

# Global Justice and Harm

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I, Eliana Zur-Szpiro, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis

Signed

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**Abstract**

My thesis explores the question of how we should think of our duties to those worse off than us around the world. I assess 'the harm approach' to global justice, which claims that we have duties of justice towards the global poor because we harm them, arguing against it. I first argue that Thomas Pogge puts forward the harm approach without specifying a plausible notion of harm. I then argue that there is no conception of harm in the literature that can support the harm approach. My thesis yields the conclusion that the harm approach fails to fulfil its key aim, which is to break the stalemate between proponents and opponents of the view that principles of distributive justice are appropriate in the global context. I suggest that the misconceived harm approach, and the state of impasse in the global justice debate, highlight the need to reconceive the global justice project. Instead of assessing whether or not our theory of justice for the state extends to the global sphere, our starting point should be the global situation itself. To formulate the most plausible approach to our duties to those worse off than us globally, we should build a theory of global justice based on the moral facts of the global situation and our pre-theoretical convictions regarding it.

I first outline Pogge's harm approach and state its aims. I then point out why the way that Pogge uses the notion of harm cannot support the aims of the approach. I then turn to an investigation of moralised and non-moralised theories of harm in the literature, finding that none can help support the harm approach. The last part of my thesis points towards the direction we should take in building a plausible approach to our duties to the global poor.

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## **Global Justice and Harm:**

What is the most plausible grounding of our duties to those worse off than us in the global sphere?

### **Introduction**

In this thesis, I pose the question of what are the most plausible grounds of our duties to the global poor. I frame my topic as a question within global justice. However, at the outset, it is important to ask what I mean when I refer to the topic of global justice. There is a vast and growing body of literature on the topic. This material addresses a range of different questions. There does not seem to be just one project of global justice. Some writers aim to answer the question: what would a just global society look like? Others are concerned with the question of whether Rawls' theory of justice is applicable to the global sphere. Some are more focused on working out the most plausible grounding of duties to the poor, while other theories attempt to provide the most effective philosophical response to poverty. Some of these questions leave open whether our duties are best framed as duties of justice or some other value, therefore, the label 'global justice' may be a misnomer.

Given that different theories are answering different questions, it is hard to say which features a good theory of justice would possess. If we are concerned with being effective against poverty, a good theory of justice should propose feasible policies. If we are trying to show that Rawls' principles of justice should apply globally, a good theory would accurately capture the key aspects of Rawls' theory and show how they feature in the global sphere. The initial task to assessing the merits of an approach to global justice is to clarify its aim, and the question it seeks to answer. I am interested in finding the most philosophically sound basis for our duties to those worse off than us in other parts of the world. My view is that a

theory is plausible when it accurately reflects the moral facts of the situation, and captures our pre-theoretical convictions about the case.

I refer to the global justice debate; however, there are various points of debate. First, there is a disagreement between egalitarians and libertarians. The former argue that we have duties of justice to aim for greater equality in society, the latter hold that our duties extend only to respecting the minimal rights and liberties of others. The disagreement between libertarians and egalitarians about what justice requires within a state repeats itself in the global context. Second, there is also a debate among egalitarians about what we are committed to in the global case. Cosmopolitans argue that, as all individuals are of equal moral worth and, as it is morally arbitrary which country one is born into, duties of justice should apply throughout the global sphere.<sup>1</sup> However, proponents of a relational justice view argue that considerations of justice only arise within a state where certain moral features are present.<sup>2</sup> Some proponents of the relational view argue that the relevant features within the state are also present globally.<sup>3</sup> This seems to progress the debate; arguing for duties of justice while taking seriously the context-specific nature of justice. However, there is an impasse over the question of whether or not the relevant features are present in the global sphere to a sufficient extent. This is the third main source of debate.

