

Partiality as Justice: a Critique of Thomas Pogge's *World Poverty and Human Rights*

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Introduction

The affluent peoples of the developed world live in a state of extreme hypocrisy. Our moral doctrine asserts the equality of all individuals; it is founded on the belief that all persons are born with certain rights pursuant to the dignity of every human life. Despite the political rhetoric and multilateral resolutions that incessantly reaffirm such claims, basic human rights continue to go avoidably denied for over half of mankind. To address this failing, Thomas Pogge accuses members of the developed world of violating their negative moral obligation not to harm others by establishing global institutions that systematically afflict the global poor. While I do not disagree with this claim, I find the priority and emphasis Pogge gives to negative obligations in formulating our moral obligation to alleviate poverty to be troubling. In Pogge's work, positive obligations based on justice can only arise when it is demonstrated that we are privy to institutions that inflict undue harm on other persons. Framing our moral theory regarding poverty in this way proves needlessly troublesome and relies on an ethical framework that seeks only the bare minimum from humankind. It is my contention that our moral obligation to address the needs of those in poverty arises from an equally powerful, positive obligation towards justice that exists regardless of whether we are responsible for the inequities that leave basic human rights unfulfilled. This demand arises not from any autonomy-based, do no harm mentality, but rather from a shared belief in the dignity of human life.

A Proper Foundation

The foundation for my claim demands that we leave behind the individualistic understanding of man that underlies modern thought. Beginning with Hobbes, modern philosophers rejected the traditional assumption that man is by nature a political or social

animal.¹ State of nature theorists, for instance, posit that individuals come together into community out of concern for mutual self-interest. Person A agrees to limit her freedom to harm Person B in order that Person B may be restricted in a similar fashion. The individual is thus prior to society and shares no higher bond with the rest of humanity than a rational compact based upon material interests. Those freedoms that a person may maintain without causing harm to others constitute the rights a person has in a society formulated in this way. Philosophy became devoted to “the modern "liberal" notion of autonomy, which sees autonomy as being a rational human being's right to seek the goals in life he or she has chosen for himself or herself, and by any means short of acts that harm other, similar, rational human beings.”² This led to the development of a new interpretation of justice, one which gives a high priority to the pursuit of self interest. In this genus of contemporary thought, “The duty of society... is to protect its individual citizens from those who would unjustly impede their right to autonomous, harmless self-fulfillment.”³

While Pogge’s work attempts to rise above this premise, he does so only trivially while formulating the crux of his argument as an appeal to such libertarian claims. Early in his work he commends the progress post-Enlightenment society has made towards moral norms that increasingly protect the vulnerable and the powerless.⁴ However, Pogge demonstrates that this success is astonishingly limited in that severe poverty for half of humanity continues despite “the enlightened moral norms and values of our heavily dominant Western civilization.”⁵ Instead of concluding that this failure necessitates a change in our approach to morality, Pogge confines himself to exposing the ways in which we structure our moral convictions in order to “undermine

¹ Strauss, 169.

² Novak, 331.

³ Novak, 331.

⁴ Pogge, 2.

⁵ Pogge, 3.

their practical significance.”⁶ He seeks only to work within what he sees as the prevailing moral attitudes to promote moral convergence.⁷ While admirable, this effort inevitably becomes hampered by the need to satisfy the demands of libertarian moral theory.

Regardless of his intentions, Pogge lowers the expectations of human conduct by pandering to this autonomy-centric approach to morality. Pogge asserts that his “arguments do not challenge the morality prevalent in the West.”⁸ He describes his critique as “Lockean in spirit”⁹ when he employs the notion that “human beings may create and enforce economic institutions that permit disproportionate unilateral appropriation—provided everyone rationally consents to (i.e. gains from) their introduction.”¹⁰ For this argument, he begins with the claim that “in a pre-institutional state of nature, persons have equal moral claims on all resources.”¹¹ By aiming only to work within the moral doctrine of modernity, as Pogge readily admits to doing, he is forced to restrict his argument in such a way that it satisfies autonomy-centric theories. As a result, his moral premise becomes centered on the “do-no-harm” principle. Ultimately, the strongest argument Pogge can make is that peoples of the affluent world have “a duty to protect victims of any injustice to which we contribute.”¹² This is a limited and decidedly narrow approach to eradicating global poverty.

To escape the limitations of modernity we must recognize in our consideration of humanity that which makes the concern for justice so eminent. This is where a conception of man as a social animal becomes critically important. For Aristotle, “a human being cannot live without the city because the city is required for the living of a full human life. Humans can

⁶ Pogge, 95.

