

Is there really a ‘global human rights deficit’? Consequentialist liability and cosmopolitan alternatives

1. Introduction

The existing global economic order clearly has grotesque effects in the form of life-threatening poverty and unequal life prospects. Does this mean, however, that any identifiable agent is acting unjustly towards any other within this order? There are two ways that one could take that question. Either principles of distributive justice that should apply to the global order, as they do in any domestic order, are being breached, or more basic rights are being violated.

Cosmopolitan theorists have criticised views treating the global order differently to the domestic from the point of view of justice.¹ Yet, faced with an institutional set up which is not easily amenable to a continuous and robust redistribution, many have held-off characterising international relations in terms of full principles of distributive justice, such as the difference principle, equality of opportunity or of resources.² In fact, an important critique of this line of cosmopolitan thought is that principles of social distributive justice are designed for a special type of *agent*, with authority to distribute rights and duties across all those capable of affecting distributive outcomes, continually and fairly adjusting patterns of social benefit and burden distribution. For an agent capable of 'background adjustment' to act justly, it must ever adjust for the myriad of individual, collective, associational, economic and non-economic interactions, chains of causes and networks of causes affecting the distribution of social goods and social costs. Agentless robust principles of distributive fairness are incomplete in the way a sentence without a grammatical subject is incomplete.³ We may have descriptions of unsatisfactory states of affairs, and perhaps a sense of imperfect duties to address these, but not statements of strict obligations of justice.⁴ With no relevant agent, then there are no strict obligations, no strict accountability and so no real principles of social justice. This, the 'Agency Objection', is distinct from simplistic objections based on the absence of a world state, or

a coercive order.⁵ The agency objection challenges: show us the clear, action-guiding, social justice-satisfying principles complete with a *specified agent* on whom they reasonably impose perfect duties. If there is a claimed failure in social justice, then we need those principles in order to assess the failing *actions* of some agent, not merely the description of an unsatisfactory state of affairs. I am not aware of an author that has supplied this account of agency and social justice-producing perfect duties for the global sphere.

An alternative, apparently surer, route characterises the negative effects of the global order as basic human rights violations. If we can connect the actions of specific agents with life-threatening poverty, then those agents must be liable for serious harms. This line of responsibility and accountability engages with strict obligations in practical reason (what we should do). The global order could be otherwise than it is, avoiding grievous effects. Trade principles and agreements, for example, permitting the subsidy of rich farmers in affluent countries to the detriment of poor farmers elsewhere, and the institutions of state sovereignty with their resource privileges and borrowing privileges that lead to corruption and resource curses, conspire to produce poverty and could all be otherwise.⁶ This view accuses the global order of violating minimal human rights standards, and any participant upholding this order by voting for or paying taxes to states that contribute to it, of complicity. Participants in affluent countries are morally accountable for the lack of fulfilment of human rights that is massive poverty: the global ‘human rights deficit’. As liable they must supply remedies for their complicity.

The agency objection, however, is not only a strong argument against the first analysis of international obligations above, but also against this second minimal alternative: poverty as wholesale breach of human rights, and participation as moral complicity with this ‘human rights deficit.’ In part *II* I identify the key features of this view that I shall call ‘Minimal Cosmopolitanism’, because it appeals to human rights as minimal conditions of justice. My

challenge, in *II*, identifies a key condition for human rights breaches that is satisfied in the motivating analogies used by Minimal Cosmopolitans but not in our relationship to the causes of global poverty. A human rights breach requires a recognisable *action* (or omission), direct or negligent, personal or collective, that constitutes an identifiable wrong towards a person. To be liable for a wrong of this kind one must either be the agent (individual or collective) performing the wrongdoing action, or one must collaborate with the wrongdoing action of another agent. For an action to wrong another it must itself *unreasonably* impose losses or increased risks on another person. This criterion distinguishes genuine complicity with a directed wrongdoing from merely engaging with a network of causes that has negative consequences, such as participating in the road traffic system, with its yearly fatality statistics. In *III*, I consider four candidates from the global economic system for the relevant wrongdoing actions and agents with which we might be complicit: individual economic decisions by agents in the economic system (taken singly or collectively), state agreements in trade fora like the WTO, and finally specific background rules defining the international rights and privileges of states in trade and borrowing. I show how each case fails to supply more than a metaphorical sense in which there is an appropriate wrongdoing action with which we can be personally morally complicit. In conclusion, I outline an alternative version of cosmopolitanism that I call ‘International Cosmopolitanism’, that takes seriously the type of political agency present in the international sphere, but is neither complacent nor conservative with regard to moral standards for international relations.