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<sup>1</sup> See, for example, Beitz, C. 1999, *Political Theory and International Relations* with a new afterword, (Princeton, NJ: Princeton University Press), Moellendorf, D. 2002, *Cosmopolitan Justice*, (Boulder, CO: Westview Press), Caney, S. 2005, *Justice beyond Borders: A Global Political Theory* (Oxford: Oxford University Press), and Tan, K-C. 2004, *Justice without Borders: Cosmopolitanism, Nationalism and Patriotism* (Cambridge: Cambridge University Press)

<sup>2</sup> See, for example, Sangiovanni, A. 2007, 'Global Justice, Reciprocity, and the State', *Philosophy & Public Affairs*, Volume 35, Issue 1, Nagel, T. 2005, 'The Problem of Global Justice', *Philosophy & Public Affairs*, 33, No. 2  
Blake, M. 2001, 'Distributive Justice, State Coercion, and Autonomy', *Philosophy and Public Affairs*, Vol. 30, No. 3, pp. 257-296

<sup>3</sup> Julius, A.J, 2006, 'Nagel's Atlas', *Philosophy & Public Affairs*, 34, No. 2, Valentini, L. 2011, 'Coercion and (Global) Justice', *American Political Science Review*, Volume 105, Issue 01, Wolff, J. 2009, 'Global Justice and Norms of Co-operation: The 'Layers of Justice' View', Cohen, J. and Sabel, C. 2006, 'Extra Republicanum Nulla Justitia?' *Philosophy & Public Affairs* 34, no. 2

My project is largely negative; I critique the dominant approaches to grounding our duties to the global poor. However, I also suggest how to proceed in working out a better approach. My critique focuses on the harm approach because it has received much attention, and purports to provide an effective approach that would bypass much of the disagreement within the debate. Yet, it has not been assessed sufficiently by either its proponents or opponents. The harm approach, most prominently proposed by Thomas Pogge, claims that we have duties of justice to the poor because we harm them (2008: 14). The motivation of the approach is to persuade everyone that we have duties to the global poor, including intellectual opponents of global justice, libertarians, self-interested governments and apathetic individuals, and to break the stalemate within the academic global justice debate.

Pogge's aims seem worthy, given that there is a need to make progress in the intractable global justice debate. However, we may doubt the need to persuade libertarians with our theory of global justice. This is a more demanding task than theorists of justice within the state set themselves; they put forward conceptions of a just society based on egalitarian premises, and it is no weakness of these accounts that they cannot appeal to libertarian principles. What is more noteworthy and perhaps troubling is that those who argue for demanding duties of redistribution within a state reject such duties in the global sphere. It is more fruitful to make progress with regards to this aspect of the debate. It does not seem a feasible, nor necessary task, to persuade libertarians with our theory of global justice. It seems that this aim is not linked to the philosophical project of finding the most plausible basis for our duties, but rather the motivational project of encouraging people into taking action against poverty. The former, and not the latter, is the appropriate focus for us.

In the thesis, I will identify the aims of Pogge's theory, and whether he is able to fulfil them. In particular, I will investigate whether the central claim of Pogge's thesis, the claim that we harm the poor, can be upheld. The key problem with Pogge's argument is that he does not provide an adequate account of harm. I suggest that Pogge equivocates on the notion of harm. He draws on an everyday

sense of harm where people can be harmed by accident, or through acts of nature, where it is more straightforward to show that harm occurs but does not *necessarily* ground any moral duties, at the same time, Pogge invokes a moralised notion of harm to claim that we have duties to the poor. The problem with using harm in the non-moralised sense is that we must also show that this harm is wrongful, in which case there is no advantage to the harm approach, as the underlying task remains to argue that we wrong the poor. Invoking a moralised notion of harm presupposes more fundamental moral claims, meaning that the element of harm does no additional work. Additionally, it does not seem that basing claims on harm helps make an argument more widely persuasive as proponents of different moral theories define harm in different ways. I will explore, by looking in more detail at the concept of harm in the literature, whether we can provide a theory of harm that supports the idea that the rich harm the poor, and have duties in virtue of this harm, which would be widely persuasive. I will show that there is no notion of harm that can support the aims of the harm approach. The main conclusion of the thesis is that the harm approach is not successful.