⁷ Pogge, 96.

⁸ Pogge, 32.

⁹ Pogge, 30.

¹⁰ Pogge, 143.

¹¹ Pogge, 143.

¹² Pogge, 217.

perform their highest actions (e.g. virtuous actions, philosophy) only within the city.”¹³ As individuals, “Humans are not born with the capacity to live full human lives.”¹⁴ Only within the context of a community can the characteristics of man that make him human be realized. The lone person on an isolated island has no care for thoughts of love, justice, virtue, etc. If he does, it can only be the result of having lived in society previously.¹⁵ The community is prior to the individual because the proper notion of man cannot exist in isolation. The question of justice arises not within our study of the individual, but within the study of human society.

This, however, need not imply that the rights of the individual be in any way subverted. Recognizing that the city is prior to the individual only asserts that “the city can exist without any particular individual, but every individual human requires a city in order to exist (as a human).”¹⁶ This acknowledgment does not necessarily subordinate man completely to the whims of the city. “That one can live his life fully only *in* the city does not mean that one must live a life wholly *for* the city.”¹⁷ A person may maintain her own identity and independence while still recognizing her dependence on her community. In fact, the non-trivial independence of the individual citizen is implied if not stated outright in the works of Aristotle.¹⁸ This dichotomy between man as an individual and man as a member of society simply helps establish the obligations the individual has to society and, in turn, the obligations society has to the individual. This suggests that positive obligations between the individual and society go *both* ways. In fact, the duty to maintain a certain respect for the individual is among the most important requirements of the best society.

¹³ Mayhew, 338.

¹⁴ Mayhew, 337.

¹⁵ Mayhew, 337.

¹⁶ Mayhew, 336.

¹⁷ Mayhew, 338.

¹⁸ Mayhew, 333.

This is so because society exists to foster discourse. That humanity is by nature social stems from our capacity for abstract thought. Man's awareness of his own mortality and ability to distinguish between good and bad presents him with the question of how to live the best life. Yet, clearly no universal answer to this question is readily apparent. As a result it is discourse, discussing and assessing the countless views regarding what it means to live well, on which our search for the good life depends. This discourse "is both reasonable, a rational response to the evident need to answer the question of how one should live, and natural, a manifestation of the manifestly natural eros for understanding."¹⁹ Such discourse can take place only in society and can flourish to its fullest only when participation in this discussion is maximized. As Pogge rightly states, "A commitment to human rights involves one in recognizing that human persons with a past or potential future ability to engage in moral conversation and practice have certain basic needs, and that these needs give rise to weighty moral demands."²⁰ Human rights thus find their basis in the merits of social participation. However, by accepting the benefit of human rights every individual inherits the positive duty of ensuring those same rights for all members of humanity.

Justice as Prior to the Individual

If the individual is bound to society, and society ought to be just, then the individual is born with an inherent obligation to both be just and advance justice. If we accept that "what holds the city together is justice,"²¹ then our dependence on community makes establishing just institutions one of the foremost concerns for humankind. Justice is necessary to perfect both society and the individual. Duty, then, is as much a birthright as rights. The obligations between the individual and society are reciprocal. This allows us to recognize that, while social

¹⁹ Zuckert, 153.

²⁰ Pogge, 64.

²¹ Mayhew, 334.

institutions protect the rights of individuals, individuals are ultimately responsible for respecting those rights as well as ensuring that all persons are afforded their rights. Each individual therefore carries not only an obligation to be just, but an obligation to promote justice. We are thus presented with two distinct components of what justice entails for each individual.

If there are two components to being just, then there must be two ways in which a person may act unjustly. The first and most obvious of these is when an individual violates the principles of justice by directly committing injustice. We may refer to these as “agent-relative” violations.²² However, committing injustice is not the only manner in which a person may act unjustly. These direct transgressions can be contrasted with “agent-neutral justice-based reasons, which are those anyone might have to help promote a more just situation.”²³ Within the framework of human rights, this permits us to differentiate between directly violating another individual’s rights and failing to contribute to the fulfillment of those rights for all of humanity. This does not imply that these duties are mutually exclusive, but it does permit us to derive justice-based obligations from two distinct expectations. The first expects us not to commit or be partner to the commission of injustice. The second expects us to promote justice regardless of whether we are in any way responsible for the existence of injustice. At this point, however, we have only delineated between the negative obligation each individual has not to contribute to injustice and the positive obligation that commands each person to advance justice—the respective weight of each obligation has gone unaddressed.

Though it is tempting to consider agent-relative obligations to be the more compelling moral requirement, this is not necessarily the case. Simply making this distinction says nothing

²² Temkin, 369.

