come into the picture, however, when Pogge admits that it sometimes “can be better for the victims of injustice if we continue participation while also working toward appropriate institutional reforms or toward shielding these victims from the harms we also help produce”. But negative duties not to contribute to the coercive imposition of an unfair system of rules have *priority* in this approach: positive duties are to be fulfilled only if one for some reason cannot comply with the negative duty not to participate in an unfair system. They serve as compensatory measures if one fails to realize the negative obligations.

The priority given to negative duties can be read in two ways aiming, respectively, at two different aspects of “not participating”. Stressing this difference is important for understanding what measures should be undertaken for poverty reduction. The first reading points out that the realization of human rights is obstructed by *imposing contracts* or rules *forcefully*. Or in more ‘constructivist’ terms: what should be avoided is imposing rules on a party that would have good reasons not to submit (Scanlon 1998; also Forst 1999). That means, a rule is unjust if one would not agree to it when finding oneself in the social or economic circumstances of the other. What is violated then is the normative idea of *reciprocity* in situations of norm justification, where everyone who has to submit

to a norm should be equally an author in the process of norm setting. It is the fairness of the norm-setting procedure, the *input side* of norm-giving that comes to the fore at this point. Political rule-setting processes in reality, however, are not often in conformity with this normative ideal. The granting of credit was and still is bound to 'structural adjustment measures' that deeply interfere with the domestic affairs of the grantees and demand changes that industrialized countries never would agree to. Trade agreements permitting working conditions and environmental pollution unacceptable in the North are imposed on developing, economically weak countries. Another routine violation of the idea of reciprocity is the high rate of interest that wealthy countries attach to loans to desperately poor countries and which the grantees could never hope to repay.

The other reading we can give negative duty comes into play when Pogge stresses that one has a negative duty not to participate in an unjust institutional system because participating *results* in helping create or at least sustain a situation that is bad or even worse for the poor. This suggestion stands and falls on the consequentialist assumption that international regulations *affect* the social, political, and economic situations of individual citizens in a way that requires that some individuals will have to live in poverty. The citizens of the rich Northern countries, to the extent we personally benefit from our circumstances, are co-responsible for the situation of those who are worse-off.¹²

Here again, there is no shortage of examples of the asymmetrical relationship by which the privileged can be held responsible for the poverty of others. Global institutions make decisions about international investments as well as financial and economic requirements, provide loans and offer military and development aid, and thereby have a direct influence on the lives of people in poor countries. When parties to a contract can be forced to approve agreements that obviously run counter to the interests of the citizens in question, institutions are not just. Excluded from international agreements should therefore be contracts/treaties—to mention just one of Pogge's examples—that cement the so-called "international resource privilege" (Pogge 2001). Current international rules allow every government in power to freely dispose of the country's national resources, regardless of how a group has come to power or whether it is a democratic or totalitarian regime.

The priority of a negative concept of obligations suggested here provides an unambiguous and therefore strong rationale, as responsibility can be clearly ascribed: Everyone who contributes to the upholding of unjust institutions, that is, all those who cause poverty, and everyone who profits from the institutions bears responsibility for the poor living conditions of others. In contrast, assigning 'positive' duties requires identifying who can best distribute resources or provide care. However, there are two decisive problems associated with the concept of negative obligation.

First, the *priority* given to negative duties seems problematic. Even if we could, in a hypothetical world, avoid contributing to unfair and exploitative practices, unacceptable injustice would remain. Consider the circumstances of (what I call) the *island argument*. In this hypothetical world there are just two

¹² For the notion of 'negative responsibility' see especially Pogge 2002, 118ff..

islands (A and B) that do not have anything to do with one another although they know of each other and the prevailing living conditions. The people of Island A have built up a well-functioning infrastructure and have managed to live in some wealth, whereas the people on Island B are fairly poor, plagued by natural disasters, a corrupt government and warring guerrilla troops. Suppose furthermore that a majority on both islands tries equally hard to attain a better standard of living. The problem here is not that the life of the inhabitants is characterized by *unequal* living conditions. The injustice, rather, is expressed by the fact that without too much trouble, some people on Island A could offer relief and make it possible for people on Island B to live a decent life. Obligations exist because people who are unable to live a good life through no fault of their own have—as we have seen in the first part of the article—a legitimate claim for support that should be addressed to all those with the potential to change the situation.