I

2. The Minimal Cosmopolitan claim

‘Minimal Cosmopolitanism’ is the version of cosmopolitan theory that holds agents accountable for fundamental human rights breaches and defines a breach in terms of serious negative outcomes for human well-being, such as the negative effects of an economic system. This contrasts with, but is not excluded by, other forms of cosmopolitanism, such as the kind that would judge the global

order in terms of full principles of egalitarian distributive justice. Both are different from ‘International Cosmopolitanism’. This holds that each state has obligations towards its demos (citizen bodies) to act on robust egalitarian principles of distributive justice, and all states as political communities, have duties to act fairly in dealing with other political communities by proposing mutually acceptable principles for trade, standards for inter-state law, and aid. I shall say more about this version of cosmopolitanism, as a viable alternative, at the end.

Minimal Cosmopolitanism holds the following to be sufficient conditions for complicity in the violation of human rights, for which those complicit are responsible and accountable:

- i. *Cause*: Someone’s wellbeing suffers a serious negative outcome caused by a given institutional order
- ii. *Foreseeably*: the agent foresees that an institutional order with which they cooperate will have these serious negative effects
- iii. *Avoidably*: a) it is possible/conceivable for the order to be otherwise than it is, in terms of effects, and b) it is possible for the agent to be non-cooperative with that order⁷
- iv. *Deriving benefit*: the agent derives some benefit from this order

On this view, an institutional order that *foreseeably* and *avoidably* produces conditions that harm a person’s key interests thereby violates that person’s human rights; knowingly contributing to that order makes one culpable for those violations.⁸ Severe poverty, for example, undermines life and health. If you indeed contribute to a global order that has these effects, then by these conditions you are culpable. I will ignore the ‘deriving benefit’ condition as imposing a scheme on others who suffer from it is independently wrong.⁹ One’s complicity in murder is wrong even if one does not benefit from it, and it is not sufficient to be complicit with murder that one benefits from it. One must first, then, establish the primary wrong of complicity.

Some theorists take violation to be inadequate as a description of the relevant breach, and prefer to talk of under-fulfilment.¹⁰ But given we are looking to establish moral accountability I will use either ‘breach’ or ‘violation’. The above, then, are proposed sufficient conditions for when your actions make you culpable, with the practical upshot that you must stop contributing and/or supply a remedy.

II

3. The argument

These conditions, however, are neither sufficient for violating a human right nor for complicity with a violation/breach. They are insufficient in a very important and telling way. Because of this failure in its account of responsibility Minimal Cosmopolitanism is unhelpful as an action-guiding account of international justice.

The missing condition is that the negative outcome should be the result of an identifiable wronging action. A distinctive contribution of human rights (and other rights) standards to our moral repertoire is as principles that hold agents responsible for actions that are identifiable as wrongs towards others. This, if anything, sets aside human rights standards as independently valuable standards from, say, standards of social distributive justice. They identify actions that do not imply distributive unfairness in a social scheme, but are serious wrongs towards people irrespective of their place in such a scheme. In addition to any serious losses suffered there must be a relationship of wronging, which means we need to be able to identify an action that is the wronging action (direct or negligent), causing these losses. This notion of a directed wrong goes hand in hand with the Minimal Cosmopolitan aim of finding clear lines of responsibility for wrongs against the global poor.

The additional condition I am proposing, then, is that human rights violations imply more than negative outcomes or states of affairs resulting from a network of causes. We need to identify

wronging actions:

A: For a person to suffer a human rights violation there must be an action, identifiable as such, that wrongs that person

Actions that wrong can be individual or collective. The wrong of murder is an act of wrongful killing. I can contribute to the individual act by assisting or facilitating the murderer, by handing them the murder weapon in a timely way, say. The act will foreseeably harm, it is avoidable in that the murderer could have chosen to do otherwise, and I am culpable if I knowingly assist this act or my negligence permits it. Collectively torturing an individual, even where any one individual's actions would not successfully torture, can be said to be a wrong because there is an action: torture, towards which members of the collective contribute. An individual's contribution to that action by taking part in, or facilitating, it is a wrongful contribution. So the test is:

W: To wrong a person an agent must either engage in an action that wrongs that person or act with the aim of contributing to/assisting/facilitating an action that wrongs a person

This condition is necessary because we are seeking lines of responsibility and accountability and one cannot be responsible and accountable without doing something or knowingly contributing to the doing of something that wrongs another. In order to contribute to a murder there must be an independently identifiable action that is a murder, and you must either participate in or contribute towards that action. Complicity here is where one acts with the aim of assisting the wrong of another, contributing to a collective wrong, or allowing a wrong where one could thwart it, and doing so for no legitimate reason. However, unlike the straightforward wronging test, complicity requires an aim to contribute, even if by omission.¹¹ You do no wrong by selling kitchen knives even if you know a percentage of them each year will be used to harm others:

CW: An agent is complicit with wronging another, and thereby also commits a wrong, where she acts with the aim of contributing towards a wronging action (including where she allows a wronging action she could thwart, for no legitimate

reason)

This of course raises the question of what is a wronging action. For Minimal Cosmopolitanism it is sufficient for a wronging act that it satisfies conditions i-iv above. However, there are three types of standard case in which these conditions are satisfied and yet there is no wrong. This is because the agent cannot be said to be *illegitimately* imposing a loss on others.