²³ Temkin, 369.

with regards to “the relative weight of agent-relative or agent-neutral justice-based reasons.”²⁴ In fact, the strength of an individual’s duty to justice varies within and between both concepts. For instance, my responsibility not to murder another person is weightier than my obligation not to steal food from my housemates. Similarly, while I might have strong, agent-neutral reasons to end global sex trafficking, I may have a relatively weaker obligation to ensure that my fraternity’s recruitment process fairly assesses the merits of each potential new member. These examples demonstrate how the weight of our agent-relative and agent-neutral obligations can vary within each of these concepts.

The strength of agent-neutral and agent-relative duties can be stronger or weaker relative to one another as well. “Though permitting or tolerating injustice may not be the *same* moral shortcoming as *acting* unjustly, it is important to bear in mind that agent-neutral justice-based reasons are still reasons of *justice*.”²⁵ As a result, “we can be responsible for improving or removing injustices that we are not responsible for creating.”²⁶ While it may be “widely believed that negative duties have greater weight than their positive counterparts,”²⁷ this belief is misguided. Accepting rather than contesting this tenet of “ordinary moral thinking”²⁸ encompasses the most significant flaw in Pogge’s work. To account for this failing, our approach to justice should hold all individuals responsible for fulfilling both their agent-neutral and agent-relative obligations. Acting for either reason is acting for the cause of justice, which means neither is inherently superior to the other. Rather, the duty to act and the duty not to harm can, depending on context, be equally compelling.

²⁴ Temkin, 369.

²⁵ Temkin, 369.

²⁶ Temkin, 370.

²⁷ Pogge, 136.

²⁸ Pogge, 138.

Levying the Burden

If we are to formulate our moral obligation to alleviate poverty in terms of justice, we must establish what justice encompasses. Since we are addressing the issue of poverty, we are necessarily concerned with distributive justice. This is a subset within the larger framework of justice that pertains to “the allocation of benefits and burdens according to relevant and morally defensible criteria.”²⁹ Thus, it is necessary that we specify the benefits and burdens with which we are concerned. It is crucial that we do not confine ourselves to the association of poverty with material wealth. Suppose that tomorrow we were to redistribute wealth in such a way that every person in the world was pulled above the World Bank’s income-based, severe poverty threshold: earning one dollar a day or less.³⁰ In real terms, the lives of those in poverty would be only marginally better if improved at all. For instance, living on two dollars as opposed to one dollar a day does little to impact inequalities in social and civic participation, access to health care, the availability of clean water, and the plethora of other inequities that afflict the poor.

To broaden the definition of poverty, then, we consider it in terms of human rights. As Pogge rightly contends, “A complex and internationally acceptable core criterion of basic justice might best be formulated...in the language of human rights.”³¹ There are certain rights to which all persons have claim and the poor are equally entitled to the benefit of these rights as any member of society. As previously demonstrated, these rights are derived from the value of social participation. Therefore, the rights with which we are concerned constitute the bare minimum with which an individual must be afforded so as to live and partake in society. Human rights thus constitute the benefit with which we are concerned and the beneficiaries of this advantage are

²⁹ Pope, 251.

³⁰ Elliot, 27.

³¹ Pogge, 50.

every member of the human collectivity. With that, we may direct our attention to establishing where the burden for providing these rights falls.

The obligation to establish and protect human rights rests on the shoulders of every human being as such. Pogge concedes that, while government may often serve as “the primary guardian of human rights...the people are their ultimate guardians on whom their realization crucially depends.”³² As a result, it is the attitude of the people themselves that contributes most deeply to guaranteeing human rights.³³ This attitude should reflect two components, “First, all human beings have exactly the same human rights. Second, the moral significance of human rights and human-rights violations does not vary with whose human rights are at stake.”³⁴ It is no stretch, then, to suppose that if every person is entitled to the same rights and that the significance of actualizing these rights does not depend on whose rights are in jeopardy, every person shares an obligation to guarantee these rights for all other persons. In fact, allowing the rights of others to go avoidably unfulfilled represents absolute hypocrisy. If we accept, then, that “What is needed to make the object of a right truly secure is a vigilant citizenry that is deeply committed to this right and disposed to work for its political realization,”³⁵ it is every citizen of the international collectivity that shares the obligation to ensure the fulfillment of human rights for humanity in its entirety. Still, the use of the word citizen lends itself to certain challenges. Namely, can individuals be considered citizens of some larger human community?

The treatment of human rights in international law supports this claim. The International Court of Justice (ICJ) acknowledges that individuals can be considered members of a broader, international collectivity. Within international law the duty to protect human rights is considered

³² Pogge, 69.