A second concern is the *reach of obligations*. This might be surprising as one may think that negative duties are *per definitionem* universal and the same for everybody: they only require refraining from doing harm. But in Pogge's approach, things are more complicated. People have "a duty not to contribute to the coercive imposition of any institutional order that avoidably fails to realize human rights, unless one also compensates for one's contribution by working toward appropriate institutional reforms or toward shielding the victims of injustice from the harms one helps produce" (Pogge 2002, 166). The inaction the duty requires for its fulfillment depends on what "not to contribute" entails. Pogge aims at offering a far-reaching concept of obligation; in his system, all those who do not live in severe poverty participate in one way or another in upholding the unfair system and, moreover, profit from the system. But what exactly should we avoid doing, and what forms of compensation are appropriate?

To answer these questions, we must first specify *harmful contributions*, that is, identify the contributions that lead to worsening the situation of the very poor.¹³ And then we must also address the complicated questions of the degree of responsibility of each participant in the contribution bears for that harm, and the appropriate compensation for damage caused. Some scientists of technology studies have offered strong arguments against the idea that one could ever attempt such a project in our current, globalized world. Nowadays, the argument goes, social states are so complex that it is impossible to ascribe any responsibility (Bittner 2001). In Germany, it was mainly Ulrich Beck who, by referring to modern technological developments like nuclear power plants, demonstrated that the risks linked with this technology cannot be calculated comprehensively, nor can it be determined who has to be held responsible in a worst-case scenario. Beck suggests that because of the uncertainty of the effects triggered by new technological developments, one should not undertake the project of building a nuclear plant at all (Beck 1988; see also Bonß 1995, 192–195). Does this mean that one also cannot determine who is responsible for human suffering?

For the moment, let us isolate the problem of identifying which policies and

¹³ Christian Barry is currently working on principles for the allocation of duties and stresses especially the criteria of contribution. See Barry forthcoming.

programs sponsored by international institutions increase or decrease the suffering of people worldwide. For example, it is not yet decided, and maybe never will be, whether the free market has increased or decreased poverty during the last decades. Peter Singer comes to the conclusion that one can argue either way. Researchers of the National Bureau of Economic Research in Cambridge, Massachusetts, argued that in Third World countries the per capita Gross Domestic Product grew fastest in those countries open to the market, grew less quickly in countries moderately open, and fell in countries that stuck to a policy of national insulation. In contrast, World Bank researchers found that the effect of openness to global trade on economic development depended on the stratification of the society. Open trade markets benefit the majority but disadvantage the poorest 40 percent (Singer 2002, 88–89).

And, accordingly, it is debatable in how far international organizations like the WTO and IMF should be held responsible for the continuing poverty. Let us consider a hypothetical WTO negotiation to illustrate how complex the chain of responsibility is: we can begin with the stakeholders at the meeting, i.e., the representatives of all the member states, which as a group have the main power to decide. The current rules system formally grants the industrial countries more influence in the process, but they are also advantaged because they lead the negotiations with more and better-educated staff who can manage the round-the-clock negotiation marathons. So perhaps, they can take the bulk of the blame for a bad policy. But also participating in the negotiations are corporations, NGOs, and other experts acting behind the scenes, advising the national teams and advocating their own positions. There are also protesters in front of the meeting room doors influencing the decision-making process by expressing the views of those who are affected by the results. Lastly, we have the citizens of the WTO member states, who, depending on which country they live in, may gain advantages from the negotiations in the sense that their national economy may run more smoothly, gain jobs, and produce cheap, high-quality products. They all to a certain extent are involved in the process of rule setting, and yet how could we begin to measure to what extent their actions affected (positively or negatively) the final outcome?

In discussing harmful contributions, we should also note that there can be *harmful disengagement*. Refraining from participating in an unjust international system of rule (if it were possible), just passively desisting, could be more damaging than remaining in the system and supporting an institutional change. For example, it is in the shadow of formal economic relations that rules of trade are created between private actors, undermining established working standards. Moreover, as Pogge stresses the link between contribution to an unfair system on the one hand, and *compensation* if one cannot avoid participating on the other, one must also know the degree of harm caused to determine the extent of compensation. This also is a very complex matter and any proposals for a rational system of compensation would likely be highly contested. Possible criteria might be the political influence exerted in the field of governance or the gain (as reflected in per-capita income and the standard of living) a collective (corporation) or some inhabitants of a nation might attain.