I will also tentatively suggest how, given this conclusion, the global justice debate should proceed. I assess the main alternative approaches to our global duties to the poor. Instead of arguing in support of one of these views, I argue that we need to rethink our global justice project. I suggest that the harm approach is reflective of what goes wrong in the debate. Much of the literature takes it that the project of global justice involves forming a basis for our global duties through a comparison with the state context. The assumption seems to be that either one argues that we have duties of justice because the global sphere is sufficiently equivalent to the domestic sphere, or one argues that these contexts are different, and so we have non-justice based duties. My view is that we should not assess whether our approach to justice in the state context should be extended to the global case, but rather, we should start with the global situation itself.

Viewing the global situation through the confines of a theoretical analysis obscures what is abundantly clear to us about it, namely, that there are unacceptable



inequalities between rich and poor. The much worse situation of the poor than the rich, in relative and absolute terms, seems unfair. It seems wrong that some people in the world should enjoy such high levels of well-being while others suffer, due to morally arbitrary factors, particularly when the well-off benefit from the same global arrangements under which the worse off do badly. Thus, from a pre-theoretical perspective it seems obvious that there is injustice in the global sphere.<sup>4</sup> However, a theoretical analysis puts into question whether there is such a concept as global injustice. In order to develop the most plausible basis for our duties to the distant needy, we should start with what seems most plausible about the global situation and build our theory from there.

In chapter one I present the harm approach and its aims. I outline how Pogge uses the notion of harm to support his claim that the rich states harm the global poor. I then raise several difficulties with his use of the concept of harm. In chapter two I explore different leading theories of harm in the literature to see whether the harm approach can be supported by drawing on these more thorough accounts. I will suggest that there is no notion of harm that would help the harm approach to achieve its aims. In the third chapter I address how we should proceed in the debate, given that the harm approach does not succeed.

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<sup>4</sup> Wolff claims that there is a common sense theory of global justice, according to which we have global duties of redistribution that are not as extensive as those within the domestic sphere, but are duties of justice and not charity (2009: 4).

## **Chapter One: Is Pogge's harm approach a plausible basis for our duties to the global poor?**

In this chapter I outline the harm approach, paying close attention to the arguments presented by Thomas Pogge. I discuss why Pogge puts forward the harm approach, and suggest what I think the possible advantages of the harm approach are. Identifying the aims of the harm approach reveals what is required of the notion of harm at its centre. I discuss why Pogge's conception of harm cannot support the aims of his argument.

The strategy of the harm approach is to claim that, while we may not always have a duty not to harm, harm does seem to be a prima facie wrong, so whatever else we take to be wrong, if we can show that harm occurs, we have an overlap with other views of wrongdoing. Therefore, if we can identify harm in the global order, we have a foundation for duties of justice that can find agreement among proponents of any moral theory. There seems to be a stalemate regarding whether ideas of domestic justice are applicable to the global sphere. It is not straightforward to extend our notions of justice from the state context to the global sphere.<sup>5</sup> The aim of the harm approach, as I take it, is to base our duties on harm as a way of grounding our duties to those worse off than us around the world as duties of justice, while bypassing this debate. However, attempts to put forward this approach have not succeeded, as this chapter will bring out.

Pogge intends for his approach of basing duties of justice on negative duties not to harm to be persuasive to all. To achieve this aim, Pogge's notion of harm must appeal to libertarians as well as egalitarians, and meet most people's convictions of

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<sup>5</sup> There are issues of feasibility; the global sphere seems to lack an appropriate agent to administer duties (Meckled-Garcia S. 2008, 'On the Very Idea of Cosmopolitan Justice', *Journal of Political Philosophy*, Vol. 16, 3). Cultural differences and different ways of life across the globe make the idea of global equality hard to make sense of (Miller, D. 2007, *National Responsibility and Global Justice*, Oxford University Press). It is also argued that the moral features which trigger duties of justice, such as coercion and cooperation, are missing in the global sphere (Nagel 2005, Blake 2001, Rawls 1999, Sangiovanni 2007).

what harm is. In this chapter, I identify three main problems with Pogge's argument. First, Pogge largely defines harm in terms of other moral concepts, in particular, injustice.