³³ Pogge, 69.

³⁴ Pogge, 63.

³⁵ Pogge, 68.

“an erga omnes obligation—an obligation of such importance to the international community that all states have a care towards its fulfillment.”³⁶ Duties of this sort are substantially more expansive than other types of obligations a state may subsume. The ICJ draws a clear distinction “between common, reciprocal obligations owed between states, and those owed by states to the international community as a whole.”³⁷ Each individual ought to be guaranteed certain rights and every state is obligated to ensure that these rights are realized for all of humanity. That rights and obligation converge in this instance reflects that, regarding human rights, the ICJ considers individuals subjects of international law.³⁸

As such, the obligation to secure basic human rights applies across territorial boundaries. Any time an individual’s rights are unfulfilled, threatened or violated, the victim has a claim against the international community in its entirety.³⁹ This directly contradicts Pogge’s assumption that humanity considers the moral claims persons have on the global order to be “far less substantial” than the claims they have on their national order.⁴⁰ Pogge sees his argument as necessary to counteract this attitude; however this attitude is perhaps not so entrenched as Pogge believes. Within the context of human rights, the duty to provide for such basic provisions is considered to be levied upon all states for all individuals. In contemporary international relations, “How a country treats its citizens is no longer a matter for its own exclusive determination. Other countries can and do legitimately claim a concern.”⁴¹ The need to guarantee basic human rights is universal and global—irrespective of the role member states play in the violation of these rights.

³⁶ Toope, 193.

³⁷ Toope, 193.

³⁸ Toope, 193.

³⁹ Toope, 193.

⁴⁰ Pogge, 100.

⁴¹ Kausikan, 241.

This argument can readily be applied at an individual level as well. As previously demonstrated, human rights exist to perfect society and each individual has a care towards that perfection. Certainly, then, the provision for human rights can be considered of such importance to humanity that each individual has a care towards their fulfillment. Providing for human rights is rightfully considered an erga omnes obligation—making it unconditional and universal. Pogge, however, makes this obligation conditional by asserting that, within the bounds of justice, any positive obligation to promote human rights can only be derived from a prior violation of our negative obligation not to infringe on the rights of others.

Lightening the Load: Denial, Deceit and Distortion

Where Pogge and the argument at present differ is where the burden for providing for human rights falls. For Pogge, “Responsibility for a person’s human rights falls on all and only those who participate with this person in the same social system.”⁴² As such, “Human rights are moral claims on the organization of one’s society.”⁴³ Within this framework, “human rights give you claims not against all other human beings, but specifically against those who impose a coercive institutional order upon you.”⁴⁴ Of course, anyone cooperating with or benefiting from such a repressive social order is also implicitly responsible for the human rights deprivations it causes.⁴⁵ Pogge does not deny that failing to assist persons in need may be morally wrong; but he does “leave open whether such moral wrongs should be considered human rights violations.”⁴⁶ Pogge does not place the burden of realizing human rights for all individuals upon humankind as a whole. Rather, he challenges only those responsible for or involved with a system that allows basic rights to go unfulfilled. Pogge suggests that we are only compelled to correct injustice

⁴² Pogge, 72.

⁴³ Pogge, 70.

⁴⁴ Pogge, 73.

⁴⁵ Pogge, 73.

⁴⁶ Pogge, 71.

when we are responsible for establishing or benefit from institutions that unduly harm others. Hereinafter we may refer to this as the culpability or responsibility tenet of Pogge's argument—the condition that all justice-based positive obligations can only be derived from a prior violation of our negative duty not to harm others.

Much of this position rests on the assumption that human rights violations can only occur on an administrative level. Pogge writes, “human-rights violations, to count as such, must be in some sense official.”⁴⁷ Certainly, one could take issue with this claim. Is it not reasonable to believe that the criminalization of murder is founded on the fundamental belief in each person's right to life? When someone violates this law, are they not depriving another of this basic right? But even accepting Pogge's contention, our assessment of agent-neutral justice-based obligations leaves open the premise that justice entails human rights-based duties to assist people with whom we are not directly connected. Suppose two societies exist independent of one another: Society-A and Society-B. Suppose also that Society-A is just but Society-B continually violates the basic rights of a substantial portion of its population. According to the agent-neutral expectations of justice, Society-A still has justice-based reasons to assist persons in Society-B. Under Pogge's approach, however, while Society-A may have some altruistic motivation to act, Pogge denies that this compulsion can be based on human rights or justice. In his work, positive duties can only arise from these expressions when we have violated our negative obligation not to harm others.⁴⁸ By making our duty to fulfill human rights conditional, Pogge gives credence to minimalist claims that have proven so detrimental to the effort to eradicate poverty.