a) Intervening agency. For example, a writer who knows that publishing a news article supporting women's rights will lead to riots by religious fanatics in which people will be hurt. The wrong involved, if any, is by those engaged in the riot, not the writer of the piece. It is they that transform her actions into the causes of a wrong, which they perpetrate. The writer is not complicit in the wronging actions in the riot, even if she is involved in the conditions that foreseeably gave rise to them. b) Accumulating causes. The negative consequences are the effects of actions that are not in themselves unfair impositions of loss. Viz. the accumulation of negative effects on life prospects due to some parents giving support and advice to their children in their studies. Here responsibility for outcomes appropriately falls on an agent with the special capacity to continuously adjust for those effects, aiming to distribute their costs in a fair way (through the judicious allocation of social rights and duties).¹² There is no action-guiding principle individuals could follow which would guarantee a reasonable or fair balance here between personal aims and the common good. Where a regulative authority is present, it can distribute costs and benefits in a fair way, but there is no agent-centred principle for individuals to achieve this. c) Causing a loss, but for a legitimate reason. Consider rightful punishment; harm resulting from self-defence; and health effects resulting from rejecting someone for a job because she is not the best candidate. Each represents a serious loss where the action causing the loss is legitimate.¹³

What sets wronging actions apart, then, is not solely that they have foreseeable and avoidable negative effects, even serious ones. There must be a sense in which the action is illegitimate, by

illegitimately causing a loss. There must be a corresponding action-guiding principle that in being followed establishes a reasonable trade-off between agent aims and the losses or risks caused to others by one's actions. Illegitimate actions deviate from such reasonable principles. Murder is not a reasonable imposition of loss, but justified self-defence that harms an attacker is reasonable. A state's distribution of social goods and burdens, including education, health, opportunity and income, can satisfy a general principle of fairness, such as allowing uncompensated inequalities only if they benefit the least advantage. There is, however, no such principle that can coherently and strictly guide an individual in her choice to assist her children with their studies. That would require a notion of how she can, in her actions and choices, continuously achieve a fair balance between personal aims against all foreseeable economic costs to others. There is no such reasonable principle for individuals.

A wronging action, then, is one that unreasonably imposes harms or losses on a person, whether this is by direct act or omission, individually or collectively. Call an action that unreasonably imposes losses on someone a 'directed wronging'. The presence of a directed wronging is a necessary condition for a human rights violation.

DW: An action causing a loss/risk to a person *wrongs* that person when it unreasonably imposes those losses/risks on her (violates a principle for fairly/reasonably balancing gains and burdens, e.g., individual aims and social goals, for no legitimate reason)

Directed wrongs can also take the form of omissions. Failing to alert your neighbour of an imminent and dangerous break-in where it implies no minimal burden for you is an illegitimate omission. Spending all your time on neighbourhood watch, however, has serious costs and cannot, in normal circumstances, be a non-voluntary obligation. Except where there is a special fair burden-sharing scheme, refusing to be a permanent neighbourhood watcher is not an illegitimate omission. That is, the principle that I should help someone when I find myself in a position to do so and with

no legitimate reason to decline is a reasonable principle. The principle, on the other hand, that I must personally try to prevent all people threatened by negative conditions, such as break-ins to their homes, is not reasonable. Of course, one could say that we have an obligation to contribute a fair amount towards that end. But that only makes sense where there is a body with the power to fairly allocate these benefits and burdens. Without that, there is no clear, perfect duty-imposing principle for any agent to personally follow that will secure a fair balance between individual aims and the common good.

Consider the road traffic system. You contribute to that, through your taxes and your actions, and it has negative consequences reflected in road death statistics (including non-motorists). Some of us benefit from this system. However, aside from specific cases where motorists act with malice, or recklessly, thereby imposing unreasonable risks on others, there is no directed wrongdoing towards others of the kind necessary for any contributor to the system to be culpable and accountable. Negative consequences of the system still matter, it is just that a different kind of responsibility is appropriate than the kind in directed wrongdoing cases. If an authority exists that can alter the rules, adjusting levels of risk and gain in a fair way, then that authority has responsibility for the distribution of risks and benefits in the system. Individual participants have duties to support the proper functioning of that authority, and where possible to prevent it acting unfairly. Nevertheless, the mere existence of negative systemic consequences is insufficient for us to speak of directed wrongs. There is no principle individuals could follow with regard to all other persons that reflects a fair distribution of risk levels to others and burdens to oneself. Similarly, consider producers of a given good put out of business because we change our preferences and patterns of consumption. That can have foreseeable negative consequences in the form of poverty for producers, and an authority with powers to distribute rights and duties in this regard has a duty of care to address these consequences by fairly distributing rights and duties. An individual's reduced purchasing of that good for consumption, however, is not a directed wrong. There is no action-guiding principle she

could individually follow in market decisions that reasonably and fairly balances satisfaction of her market aims and the reduction of market risks to others. With no such principle from which to deviate in her actions, there is no sense in which she wrongs others in her market choices.