These concepts are defined and employed differently by proponents of different moral theories. Pogge thinks he invokes a minimal sense of injustice that anyone could agree with; however, I will show why this is mistaken. Secondly, as Pogge draws on several associated moral concepts, it is unclear what harm is taken to be. Thirdly, Pogge's statements about harm lead to implausible implications about what would be a case of harm. Pogge argues that anyone can agree that if we harm, we have duties of justice arising from this. The problem is that not everyone can agree that we harm the poor.

Pogge is faced with a dilemma. He could rest his argument on a moralised notion of harm based on the concept of injustice. However, what injustice is is the very question debated by libertarians and egalitarians. Even the less contested notion of 'wrong' is still identified in different ways, so a moralised account may not gather widespread agreement. Instead, Pogge could rely on a non-moralised account of harm. However, the idea of a non-moralised conception of harm may not be plausible. Moreover, a non-moralised account of harm would not necessarily, by itself, give rise to duties. Later chapters will explore ways of resolving this dilemma by considering alternative accounts of harm. However, I will argue that no account of harm helps make the harm approach more plausible.

The main aim of this chapter is to show that Pogge does not offer an account of harm that can support his aims. This sets up my argument that, as the harm approach fails, the best way of grounding our duties to the poor is to start with what seems to be most clear; namely that there are inequalities and unjust practices in the global sphere which need addressing. This avoids the main points of conflict in the global justice debate, not by positing an alternative theory, but by not setting out to prove that a particular theory is correct. The way, I suggest, to

develop a plausible theory of our duties to the distant needy is through evaluating the global situation; identifying injustice and assessing ways of reducing it. Disagreement may remain, as some would deny that there is global injustice, insisting that justice is a concept that only has meaning in the context of a state.<sup>6</sup> However, our aim should not be to eradicate all disagreement, but to best capture the moral facts of the situation.

I will first outline what the harm approach is. Then I discuss the difficulties of the way that Pogge employs the notion of harm.

### What is the harm approach?

What I refer to as the harm approach is the project of basing our duties to the global poor on negative duties of justice not to harm. This may be seen as encompassing two different elements:

1. Duties are based on harm
2. Duties are duties of justice

According to some conceptions of harm and justice, the second point follows from the first. If by harm is meant wrongful harm, and, if by justice is meant reparative justice, harm always gives rise to prima facie duties. However, if by justice is meant social justice, the connection between the two premises is less straightforward.

Pogge's argument can be expressed as follows:

1. We have duties not to harm others
2. We, citizens of the world's affluent states, harm the poor

Therefore,

3. We have duties of justice to stop harming the poor<sup>7</sup>

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<sup>6</sup> Nagel 'The Problem of Global Justice'

<sup>7</sup> Pogge, *World Poverty and Human Rights*, pp. 15-18,

One may question the first premise of Pogge's argument. There are situations in which the duty not to harm seems not to apply. For example, an authority may have a right and a duty to harm perpetrators of moral wrongs through punishment. A duty not to harm may be absent in a situation where I must harm in self-defence. One may also question the third premise. Perhaps, even if we have a duty not to harm, this is not specifically a duty of justice. My focus, however, is the second premise. This premise requires both an empirical account of the behaviour of the rich states towards the poor, and a philosophical explanation of how this counts as harm.

In relation to the empirical aspect, Pogge frequently cites data which reveals the desperate situation of the poor; showing how badly-off they are in absolute terms, and also how much worse off they are relative to others.<sup>8</sup> This makes clear that the poor are in a morally urgent state, and have unmet claims. However, the data does not itself reveal that anyone harms the poor. To support the factual basis of this claim, Pogge draws on several examples of the rich states enacting policies and decisions with global ramifications that are detrimental to the poor (2011: 29-30). Pogge discusses how affluent countries and their companies buy resources from rulers of developing countries, even when they maintain their power using force and corruption. Affluent countries and their banks lend money to such rulers and enforce debt against the people even after the original ruler is no longer in power. Western-owned banks may accept funds that may have been amounted through embezzlement and corruption. The global system allows for multi-national corporations to avoid paying tax in developing countries where they extract and manufacture resources, instead reporting their profits from tax havens through transfer pricing and setting up subsidiaries. Additionally, affluent countries and their companies contribute disproportionately to environmental damage, to which a large portion of the global poor are particularly vulnerable. Another example Pogge provides is that affluent countries have set up a system of international