⁴⁷ Pogge, 63.

⁴⁸ Pogge, 72.

This break with the universal accountability for human rights represents a dangerous moral sentiment. By settling for “an appealing middle ground,”⁴⁹ Pogge leaves the door open for the minimalist, libertarian approach to human rights. “Libertarians insist on a minimalist constraint on what duties human rights can impose: human rights require that we not harm others in certain ways—not that we protect, rescue, feed, clothe, and house them.”⁵⁰ Pogge contends that he goes “well beyond minimalist libertarianism without denying its central tenet: that human rights entail only negative duties.”⁵¹ However, by failing to refute this central tenet he affords those who embrace such a moral framework the opportunity to exempt themselves from their fundamental obligation to fulfill the human rights of their fellow human beings.

If there is to be any significance to the culpability element Pogge introduces, there must exist a situation in which grave human rights abuses can occur without global institutions being responsible for them. If no such instance could arise, then Pogge simply holds global institutions implicitly accountable for any and all human rights abuses. As will be shown more thoroughly in the next section, this would make the responsibility tenet irrelevant and align his argument with the maximalist approach to human rights—something he is clearly trying to avoid. As a result, when human rights violations are not connected to global institutions, Pogge provides no meaningful compulsion to act. Pogge leaves the minimalist dismissal of positive duties that do not arise from negative duties entirely unchallenged and he further provides libertarians room to twist the moral hierarchy he provides—in which our positive obligation to “unrelated foreigners” is placed at the bottom of the order⁵²—to deny that there is any weighty, positive duty to act. This makes his institutional approach to human rights troubling. For instance, “What about cases

⁴⁹ Pogge, 72.

⁵⁰ Pogge, 72-73.

⁵¹ Pogge, 72.

⁵² Pogge, 139.

of poverty resulting from natural factors? It seems that either Pogge has to admit that we have no stringent negative duty to compensate for poverty resulting from natural causes like natural disasters, or he has to give up the idea that our duty to eradicate poverty is purely negative.”⁵³

While Pogge would not deny that we have an obligation to aid those who have suffered as a result of natural occurrences, the motivation for such assistance cannot, within his argument, be based on justice or human rights concerns.

Furthermore, the general treatment that positive obligations receive in Pogge’s work undermines the effort to strengthen the growing acceptance of positive duties. His dismissive, and at some points nearly derogatory, approach to positive duty outside of the realm of when one is responsible for harm—distancing such positive duties from the concept of justice by referring to them as acts of “beneficence”⁵⁴ and “arrogant charity”⁵⁵—Pogge lends support to the attitude that positive obligations not derived from our negative obligation to do no harm are trivial, suspect and difficult to delineate. That he does not *deny* the existence of positive obligation is not enough. By considering our positive obligations to impoverished peoples to be substantive only when we are implicated in their deprivation, Pogge’s work continues to support a moral framework in which “[i]nequality continues to mount decade after decade.”⁵⁶

That Pogge works within this existing orthodoxy is readily admitted on his part. Pogge writes, “I am trying to upset received moral convictions not by confronting them with a new set of substantive moral intuitions, but by trying to show how we sometimes structure and organize our moral convictions in a way that tends to obstruct and undermine their practical

⁵³ Mieth, 22.

⁵⁴ Pogge, 204.

⁵⁵ Pogge, 213.

⁵⁶ Pogge, 3.

significance.”⁵⁷ He seeks to “open the eyes” of those who have ignored “the wrongs and injustices suffered by those excluded from the more powerful social arrangements.”⁵⁸ But, given that “[u]nconsciously, at least, people tend to interpret their moral values in their own favor and tend to select, represent, and connect the facts so as to facilitate the desired concrete judgments;”⁵⁹ we can expect the peoples of the affluent world to continue to develop compelling, if fabricated, ways to deny their responsibility for gross human rights abuses abroad. Pogge simply challenges wealthy libertarians to develop new ways to deny, hide and distort the role they play in the suffering of so many. The only way to correct this shortcoming within his argument would be to expand the culpability tenet in such a way as to bring Pogge into agreement with maximalist theories and so make the responsibility element a moral loophole—a purely superficial difference between two theories.