It is worth noting that this test for wrongdoing covers wrongdoing by negligence. That is where one's act (or omission) violates a general duty not to unreasonably impose risks on others, irrespective of whether there is a direct aim to do so. Driving recklessly may not mean to harm, but violates a duty of care towards others by unreasonably raising the risks they face.

Does our relationship to the causes of global poverty satisfy the above agency tests? The actions of those accused of complicity (those living in affluent societies) do not obviously connect with a wrongdoing action violating the rights of the poor just because we participate in a causal network of international interactions that has these negative consequences. Claiming the economic order 'itself' violates or infringes the human rights of the poor is a misleading metaphor unless we can cash this out in specific wrongdoing actions with which we might be complicit.

III

4. Human rights and global poverty

Here we are looking for two things. Firstly, actions that wrong the poor, equivalent to say actions of slavers in a slave system and also any institutions empowering their acts of slavery. Secondly, it needs to be shown that participants in the global economic system are complicit with those actions in the way we would be complicit with slavery by upholding slaver-empowering institutions.

Yet poverty and its causes do not have this structure. The poverty-inducing effects of the global economic order are due to accumulated actions, in themselves not unreasonable or describable as 'imposing poverty', individually or collectively, in the way that blockading a particular community

can impose poverty. Beyond the metaphor of the global economic order acting ('the global order violates the human rights of the poor')¹⁴ we have a series of micro-economic decisions, institutions that have come about through treaties and collaboration between international agents, states and associations, and patterns of economic behaviour, such as supply and demand, price fluctuations, currency regimes, and exchange rates. Of course, there are clearly wrongful market actions: bribery, theft, selling dangerous goods, fraud and so forth. But the accusation is not that we are directly complicit with those types of acts, resulting in global poverty. Rather, it is that the explicit rules of the economic order in some way wrong the global poor, and we are complicit with that.

From the global network of economic choices and agreements we call the global economic order, I will consider three plausible candidates for actions wronging the global poor:

- (A) All our actions and decisions in the global economic order taken together,
- (B) International trade agreements/fora (and the actions of states that participate in them), and
- (C) State's conformity to background rules of international law setting out governments' rights and privileges.

Taking each in turn, I will show why it does not fit the bill for deriving lines of responsibility linking us to human rights breaches against the global poor.

(A) When the poor in a society suffer there are a number of effects in play. There is the price of the goods the poor cannot access, and the sellers, wholesalers and retailers, selling at prices they cannot reach. There are the supply and demand trends of international markets affecting producers and consumers. There are the decisions of governments to subsidise sectors of their own economies (farmers, technology, unemployed labour through benefits) that disadvantage those in the poor economy through their effects on prices. There are international agreements on trade rules between states, often biased in favour of some countries' over others. There are also background international rules setting out the rights of states and their governments, giving de facto rulers control over

domestic natural resources and national borrowing, irrespective of their democratic pedigree or lack of it, or willingness to address poverty in their jurisdiction.

Now, in this network with its outcomes, it is unclear which individual actions are the violating or wronging actions, equivalent to enslaving, that the system collectively empowers and with which we are complicit. Individual economic decisions only have the consequence of causing poverty given a myriad of other decisions, including the decisions of persons to work the presses producing money, run the computers allowing trading, the post offices shipping goods; to trade in goods, in wholesale and then in retail, large and tiny, selling goods which the poor need at market prices beyond their reach. These actions only add up to poverty as the consequence of a system of interlocking effects where forces, like that of supply and demand and currency production, lead to negative outcomes for the poor. No one of these actions is obviously *the* culpable action, the wrong, needed for the account of complicity to go through. Take the farmer that receives subsidies to assist her farming business. Her action is neither designed to starve poor farmers nor would it have that effect were it not for an economic system in which the laws of supply and demand are allowed to operate. The actions of the government that offers the subsidies are designed to uphold a sector of its economy (I am assuming that states have legitimate domestic imperatives to advance economic growth). The negative consequences of the subsidy only take effect if other agents step in to buy the farmer's products on the world market, and sell these in retail outlets. Without someone making a choice to buy the cheaper product, at every level, including the lowliest consumer, poor as she might be, benefitting from cheaper goods, there would be no negative outcome: the product would not be sold in preference to products of less well off or less protected producers. In order to blame any of these agents we would need to refer to an action-guiding perfect duty-imposing principle each could follow in making market choices that by being followed establishes a reasonable balance between their individual market aims and securing a given level for global wellbeing. Without such a principle we have no sense of actions that diverge from the principle thereby constituting directed

wrongs.