So Pogge's approach depends on the interpretation of empirical data that can be easily manipulated for political purposes. On the other hand, the fact that a notion is contested, or, as in our case, the fact that responsibility is difficult to ascribe, does not mean that we cannot analyze contributions, power constellations, and their effects on the poor, and discuss these results in public and in the semi-public sphere of academia. Also there is not much choice left if we want to eradicate worldwide poverty; we cannot, as Beck proposes for risky technology, stay away from setting it up. We are forced to act, and this requires further analysis of the causes of poverty and the ascription of responsibility.

What we have seen so far is that the human rights approach, and especially social rights, offer a good reason for assisting the poor: every human being has a legitimized claim to develop his or her social autonomy, and to whatever means are necessary (within reason) for the attainment of this autonomy. This approach is mainly directed at identifying inappropriate worldwide income and asset distribution, and emphasizes positive obligations to help needy people. The other good reason offered here by the second approach is that one should focus on the causes of poverty and the effects international regulations have on the life of people. Human rights can only be realized within a context of fair international rules. At the same time, human rights form a standard by which to judge to what extent rules are fair. This second approach, we have seen, stresses first and foremost negative obligations, which are based on the idea of avoiding harm by refraining from supporting unfair international rules, and argues for more positive steps in the form of compensation for injustice.

Along with the theoretical reasons for why both approaches are at least partly convincing and complement each other, there is an empirical reason that underlines the need to bring both perspectives together when establishing reforms or programs to aid the poor. Aid giving practices and international rules can contradict each other in a way that leads to aid giving *ad absurdum*. To mention just one example: the European Union subsidized beef exports to South Africa in 1996 to an extent that imported beef could be offered at half the price local producers could offer the African consumer. The EU replied to an official complaint of the South African government by saying that the exports were in accordance with the GATT-agricultural act and that there was no reason to discriminate against the South African importer. The economic damage caused through the price dumping was estimated at 100 million Euro (approximately 100 million US Dollars). Ironically, this was almost equal to the amount of Germany's developmental aid to South Africa at the time, which was, in fact, targeted at the promotion of beef production (FIAN 1998, 121–122). Such incompatibilities in international rules and human rights policies makes it necessary for scientists from different disciplines to help formulate a regulatory structure that is compatible with human rights.

5. Agents of Duty

Let us turn to the question how to distribute duties. Negative duties to refrain from contributing to an unfair global system require an analysis of what actions must be avoided. Positive duties, which include providing compensation for inflicted injustice, as required by the causal approach, call for a distribution scheme that ascribes duties for the best coordination of action.

To discuss the distribution of duties it might be helpful to first distinguish at least two different roads to a clearer definition of individual obligations. One is a modest variation on the concept of a restricted scope of obligation and conveys that special relationships between people (be they based on kinship, neighborhood, or common citizenship) imply special responsibilities. The closer the degree of contact between two people, the more extensive are their mutual obligations. This also implies that if there is no contact with suffering people, one is not obligated to mitigate their suffering; one would offer aid only out of altruistic reasons. Certainly, between family members as well as between friends there exist more extensive obligations than between strangers. Thus we bear greater responsibility for our own children and family members than we do for other people; friends take precedence over acquaintances, and one's fellow citizens over those of other countries. On the other hand, we have seen, not having close relationships does not mean that one does not have any moral obligations to provide assistance to others, which are based on universal interest whose justified satisfaction cannot be denied to anyone (so also Gosepath 2001).

One failure of the closeness approach is that it does not consider that close relations are not necessarily the ones best suited to providing assistance and responding to needs. Very often, especially in developing countries, those close to the needy are not able to help, largely because they themselves are in need. Furthermore, a division of labor according to closeness can have a disproportionately negative impact on certain groups, who might be prevented from pursuing other goals (Koller 1998). In the areas of caretaking and childrearing, for example, the lion's share of responsibility is borne by women. Also, in light of increasing interdependency worldwide, it is no longer easy to determine with certainty to whom one has a special obligation, especially if one looks at the already-described intense networks of trade relations, international law and other political agreement. Workers in Brazil or Colombia who produce athletic equipment or flowers can be 'close' to people in Europe and the US through the producer-consumer-relationship.