Libertarians, Maximalists and Pogge’s Moral Loophole

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According to Pogge, “a loophole in morality supports the conclusion that this morality is sensitive to a merely cosmetic difference.”⁶⁰ By his own standard, the culpability element contained in Pogge’s argument can be shown to be a moral loophole. To begin, we must demonstrate how Pogge’s argument provides incentives contrary to the intention of the moral framework. Admittedly, Pogge puts forth several powerful and convincing examples of how global institutions contribute to injustice. However, even if every person who reads his book accepts that these situations are rightly considered examples of injustice, there remains a strong incentive to deny the role international factors play in the multitude of other contributors to global poverty. For instance, Pogge recognizes that one of the substantial contributors to global

⁵⁷ Pogge, 95.

⁵⁸ Pogge, 95

⁵⁹ Pogge, 5.

⁶⁰ Pogge, 91.

health inequities is that “health systems of many poor countries are so undeveloped that they fail to afford poor people effective access even to essential medicines that are available cheaply or even (by donation) cost-free.”⁶¹ Are global institutions at fault for poorly run, domestic health structures? As this example demonstrates, it is becoming increasingly challenging to gauge the role and effective weight of domestic features as they pertain to development and poverty reduction.⁶² This trend may prove troubling for the long-term efficacy of Pogge’s argument.

The growing inability to separate the role domestic and international factors play in perpetuating poverty can only make ever more difficult the task of demonstrating that the actions of affluent persons are unduly causing harm to impoverished individuals. As such, it remains “hard to prove that the fulfillment of our negative duties will suffice to change global misery sustainably.”⁶³ As colonialism withers and cosmopolitanism is embraced, the persistence of poverty will increasingly be considered the result of “the incompetence, corruption, and tyranny entrenched in the governments, social institutions, and cultures of many poor countries.”⁶⁴

Admittedly, Pogge rejects these nationalistic claims. However, rather than making such arguments irrelevant to our obligation to assist the poor, Pogge formulates his argument around the culpability element and so his work continues to offer refuge for explanatory nationalist justifications for the persistence of severe poverty.

The surest way to prevent such manipulations would be to posit that, so long as oppressive regimes and grave human rights abuses are allowed to persist, the international community implicitly shares some responsibility for such occurrences. Put simply: no set of global institutions can be considered just so long as such deprivation and suffering is allowed to

⁶¹ Pogge, 236.

⁶² Burkhalter, 40.

⁶³ Fleisch, 457.

⁶⁴ Pogge, 38.

continue. However, if there is no situation in which the world at large is not at least partially to blame for such abuses, Pogge has merely reaffirmed the maximalist approach to human rights: requiring “efforts to fulfill everyone’s human rights anywhere on earth.”⁶⁵ Cast in this way, the difference between the argument put forth by Pogge and the maximalist approach to human rights differ only cosmetically. Still, even accepting this, it could be argued that Pogge’s argument is different from the maximalist approach because it is based solely on negative obligations. However, Pogge’s conception of negative duty is far different from the libertarian view he seeks to satisfy.

It is misleading to accept that Pogge’s conception of what negative obligations require is completely in line with libertarian thought. That global institutions can be held equally accountable for harms by omission as well as by action distances Pogge from minimalist theorists. ““There is considerable international economic interaction regulated by an elaborate system of treaties and conventions about trade, investments, loans, patents, copyrights, trademarks, double taxation, labor standards, environmental protection, use of seabed resources and much else...Had these rules been shaped to be more favorable to the poor societies, much of the great poverty in them today would have been avoided (Pogge 2005b, pp. 263f.).’ By not supporting the implementation of this alternative order, and therefore not averting the continued existence of poverty, we are harming the poor. The failure to implement a more adequate order goes back to harming by omission and not only to harming by action.”⁶⁶ In this way, “Pogge’s demanding concept of justice is an adequate one, but his description of his model as consisting solely of negative duties in a libertarian sense is misleading.”⁶⁷

⁶⁵ Pogge, 70.

⁶⁶ Mieth, 22.

⁶⁷ Mieth, 23.

In order to justify the types of reforms Pogge advocates, one must accept the argument that harming by failing to establish a better institutional framework is the same as directly inflicting harm on others. This dramatically distances Pogge's argument from libertarian theories. The duty to protect people from poverty "is not adequately described as a negative duty to refrain from direct and active deprivation because it is also positive, requiring protecting, providing or redistributing actions."⁶⁸ In this way, Pogge ignores the reason libertarian theories garner so much popularity—the ease with which they are fulfilled. "Usually the compliance with negative duties seems to be available at no costs because they require only forbearance, not positive action...And this is not true for Pogge's negative duty."⁶⁹ Though Pogge seeks to appeal to libertarians, holding individuals accountable for harms by omission dramatically expands what can be considered doing harm to others. As a result, Pogge implicitly holds the greater international community responsible nearly any time human rights violations occur because a more just set of institutions would arguably not have allowed such injustice to transpire.