Contrast with this the failure of a domestic government to make provisions for poverty or to tax the affluent in their society at a sufficient rate to alleviate grave poverty. These actions are wrongs because that type of agent has no legitimate aims or commitments that outweigh acting fairly with regard to domestic distribution. It is precisely charged with the fairness and wellbeing of citizens over whom it has authoritative powers to assign distribution-affecting rights and duties. That agent is capable of making redistributive policy choices for citizens that treat them fairly, or not. Whether it is Mugabe starving a section of the countryside, or a regime allowing starvation without engaging tax measures to address it, governmental actions that should address accumulated effects but fail to do so, are unjust, and where they cause serious harm, deeply unjust.¹⁵ Our actions as market agents, on the other hand, do have legitimate aims. As I have said, without a principle for reasonably balancing these aims with personally advancing global wellbeing, there is no clear obligation to violate. With no clear obligation, the charge that these aims wrong the poor does not stick.

But note this is not an argument from “messiness”. It does not say that because the situation is so causally messy, one cannot know who is indeed responsible and how much responsibility they bear exactly. This is a principled argument rejecting the idea that being knowingly involved in a network of causes that has a foreseeable negative outcome is sufficient to make one morally responsible for violations.¹⁶ The analogies offered by Minimal Cosmopolitans all identify clear wrongdoing actions, where the individual actions clearly impose unreasonable costs on others. Members of the Nazi party contributing to the final solution, states permitting domestic violence, slavery, enforced starvation, and the like, are all examples where there are clear unreasonable impositions of loss by each agent involved. There are also negligence cases, such as two agents polluting a river upstream of a village.¹⁷ Even if it takes two polluters to produce harmful levels of pollutant, each polluter has clearly imposed a recognisably unreasonable increased risk of poisoning. There is no equivalent

action among legitimate market aims such as buying and selling itself identifiably and unreasonably increasing risks to others. Perhaps the whole system increases risks, but no individual agent can be said to be unreasonable risk-increasers. This is true even for actions contributing to the system because the contribution is not an unreasonable risk-increaser. As I have said, that would require a principle for individual actions that when followed reasonably balances legitimate personal aims and global wellbeing aims. Without such a principle to violate there is no sense of wrongful imposition of risk.

Is ‘the wronging action’ not, then, the sum total of those actions that contribute to the negative effects? Those actions are not part of a project, with shared aims, to produce poverty as an outcome. Nor do they comprise a collective negligent action of imposing poverty, as a shared aim would still be needed to identify the collective negligence. Even incompetent members of the Nazi party were morally complicit with its violations because they acted in ways that shared its aims and sought to contribute to them. That is certainly not the case with the actions of market agents domestically or internationally. There is no communicable shared aim related to imposing poverty

(B) So in what, non-metaphorical sense, can we as individuals be said to be “cooperating in imposing unjust social institutions upon” the poor?¹⁸ This brings us to the crux of the Minimal Cosmopolitan case. This identifies the wronging action as those decisions or agreements in international forums that ‘impose poverty’ on the global poor by shaping the international economic system in the wrong way. Agreements at trade fora such as the WTO for example, favour wealthy countries, and contribute to seriously negative effects in terms of poverty. Citizens of states involved in making those agreements that lend their support by voting for them, or paying them taxes, are liable for the imposed losses to the global poor.

It is certainly true that the institutions of a state that make decisions impacting gravely on citizens

thereby wrong those citizens. A state that imposes an unfair increase in the risk of traffic fatalities, domestic violence, enslavement, discrimination, and starvation on its citizens is an unjust order.¹⁹ At least, it is unjust if there is no good reason to allow such an increase. No state can remove all negative risks, and sometimes some negative risks (traffic fatalities) need to be balanced against gains (to the economy, and the social benefits of transport). However, a state that colludes with harmful actions, permitting violence and discrimination, say, or permits increased risks for no reasonable balancing motivation, thereby wrongs its citizens. Allowing its citizens to starve, when it could take distributive measures, is such a wrong. Whilst direct responsibility for institutional harms here lies with those in power, upholding their power does imply a degree of complicity with those institutional harms. Citizens knowingly voting for a brutal or negligent regime do not carry out the human rights violations themselves, yet they are guilty of complicity with the regime's actions. Their votes either directly or negligently empower a regime to carry out violations.

International economic institutions, however, do not have this character. They are at best fora for agreements between states on what obstacles or removal of obstacles they will undertake with regard to trade across their borders. Each tariff or tariff removal represents a gain or a loss in terms of growth for an economy, and must be considered in the context of all potential gains or losses. This is negotiated in context of a competitive market, making for competitive negotiations. Each state develops a negotiating mandate in line with domestic imperatives to advance growth.²⁰ If we accept that domestic imperatives towards economic growth, employment, and other domestic commitments are to some extent legitimate, what reasonable balance between these and global aims can a state follow in its international agreements? There is no one authoritative body with powers to distribute rights and duties over trade, access to other goods and burdens of importance to growth, development and individual wellbeing globally. Which is to say no single agent exists that can pursue a continuous plan for fair distribution of economic development and wellbeing. So there is no fair scheme to which any agent can contribute a fair burden. This means that, just as with