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<sup>8</sup> Pogge, *World Poverty and Human Rights*, p2, 11, 'Response to Critics', p 177, 'Are we Violating the Human Rights of the Poor', p2

trade, supposedly beneficial to all, through open markets and free trade, yet use their influence to essentially bar poor countries from enforcing protectionist measures, while the rich states protect their own markets through tariffs and anti-dumping duties. They also subsidise their industries to gain a larger market share, which poor countries are unable to do (2011: 29-30).

These practices may strike us as unjust. Pogge frames them as harms to convince everyone that they are unjust. Pogge thinks that these harms implicate, not just governments and companies, but all citizens of affluent countries. Pogge claims that we collaborate in imposing institutions that foreseeably cause human rights deficits, through our participation in them (2008: 26). As we have a duty not to produce these harms, we owe the poor our fair-share of compensation (2011: 32). Pogge does not spell out how we would meet our duties to the poor. However, our focus is the prior question regarding the grounding of these duties. Before addressing whether Pogge's philosophical account of the situation is correct, I will discuss and assess the reasons Pogge advances for focusing on harm.

#### Why the harm approach?

An obvious initial question to ask is: why base our duties on harm? It is intuitive to most that if someone is in great need, and we are able to help them, then we should.<sup>9</sup> It does not seem necessary to bring harm into the picture for us to have duties.<sup>10</sup> Perhaps, however, basing duties on harm has advantages. Nagel, who we might label an opponent of global justice, writes that '*states are entitled to be left to their own devices, but only on the condition that they not harm others*'.<sup>11</sup> This illustrates a common viewpoint; that there is something particularly serious about harm that demarcates the parameters of our rights and liberties. If a ruler is harming its people, other nations may override the right of sovereignty to

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<sup>9</sup> David Wiggins argues that needs, conceived as objective and as morally compelling, provide a superior basis for duties, to considerations of rights, utility or capabilities (1991: 319).

<sup>10</sup> p.52, Satz D. 2005, 'What Do We Owe the Global Poor?', *Ethics and International Affairs*, 19, no.1

<sup>11</sup> Nagel 'The Problem of Global Justice'

intervene. If my actions would harm someone, this limits my liberties and rights to pursue this course of action. This suggests a promising strategy to appeal to opponents of global justice. If we can make the case that the rich states harm the poor, we can show that the rights of these states are curtailed and they must change their actions in order to stop harming. This may be plausible, but one may still ask why this idea should ground the general duties that we have to the global poor. I shall list some reasons Pogge may have for basing our duties on harm, and discuss each one in turn.

a) Necessary to ground claim

Perhaps we must show that we harm the poor for there to be a claim on us.

b) Rhetorical force

Harm is usually considered a normative concept and thus framing our duties as harm may have rhetorical force and motivate people more effectively.

c) Wide appeal

Pogge may base our duties on harm as these are duties anyone recognises we have, thus libertarians, as well as egalitarians, would be committed to these duties.

d) Duties of justice

Basing duties on harm may make these duties of justice rather than merely duties of charity or assistance.

e) Negative duties

Basing duties on the fact that we harm the poor makes these negative rather than positive duties.

f) Captures the true moral picture

We may base our duties to the poor on the fact we harm them, as if we do harm them, our moral theory should capture this.

g) Efficiency

If we harm the poor, it may be more efficient to stop harming than to provide assistance to the poor.