While Pogge would certainly not accept this expansion of blame, without it his argument is left vulnerable to complex efforts to deny that international factors contribute to gross human rights abuses. Furthermore, as previously demonstrated, agent-neutral duties can provide substantial and compelling justice-based reasons to act. In light of this, establishing a person's responsibility for human rights violations becomes irrelevant. This further makes the difference between Pogge's contention and the maximalist approach simply cosmetic because his culpability element is unnecessary. There are justice-based reasons to fulfill human rights regardless of the manner in which we have contributed to their lack of fulfillment. By hinging

⁶⁸ Mieth, 23.

⁶⁹ Mieth, 25.

any weighty, moral obligation to secure human rights for others on one's complicity in the denial of those rights, Pogge exposes his theory to a needless loophole.

This becomes even more alarming if we acknowledge that our attitude towards global and domestic poverty influence one another. To support his own argument, Pogge posits that "No national society displays anything like the current degree of global income inequality." As a result, moral universalism demands that we justify this discrepancy. Unfortunately, Pogge is wrong when he asserts that "we do not accept as just a national economic order that avoidably produces life-threatening poverty for a sizable minority." In the United States, for example, inequities in education, health care and housing have led prominent authorities to declare, as recently as 2008, that on many fronts the United States is failing to assure basic human security for a sizable portion of its population.⁷⁰ If we are to apply Pogge's standard in the reverse, as some may be tempted to do, the United State's provision for basic education and various social safety nets supports the conclusion that the social institutions in place are not unjust and thus any impoverished persons are responsible for their own plight. This type of "blame the victim" mentality is dangerous and yet Pogge's work lends itself to this manipulation. Any duty to assist these persons is not rooted in the powerful, negative obligation not to harm. Rather it would have to be derived solely from the weak, positive duties which Pogge leaves largely unaddressed. Pogge rightly proposes that dismantling the rationalizations employed by affluent persons to justify the extreme deprivation suffered by so many is of critical importance. However, he suggests that this may be a "struggle without end" because "there is always one more defense that can be devised."⁷¹ What he fails to see is that what is truly needed to put an end to this struggle is an approach to justice that leaves no room for such clever excuses and manipulations.

⁷⁰ Amann, 176.

⁷¹ Pogge, 32.

Justice as Partiality

A substantial disparity arises between Pogge's contention and mine due to his reflections on just partialities. Pogge's argument that affluent persons are unjustly harming the poor by developing unfair global institutions is grounded in the association of justice with fairness. While countries can reasonably be expected to favor their own interests over those of other nations, such partiality is not justified when it unfairly slants the world's playing field in such a way that it avoidably deprives others of their basic human rights.⁷² Certainly, "a sense of fair play and impartial justice is an important if not dominant feature of morality."⁷³ In contemporary discourse, discrimination is almost equated with injustice, making partiality in any form highly suspect. Pogge allows for partiality only so long as the institutional framework in which such partiality takes place is fair. In his work, he puts "aside the issue of weight" that arises from gauging to whom partiality is owed. Rather, he addresses a particular context in which the priority assigned to different relations becomes irrelevant.⁷⁴

This context, of course, is any situation in which others are unduly harmed as a result of our conduct. Our negative duty not to harm prevents us from engaging in such activities, whereas our positive obligations constitute the remainder: "any duty to benefit persons or to shield them from other harms."⁷⁵ Within these positive duties, "it is morally more important to attend to the needs of our compatriots than to give like assistance to foreigners."⁷⁶ It is only "when the undue harms foreigners suffer are our own doing" that our duty to foreigners and our duty to our

⁷² Pogge, 136.

⁷³ Pope, 244.

⁷⁴ Pogge, 136.

⁷⁵ Pogge, 136

⁷⁶ Pogge, 139.

compatriots are “on par.”⁷⁷ However, it is a radically different approach to partiality that is needed to make meaningful progress towards eradicating world poverty.

While my argument does not reject the notion that impartiality “is an important component of justice,” it relies upon the contention that “impartiality is by no means the whole of morality or even the primary measure of virtue.”⁷⁸ While Pogge does not deny this claim, all forms of partiality are morally less compelling than our impartial duty not to harm. Even if this is the case, Pogge’s attempt to contest the role that lofty nationalism plays in justifying the plight of the global poor is weakened by its reliance on proving that our actions are unduly harming others. Once we have satisfied ourselves that we are not responsible for the suffering of others, we can morally justify prioritizing national interests over other, competing concerns. Rather than relying upon the cosmetic difference of culpability with regards to human rights, however, I suggest a different approach to understanding just partiality.