individual market agents, there is no clear principle each state can adopt in its choices and agreements that gives reasonable weight both to domestic imperatives and levels of global wellbeing. In which case there is no clear sense in which state decisions in agreements of this kind impose a wellbeing deficit. That is an effect of a system that accepts markets aims, and state's domestic economic obligations as presuppositions. There are, as I have said, clear examples of wrongful action in this context: theft, subterfuge, fraud, murder, inhuman working conditions, corruption, selling arms to those who will use them for repression, and the like. These are clearly identifiable actions, violating principles of reasonable loss/risk or complicity. Signing up to agreements licencing those types of action would be a wrong for that reason. But agreements on trade do not have the systematic aim of licencing such acts.

A perfect duty of care, as I have said, does fall on bodies with powers to continuously adjust background conditions by allocating rights and duties to the degree that they can do so. For these agents principles to fairly distribute costs for the accumulated effects of individual choices make sense. No international body has that kind of global adjusting power.

(C) One other way that the global order might be said to wrong the poor is by the imposition of the current version of the states system itself. Take the recognised rights of governments, irrespective of democratic pedigree, to sell natural resources and to obtain international loans. These, given corruptions and misgovernment, have negative effects in the form of impoverished populations. Do we empower our governments to give that right to other states, or to fail to remove that right, and so wrong people's whose poverty is a result? The answer is clearly no. The international legal system is defined by key background principles. The central and defining animus behind these is the background principle that cedes to states the ultimate power to create new duties and allocate rights to citizens.²¹ That power is not limitless, but only states have even the limited version except in circumstances that threaten international public order, peace and security. The principle of mutual

recognition of states as units of political authority, and the system of cooperation that is built on it, implies obligations on all states in the international order to observe rules of respect in dealing with each other. Save for international public order reasons, no state can be forced, in that system, to adopt any particular internal policies. International public order, peace and security, are aims defining international crime and legitimate intervention.²² These principles are established by international custom, sometimes codified in treaties, but not revocable by any body or assembly. In fact the establishment of any new international obligations or schemes presupposes those principles. To change those principles, then, would require more than any one government changing its foreign policy, it would require a complete reconfiguration of the international system, representing more than a particular trade or aid decision but actually a challenge to the existing standards guaranteeing equality and legitimacy of independent states. It could also potentially have worse outcomes with regard to access for aid and development, and provoking conflict.

Whether or not that is desirable or feasible, it is certainly not within the reach of any individual government agency at any one time at any reasonable cost. Nor is it within the power of any agency, at any one time, to prevent that change taking place, simply because it is not a change that is responsive to individual agent decisions. Changing these fundamental presuppositions of the system of international law would take negotiation, consensus, agreement, prevention of instability, calming residual violence, readjustment in case of adverse effects, and much, much more. After all, this means states must, at the level of general principle, relinquish their rights to govern themselves by their own standards of legitimacy. Without a management board, in other words an arrogation of state powers by a given body, the consequences of such changes will not be manageable. States threatened with scrutiny may disallow even aid to reach those who need it, and alliances of opportunity will all too easily lead to violent reprisals. Even with some degree of willing cooperation with the aims, such as ending government corruption and using domestic natural resources for development, implementation may still need external management all the way down.

The above story is not supposed to show that a different system is impossible. It rather asks which action (individual or collective) in these circumstances we should take to be the wronging or violating action we are assisting? Or put it another way, what is the principle imposing reasonable burdens as perfect duties, and falling on which agents, that is being breached in regard to this prospective world order? I am assuming here that the wrong against the global poor with which Minimal Cosmopolitans take us to be complicit is not based on a description of an imposing set of conditionals, viz.: if our government were to adopt a given policy, and if other governments chose to join that policy, and if enough governments could be got behind the policy, and if there was an international convention, and if the current status of states in the international system was given up, and if enough governments did this to change that system decisively and states eventually integrated into an economic governance regime, and...so on, then the global poor would be better off. That kind of 'speculative' responsibility depends on links in the chain for which we have no idea of their respective prospect of success, and certainly there is no clear set of instructions we could devise which would successfully guide any agent through all the conditions, at a reasonable burden and guaranteeing the result. Would we permit some war and instability to consolidate global governance? Do we prioritise today's poor in our decisions, or the prospective poor at the end of the chain of conditionals? Those questions are sufficiently troubling to make it absurd to ascribe human rights violations on the (logical) possibility of an alternative order.

The deceptively simple claim that there is a less harmful alternative to the global economic order hides deep complications. To convert an aim into a standard of justice by which we might be judged we would need clear instructions with appropriate obligations that if acted on would produce that world. And the cost to any agent of following the instruction would have to be a reasonable one. Our failure to act would then be equivalent to a choice to unreasonably allow this world to be imposed on the poor. But there is no such instruction or action that connects with more than a

merely speculative sense of our ‘failure to reform’.²³ People cannot be complicit in human rights violations if they “fail” to reform the system when they have no idea what reasonable course of action will ultimately make a difference in producing that aim.