These reasons seem related to different objectives. Some seem to be reasons if we are concerned with being effective against poverty, for example, b) and g). Others

are more relevant to forming a plausible basis for our duties, for example f), while others are related to the ecumenical aims, namely c) and e). I shall now assess which are the strongest reasons for adopting the harm approach.

a) Necessary to ground claim

Pogge does not make clear whether he thinks that demonstrating that we harm the poor is necessary to ground claims that the poor have on us, or whether, instead, the existence of harm only changes the nature of these claims, or, provides additional duties on top of these claims. It would not be plausible to claim that we must show that we harm the poor for us to have obligations. Most theorists would agree that if someone is in severe need, this is sufficient to ground a claim on us to help, even if this claim is not enforceable or can be overridden. Pogge himself is a cosmopolitan. Pogge argues that Rawls is wrong to take such a different approach to justice in the global context than in the domestic sphere (Pogge 2004). This indicates that Pogge does not put forward the harm approach because the existence of harm is necessary to ground a claim to help the poor, but rather, because there are distinct advantages to the harm approach.

b) Rhetorical force

Pogge is concerned that our theory of global justice should motivate people into action (2010: 179). Framing duties in terms of harm gives them rhetorical force. However, one might reject this as a good reason for focusing on harm. At least from a philosophical perspective, what matters is that our duties are based on plausible grounds rather than politically efficacious grounds. In any case, instead of being motivated by the idea that we harm the poor, we might instead be psychologically resistant to allegations of moral culpability. It is noteworthy that charities mostly do not base their appeals for support on the idea that we are harming the poor, but rather that minimal sacrifice from us could be of significant assistance to people in need. This may be because basing claims on need more effectively motivates us, which would undermine Pogge's strategy. Or perhaps the idea that we should help



is more intuitive and more plausible to people than the claim that we harm the poor.

c) Wide appeal

There is somewhat of an impasse within the topic of global justice. Some argue that the principles of justice that Rawls develops in the context of a state should be extended and applied to the global sphere. Others, including egalitarians about domestic justice, deny that the global context bears the features that make principles of social justice appropriate. Libertarians also object to duties of global justice for the reasons for which they oppose domestic distributive justice; only recognising negative duties of forbearance. The reason why Pogge may focus on harm is because while people disagree over whether we have positive duties towards the poor, anyone can agree that we have negative duties not to harm the poor. This is Pogge's ecumenical strategy. Pogge's aim is to make headway in the debate by putting forward a theory compatible with all the leading positions on social justice. Pogge's intention also seems to be to persuade as many people as possible that we have duties to the poor, in order to make a greater impact on addressing poverty.

However, the ecumenical strategy does not require the harm approach. Proponents of almost any theory of justice, including libertarians, and those who reject duties of justice in the domestic sphere, accept that we have demanding positive duties of charity to aid others.

d) Necessary to ground duties of justice

However, Pogge may want our duties towards the poor to be duties of justice, not mere charity. Although there is agreement that we have positive duties of *charity* towards the poor, there is disagreement about whether we have positive duties of *justice* towards the global poor. However, most agree that we have *negative* duties of justice. Therefore, it would be useful to frame our duties as negative duties of justice. Bringing harm into the picture makes the link with justice, rather than only beneficence. Two further questions, however, arise. First, one may ask why it is

important that our duties to the poor be duties of justice. Secondly, if our duties are duties of justice, one may question whether it is necessary that these be grounded on harm.

It is often suggested that framing duties as duties of charity or assistance is inadequate; that we have settled for lesser duties if they are based on *mere* charity rather than justice. However, this may be a misconception. Our duties of charity may be as stringent and extensive as duties of justice. Pogge does not say what the difference is between charity and justice, or why it is important that our duties should be duties of justice. Pogge's approach is not compelling without an explanation of why duties of charity are inadequate for his aims. It is necessary, on Pogge's behalf, to explore this distinction. The key difference is that duties of charity are regarded as imperfect duties, whereas duties of justice are perfect duties. We are able to specify what it is for a perfect duty to be fulfilled, whereas, there is no upper or lower limit on what complying with an imperfect duty requires. I shall further discuss the distinction between justice and charity in the third chapter.

I do not think that it is implausible to argue from a conviction that considerations of justice arise in the global sphere. However, Pogge does not explain why he holds this conviction. Perhaps, Pogge's view is simply that duties of justice arise because we harm distant others. However, it seems that Pogge draws on harm in order to argue that we have duties of justice. Pogge's approach is to find a way of convincing most people that we have duties of justice; '*confronting these people with negative duties....may well have a much greater positive impact on many*' (2010: 179). Pogge starts with the aim of showing that we have duties of justice, not with the belief that harm occurs. However, the basis of our theory should be what is most plausible, not what is most politically efficacious. What seems most true is that there are unfair inequalities between rich and poor in the global sphere. This is the appropriate starting point in developing an account of global justice. I shall further press this argument in the third chapter.