Given these difficulties, it is not surprising that the second approach to allocating obligations stresses that duties of individuals are to be divided according to the anticipated level of efficiency of their contribution (Goodin 1988).¹⁴ Those individuals that have the required knowledge, financial means, and access to well-organized infrastructure are viewed as the best candidates for realizing

¹⁴ See also Shue 1988. Koller 1998 proposes a model which integrates aspects of the *special relationship* and the *efficiency approach*. Koller, however, proceeds from the problematic assumption of the dichotomy between negative and positive duties to which negative and positive rights respectively correspond.

social rights. *Expediency* is the decisive criterion for the division of duties. But individuals usually have only restricted resources and capabilities, and it would place an overwhelming burden on them to execute these duties on a global scale.

A further and related question, therefore, asks who, aside from the individual, is an agent of duties. Traditionally *states* have been seen as the primary agents for the protection of human rights. They have the status of full-fledged subjects in international law, which means they are endowed with contractual capacities, the competence to conduct diplomatic relations, the right to take crimes and torts to an international court, and the burden of being held accountable for them. The obligations described in the International Covenant for Economic, Social and Cultural Rights, which were further specified in the *General Comments of the Committee on Economic, Social and Cultural Rights no.3*¹⁵ and in the *Limburg Principles on the Implementation of the ICESCR* distinguish three different types of state obligations, namely to respect, to protect, and to fulfill human rights.¹⁶ The obligation to respect requires states not to intervene in the private sphere in any way that hinders the enjoyment of rights. This precludes, for example, that the state engage in forced eviction. The obligation to protect demands from states that they prevent violations by third parties, for example corporations that do not respect basic working standards. And finally, states should create appropriate legislation, and implement budgetary and judicial measures that contribute toward a full realization of rights. Any non-compliance is seen as a violation of these rights.

In recent decades, however, globalization has caused the nation-state to lose some of its important decision-making and rights-protection powers (Perraton/Goldblatt/Held/McGrew 1998, 157; Zürn 1998). State protection of citizens against infringement by other states, terrorists or criminal organizations, as well as against environmental disasters and cross-border diseases, has been undermined. Also, welfare standards are threatened because global financial markets have narrowed the room for fiscal and political maneuvering. The increasing relevance of private actors, NGOs, TNCs, and international organizations on all levels of governmental action have undermined the legitimacy of democratic decisions as more and more regulations do not satisfy the normative criterion of self-determination that underlies all democracies. One further area of change is that those intergovernmental regulations that were formerly handled by a state's department of foreign affairs, are now in other hands. Increasingly, agreements are based on public-private partnerships, which sometimes have the shape of

¹⁵ The main task of the Committee for ICSECR that came into force 1987 is the controlling of the state's report. It also formulates so-called General Comments that specify single aspects related to the protection of ESC rights. The General Comments No. 3 can be read at UN Doc.E/1991/23, Annex III, and it is also reprinted in Eide 1995, 442ff.

¹⁶ The Limburg Principles have been issued as an official UN document, adopted 8 Jan. 1987, reprinted in Human Rights Quarterly 1987. Meanwhile the discussion has continued and found its expression in the *Maastricht Guidelines on Violation of Economic, Social and Cultural Rights*. These guidelines are the result of a workshop in early 1997, on the tenth anniversary of the Limburg Principles intended to strengthen the monitoring of the ICESCR. See the informative article by Dankwa/Flinternan/Leckie 1998.

trisectoral networks consisting of representatives of states, NGOs and business actors.¹⁷

A good example of this de-governmentalization and the new coalitions in the rule-setting processes is the work of the World Commission on Dams (WCD).¹⁸ It was founded in 1998 and consists of all the mentioned stakeholders (states, TNCs, and NGOs) as well as representatives of the affected regions. The commission aims to offer independent reviews of all established and future large dam projects. Furthermore, it has set out to formulate criteria and guidelines for the planning, design, construction, and operation of dams. The report the members submitted in November 2001, however, proposed only very general recommendations, and no clear control instances have been established or even named. This was a disappointing result for many participating NGOs, showing the weakness of their political standing in comparison to transnational corporations.