It is within the context of human rights, not simply the context of when we violate human rights, in which the priority assigned to different relations becomes irrelevant. In this framework, it is argued that any moral doctrine supporting the actualization of basic human rights for all persons demands that partiality be determined according to need, “where need can be interpreted to include poverty but also vulnerability, powerlessness, marginality, etc.”⁷⁹ Within this construction, the human rights approach to distributive justice assigns “priority to addressing the needs of the poor and otherwise powerless rather than to the needs of others because the former are by definition less capable of providing for themselves than are the latter. As a principle of justice rather than simple charity, this preference is not only morally justifiable,

⁷⁷ Pogge, 139.

⁷⁸ Pope, 244.

⁷⁹ Pope, 252.

it is morally required.”⁸⁰ This partiality finds its basis in that “the empowerment of the powerless is pursued so that all ‘parts’ are able to participate properly in the life of the whole community.”⁸¹ Justice thus demands that our partiality be directed towards any persons deprived of their fundamental human rights. Consequently, our obligation to seek the fulfillment of these rights for all individuals is powerful and unconditional regardless of the role we play in their deprivation.

This makes one slight but crucial change to Pogge’s general proposal. Whereas Pogge works *within* “ordinary moral thinking,” committed to a hierarchy ordered in this manner:

- (1) Negative duties not to wrong (unduly harm) others;
- (2a) Positive duties to protect one’s next of kin from wrongdoing,
- (2n) Positive duties to protect one’s compatriots from wrongdoing,
- (2z) Positive duties to protect unrelated foreigners from wrongdoing.⁸²

A proper sense of justice demands that we reorder our generally accepted hierarchy to reflect this:

- (1) Negative duties not to wrong (unduly harm) others; positive duties to provide basic human rights for all of humanity as such.
- (2a) Positive duties to protect one’s next of kin from wrongdoing,
- (2n) Positive duties to protect one’s compatriots from wrongdoing,
- (2z) Positive duties to protect unrelated foreigners from wrongdoing.

For Pogge, whether we recognize our responsibility for global human rights violations “makes a momentous moral difference. If we do not, we may place any injustice suffered by the global

⁸⁰ Pope, 252.

⁸¹ Pope, 252.

⁸² Pogge, 138.

poor at the bottom of our list.”⁸³ The hierarchy put forth here dismisses the superficial difference of culpability in assessing our moral obligation to fulfill human rights. It thus frees itself from the manipulations to which Pogge’s argument is subject. Pogge rightly urges us to “stop thinking about world poverty in terms of helping the poor.”⁸⁴ However, this is best done by founding our duty to fulfill human rights on unconditional principles of justice. In this context, our agent-neutral commitments to justice demand that we act to realize human rights whenever they are denied. Such arguments will not sit well with those of a libertarian mindset, but “[r]egardless of how unpleasant theory might be to the popular mind, it is indispensable in the move from the realization of moral responsibility to the implementation of poverty alleviating policy.”⁸⁵ Certainly, international rules and institutions can be shaped to be more or less favorable to the various parties subject to them. The argument presented here demands that, as an essential tenet of justice, when formulating international treaties and organizations partiality be directed towards all those deprived of their basic rights.

Conclusion

It cannot be stressed enough that the endeavor undertaken here is not to entirely discount the argument put forth by Pogge. Certainly we have an obligation not to harm others, “and if people really don’t think it is morally important to avoid or prevent suffering, I’m not sure what you can do with them except put them on a desert island with no people or animals, so that they can’t do any harm.”⁸⁶ However, within the context of poverty, such an argument simply does not go far enough. Rather, the overarching reach of justice imposes upon us a fundamental partiality towards any persons denied of their basic human rights that is equally compelling regardless of

⁸³ Pogge, 139.

⁸⁴ Pogge, 30.

⁸⁵ Langlois, 694-695.

⁸⁶ Richards, 27.

our relation to the individual or the role we have played in their deprivation. Such a contention is not hampered by the difficulty inherent to demonstrating how our actions are unduly harming the world's poor that is required by Pogge. In fact, if Pogge's argument is to be adjusted so as to avoid this challenge, it becomes only superficially different from the argument in this paper. Pogge attempts to work within the basic tenets of libertarianism to convince persons of this disposition to see their responsibility to assuage poverty. However, he ultimately proves unable to do so and is forced to expand the conception of human rights as entailing only negative duties well beyond its generally accepted scope. It is better to put such morally defunct orthodoxies behind rather than continuing to lend credence to their claims.

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