## e) Negative duties

I have been exploring why Pogge would base duties to the poor on harm when it seems intuitive that we have positive duties to help people in need. However, Pogge does not deny that we have positive duties to the poor. Rather, Pogge thinks it advantageous to frame our duties as negative duties (2010: 195).

Pogge puts forward a view which can resist the objection that principles of social and economic justice on the global scale would be too demanding (2007: 18). Pogge adheres to the view that negative duties are less demanding; they only require our forbearance (2007: 20). However, this is not always the case. A positive duty may require an action that is very easy to carry out; for example, lifting a baby out of a puddle. Additionally, at times, refraining from acting may be difficult. We can draw on Pogge's own theory to illustrate this point. Pogge claims that we harm the poor through participating in the global commercial system, which has harmful effects on the poor (2007: 16). Accepting that we harm the poor in this way for the sake of argument, these harms are a result of a complicated interplay of factors, and the actions of many different agents. It is hard to foresee the ramifications of our actions and it is not clear what alternative ways of acting are available to us. It is not straightforward to simply remove our harmful contribution to the global order. Negative duties are not always easy to fulfil.

The other key feature of negative duties, which Pogge emphasises, is that they are often considered to be more morally stringent than positive duties (2008: 203). For example, it would be wrong of me not to help the victim of a car-crash if I am a bystander, but it would be even more wrong if I am the driver responsible for the victim's harm (Pogge 2011: 16). This is not always the case; the positive duty to lift a child out of a puddle seems stronger than the negative duty not to steal my classmate's pen. Perhaps the idea is that negative duties are stronger than their positive counterparts; my duty to not drown a child in a puddle is stronger than my duty to rescue a child drowning in a puddle. Or my duty not to steal your pen is stronger than my duty to lend you one. Even this may be doubted, refusing to lend

you a pen, if I have one spare, may display a cold-heartedness that seems worse than stealing your pen, when I have need for **one**.

Eliana Zur-Szpiro 6/5/14 15:08

**Comment:** may not be proper equivalent, instead would be not lending you a pen when I need mine, versus taking yours when need it (taking worse than not lending)

Perhaps, however, even if negative duties are not always stronger than positive duties; they do seem to be in the case we are considering. Pogge writes that:

*'Nearly everyone in the affluent countries would agree that our moral duty not to contribute to the imposition of conditions of extreme poverty on people and our moral duty to help protect people from harm in whose production we are implicated in this way are each more stringent than our moral duty to help protect people from harm in whose production we are not materially involved.'*<sup>12</sup>

Our duties to the poor would seem to be stronger if we are in some way responsible for their situation than if we are not. However, this conviction seems weakened when we reflect on how Pogge suggests we are responsible. Our duties to the poor would be minimal as our contribution to the global order, and to the situation of the poor, is negligible. Our positive duties to help the poor, on the other hand, given their desperate situation, may be very demanding; they may be more extensive than our negative duties in this case. Some agents have a larger role in shaping the global order. However, as a general claim, it seems false that our negative duties are necessarily stronger than our positive duties towards the global poor.

f) Captures the true moral picture

Our concern with harm may not just be strategic. We may concentrate on harm because we do, in fact, harm the poor, and our moral theory should capture this. While Pogge does not emphasise this as a key reason for focusing on harm, Pogge suggests that it is misleading to only focus on our positive duties to the poor, and ignore how we are implicated in their adverse situation (Pogge 2005: 35-6). It is not clear if Pogge encourages this attention on harm because it is important in