Given the weakness of the nation-state, there are at least two reasons that TNCs, international trade organizations, and NGOs can be held responsible for worldwide poverty. First, to varying degrees, they contribute to the continuation of poverty. Secondly, because they are global actors affecting the growth of poverty, they, unlike private citizens, are in a more influential position to prevent significant harmful contributions and at the same time can realize rights to assistance.

But how can we go about holding collectives responsible? Can a transnational corporation be part of the moral community? Can they have equal standing with biological human beings? In relation to the international role of corporations and international organizations, at least two answers have been given. All collectives with an internal decision structure are more than just the sum of their members and can be distinguished from a group of people that act but have gathered by accident. This “grammar of corporate decision-making” shapes the actions of the members of the collective (French 1991, 297). They cannot freely decide what to do, but have to submit to the corporation’s or organization’s purposes. In other words, they have to submit to the collective’s intention, but because of the internal decision structure, one can say the *corporation or organization* has reasons to act in a certain way and not in another, and not only the individual persons who work there.

Another position states that because each single member of the collective—be it a biological person in a corporation or a state in an international organization—is obliged to respect human rights anyway. To comply with them is not a matter of ‘public relations’, but binding contract, and the collective itself also needs to adjust its intentions according to human rights standards (Brodnig 2001). It is not necessary to decide here which of these justifications (to hold corporations as opposed to organizations responsible) is more convincing. Rather, it can be argued that there are at least these two strong rationales supporting the assumptions that international actors are to be held responsible. So we have established that they might be morally responsible, but the unclear legal status

¹⁷ The *lex mercatoria* is a further example of a juridical regulation between private actors that takes place without state intervention. For this see Teubner 1997.

¹⁸ For more detailed work on this field see Brühl 2002 and Khagram 2000.

of nonstate actors raises questions about whether they *de facto* are obligated to fulfill human rights at all.

None of the more than 5,000 NGOs, nor the 500 different international organizations, nor the countless TNCs are fully-fledged legal subjects of law.¹⁹ They are allowed to draw up contracts with other nonstate parties or with single states, according to their aims and tasks. But they cannot enforce these agreements under Chapter VII of the UN Charter, which is a right reserved to the Security Council, nor are they subject to basic human rights standards. Among the international organizations other than UN institutions there has been a discussion about the extent to which their developmental strategies should be brought into line with human rights policies (Brodnig 2001). Within the World Bank, for example, there is a debate regarding whether the Bank's Articles of Agreement should be interpreted strictly, so that its planned activities are apolitical, economic, and financial activities, or whether the Bank should acknowledge that human rights are important to the economic considerations that ensure development and that the realization of human rights is therefore already part of the Bank's agenda. Some go so far as to declare this instrumental view of human rights policy as the official legal position of the Bank.²⁰

The only power left to control the activities of these global actors is a vigilant public sphere. Since transnational corporations have been the object of worldwide protests, as after the Multilateral Agreement on Investment (MAI) at the beginning of the 1990s or against the WTO agreements in Seattle, corporations agreed to voluntary *codes of conduct*, some even with external controlling instances. The Social Accountability Standard 8000 (SA 8000) of Social Accountability International (SAI), the Rugmark Label and the Flower Label Program (FLP), are all codes that are designed to protect the rights of workers or co-operation with unions (see also Jenkins/Pearson/Seyfang 2002). Currently, the most effective method available for pressuring international institutions seems to be through a well-informed public that monitors human rights violations and effects on poverty development worldwide.

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¹⁹ The only exception is the UNO, which has the status of an 'international person'. This was introduced into international law after the International Court of Justice decided on the case 'Reparation for Injuries', in which the responsibility for the killing of the UN diplomat Graf Bernadotte in Palestine in 1948 was at stake. IGH ICJ-Reports 1949, see also Paech/Stuby 2001, 335.

²⁰ This is the position of the former Chief Counsel Ibrahim Shihata, in: Shihata 1995.

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