In sum, we still do not have a suitable candidate for an action constituting a directed wrong, a violation, with which we might be complicit. Now of course, the role of human rights their connection with the condition of directed wronging action I have proposed might be rejected in favour of the view without the condition. But, if all that motivates the rejection is a desire to describe global poverty as a human rights breach and to hold ourselves individually morally responsible for the breach, then the move would be ad hoc rather than principled. It is also less compelling to people to hold them accountable for a violation when it is unclear what choices would genuinely constitute a non-violation. Appealing to remedy as a way to avoid the taint of violation gets things the wrong way round: you need to identify a violating action before you can figure out how suitable any remedy might be.

IV

6. International Cosmopolitanism

None of this is a plea for the status quo. It is not a critique that says that no moral standards apply internationally, or even the view that says that only standards prohibiting directed wrongs, apply in that sphere. The alternative I propose can be called International Cosmopolitanism. That view accepts not only the existence of states, but also that whilst we have a states system, what principles apply must fit with values of cooperation appropriate to the states system.

This means framing principles for enlightened states to seek international cooperation, including economic cooperation. Those principles will include obligations to respect other states, not only formally in terms of status, but also through fair terms of association, trade, and mutual assistance.

This goes hand in hand with obligations of internal justice owed by states to their citizens: their social duty of care, as well as the responsibilities of states not to engage in directed wrongs against any person. It also goes hand in hand with principles obliging states to hold their own citizens responsible for crimes committed abroad (principles of extra-territorial criminal responsibility). And in those instances where a state is incapable of carrying out its social duty of care, there are obligations of assistance, requiring states to aid other states in arriving at a position where they can engage in social distributive justice. Furthermore, where a state refuses to carry out its social duty of care to the point of severely harming its citizens, other states have duties to assist those persons where they can. Ultimately, the duty to assist must involve cooperation in setting up agreements that rationalise this assistance activity, at least more than they are currently 'rationalised'. But all these obligations cannot be perfect duties as they require balancing with domestic obligations of justice.²⁴

International Cosmopolitanism also requires that states uphold the system that makes international cooperation possible, by upholding international public order and peace. That includes working to prosecute international crimes and prevent destabilising catastrophes, through cooperation and agreement to avoid currency wars, trade wars and massive price fluctuations. Consider the positive measure, achievable by agreement, of setting up of a global reserve currency to deal with balance of payments deficits and lend to states, including developing countries, in an equitable way.²⁵

Most of the institutional requirements, those which require cooperation, in the above list can only be imperfect obligations, leaving a degree of (but not absolute) discretion and balancing with domestic obligations of justice to states in their associational agreements. Other obligations, such as human rights-based duties proper, duties to prosecute extra-territorial crimes, and fulfil domestic social justice, only make sense if they are understood as perfect duties.

This brief description of obligations in a cooperative states system implies requirements reaching considerably beyond the status quo. The global economic system does indeed have severe and harmful effects, however it distorts both the distinctive role of human rights standards, and our understanding of those negative effects if we impose that terminology on them. Nor is International Cosmopolitanism a non-ideal theory, designed for a world where compliance with ideal theory would be difficult. It is, instead, ideal theory designed for a world where the units of political authority (empowered to continually allocate social rights and duties) are states and in which a background set of principles (of international law) exists defining cooperation, peace and public order between these units. Against that background designing fair institutions of cooperation is a valuable ideal and an onerous task given the propensity of states to replace domestic self-interest for fair terms and honest dealing with other states. Such a conclusion may not be as heroic as the conclusion that we are all human rights violators or complicit with human rights violators, but it is more appropriate as an analysis for engaging with the one clear subject of international justice, which is the foreign policy of political states.

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- 1 E.g., T. Pogge, 'Rawls and global justice', *Canadian Journal of Philosophy*, 18(2), 1988, p. 233; *World poverty and human rights*, Cambridge: Polity, 2002, pp. 104-110, Caney, 'Cosmopolitanism and the law of peoples', *Journal of Political Philosophy*, 10 (1), 2002, pp. 99 and 116-17; C. Beitz, *Political theory and international relations*, Princeton: Princeton University Press, 1999, pp. 152; K-C. Tan, *Justice without borders*, Cambridge: Cambridge University Press, pp. 60-61, 71 ff.);
 - 2 Pogge cites reasons of persuasion, rather than principle, for doing this, T. Pogge, 'Severe poverty as a violation of negative duties: reply to the critics', *Ethics and International Affairs*, 19(1), 55-83, 2005, p. 76. See also Caney, 'Global poverty and human rights: the case for positive duties', in Pogge, ed., *Freedom from poverty as a human right*, Oxford: Oxford University Press, 2007, 276 ff.
 - 3 S. Meckled-Garcia, 'On the very idea of cosmopolitan justice: constructivism and international agency', *Journal of Political Philosophy*, 16(3), 245-71, 2008.
 - 4 Cf. Ronzoni, whose concept of justice is a *description* applying to states of affairs, that she calls 'background justice', versus action-guiding *principles* for specific agents and actions. She accepts similar aims to Rawls' fair dealing with other societies, but does not offer any *perfect duty-imposing* principles producing the equivalent of social justice in terms of distributive fairness over persons globally, M. Ronzoni, 'The Global Order: A Case of Background Injustice? A Practice-Dependent Account' *Philosophy & Public Affairs* 37(3), 229-56, 2009, pp. 230 ff.
 - 5 Or for that matter ones based on 'practice-dependence': Ronzoni and Valentini both identify the agency objection with such views, M. Ronzoni, op. cit., 2009, p. 230 n.5, and L. Valentini, 'Global Justice and Practice-Dependence: Conventionalism, Institutionalism, Functionalism', *Journal of Political Philosophy*, Online Early, 2010, p. 7 n. 25, although the view explicitly rejects any form of practice-dependence ('On the very idea', p. 251.). It distinguishes justice by the morally relevant features of its agents, not by practices or conventions.
 - 6 Leif Wenar, 'Property rights and the resource curse', *Philosophy & Public Affairs*, 36(1), 2-32, 2008.
 - 7 The connection between (a) and (b) in the argument is unclear, but not my focus in this paper.
 - 8 Pogge, op cit., 2005, pp. 55 ff.
 - 9 Viz. N. Anwander, 'Contributing and benefiting: two grounds for duties to the victims of injustice', *Ethics and International Affairs*, 19(1), 39-45, 2005, p. 40, and Pogge p. 72 in same publication seems to agree.
 - 10 T. Pogge, *World Poverty and Human Rights*, Cambridge: Polity, 2002, p. 47, and 'Severe poverty as a violation', p. 76, although he himself uses 'violation' repeatedly, e.g., T. Pogge, *Politics as Usual*, Cambridge: Polity, 2010, p.

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- 11 E.g., C. Kutz, *Complicity*, Cambridge: Cambridge University Press, 2007, pp. 66 ff.
- 12 In such cases one's contribution to the scheme does not correspond with any notion of causing a loss, or remedy for loss, but rather with fair distribution irrespective of cause. The rich should pay taxes in such a scheme even if they did not cause the condition of the least advantaged.
- 13 For more examples of cases where causal, knowing, foreseeable responsibility for negative effects is insufficient for breaching a moral obligation, see Julio Montero, 'Global poverty, human rights and correlative duties', *The Canadian journal of jurisprudence*, vol. XXII(1), 79-92, 2009.
- 14 T. Pogge, *Politics as Usual*, Cambridge: Polity, 2010, section 2.5 'The present global order massively violates human rights', pp. 50 ff.
- 15 Viz. measures by Mugabe in Zimbabwe in 2002, Andrew Meldrum, 'Zim Bans Food Aid Charities', *Mail & Guardian (Johannesburg)*, October 18, 2002, p. 2.
- 16 Note the three-way distinction between causal responsibility, moral responsibility, and substantive responsibility. T. M. Scanlon, *On what we owe each other*, Cambridge Mass.: Harvard University Press, 1998, pp. 48 ff; Dworkin (xxx); David Miller 'Two concepts of responsibility', in his *National Responsibility and Global Justice*, Oxford: Oxford University Press, 2007; the distinction between agency responsibility and contribution responsibility is proposed at Meckled-Garcia, op cit., pp. 258 ff.
- 17 Pogge, 'Severe poverty as a violation', pp. 76-80.
- 18 Pogge, 'Severe poverty as a violation', ibid.
- 19 Pogge, at 'Severe poverty as a violation', p. 76 ff., appeals to examples including: imposing an institutional order that exposes women to domestic violence, blacks to enslavement, serfs to starvation and the poor to severe deprivation.
- ²⁰ Clive George, *The truth about trade*, London: Zed books, 2010, pp. 13-15.
- 21 The exceptions are those special cases dealing with the provisions of *international public order* necessary to prevent the breakdown of the international system of cooperation (such as international criminal law and *jus cogens* provisions).
- 22 For the notion of an international public order, see A. Orakhelashvili, *Peremptory Norms in International Law*, Oxford: Oxford University Press, 2006, Chapter 1, and Meckled-Garcia, 'International law and the limits of global justice', *Review of International Studies*, forthcoming 2011/12.
- 23 "most severe poverty today is avoidable through reforms in the design of the global institutional order", Pogge, 'Severe poverty as a violation', p. 77.
- 24 Cf. J. Rawls, *The law of peoples*, Cambridge Mass.: Harvard University Press, 1999, pp. 35 ff.
- 25 UN Development Policy and Analysis Division, *World Economic and Social Survey 2010*, United Nations, 2010, p. Xxii.