<sup>12</sup> p46, Pogge, T. 2005, 'Real World Justice' *The Journal of Ethics*, 9: pp.29-53

itself to accurately represent the situation, or because highlighting that harm occurs allows Pogge to base duties on harm for the reasons mentioned above. Capturing an accurate moral picture of the global reality is one of the strongest reasons for taking the harm approach. However, I would add an important qualification to this regarding the scope of the harm approach. There are many cases of affluent countries' governments, companies, and at times, their citizens harming the poor. However, I do not think that these instances should form the basis of our duties to the poor, as these are isolated cases. Relative to the entirety of the interactions between rich and poor in the global sphere, these cases are too few to ground the duties that each one of us has towards the poor. Nonetheless, when citizens, companies or governments harm the poor, they have duties of justice to stop harming or to compensate for the harm, or both. Our duties should be based on the most relevant moral concept in the situation. It may also be paradoxical to act upon a positive duty to help while continuing to actively harm the poor.

g) Efficiency

There is also a pragmatic reason for focusing on harm. If we harm the poor, it may be most efficient and effective to focus our efforts on simply not harming, rather than to persist in harming while providing humanitarian assistance. If our duties are framed as charitable duties to help, rather than duties of justice not to harm, we may fail to attend to the way we harm the poor, and merely give help in the form of aid.

These are the advantages of the harm approach to which Pogge makes reference. I take Pogge's key reasons for taking the harm approach to be first, to break the stalemate between proponents of different theories of justice by putting forward a theory compatible with the views of all. Secondly, through this, Pogge hopes to persuade as many people as possible that we have duties to the global poor. The strongest reason for focusing on harm is to accurately represent relations in the

global sphere. This is a reason for focusing on harm even if we think duties of charity are largely adequate for grounding claims and meeting them.

The necessary task is to assess how plausible it is to claim that we harm the poor. Highlighting the aims of Pogge's theory reveals the criteria that Pogge's notion of harm has to fulfil for the harm approach to be successful. Pogge's definition of harm must meet with most people's intuitions about what counts as harm, and be such that if harm does occur, duties of justice follow from this. I shall now turn to assess Pogge's argument.

### Pogge's argument

In putting forward the harm approach, Pogge makes several instructive points about the global situation. Pogge presents data that clearly indicates that, whatever the basis and character of our duties to the poor, the claims that the poor make on us are not being adequately met. In addition, Pogge captures something distinctive about the global picture. Pogge refers to ways in which the rich countries levy their power and influence to make decisions and enact policies which work in their favour, while having detrimental consequences for poorer countries. These are pertinent features of the global order, which may have a bearing on the duties we have to the poor. However, this does not mean that the harm approach is the right one to take. There may be certain additional moral duties based on these harms, but we should not derive all our duties towards the poor from these cases of harm. Moreover, these may not be situations of the rich harming the poor but rather the rich states failing to help the poor, or disadvantaging, or taking advantage of the poor.

Above, I stated that the second premise of Pogge's argument requires a philosophical as well as empirical explanation of why it is appropriate to label the behaviour of the rich towards the poor as harm. I briefly discussed the empirical aspect to this question. I shall now address Pogge's philosophical case. I do not

think that Pogge gives a sufficient explanation of how it is that the rich harm the poor. However, this is not to rule out that a more thorough argument and analysis could be provided in support of the premise.

#### Pogge's discussion of harm

Pogge notes that harm is usually a comparative notion; when we say that a person is harmed, we often mean that they are made worse off than they were before. The comparison is generally made with reference to a historical baseline (2008: 19). However, Pogge finds a diachronic understanding of harm to be inappropriate. This is because a person may become better off compared to an earlier time period, and yet may remain in a situation we would want to describe as harm. For example, Pogge points out that if a man starts to beat his family less than he used to, he has not benefited them, rather, he continues to harm them (2008: 23). If, in a slave-owning society, new reforms improve the conditions of slaves, the institutional arrangements that allow slavery to persist still harm the slaves (2008: 23). Historical baselines reveal that poverty is decreasing; however, while poverty persists, Pogge wants to say that the poor are harmed by the global order. Pogge insists that because people who are harmed by the global order can be shown to be benefitted according to a diachronic baseline, some other baseline is required (2007:40).

Pogge claims that the poor are harmed because they are worse off than they would be under a feasible, reasonably attainable, alternative arrangement (2008: 25). The claim is not that the poor are not as well-off as they could be under different arrangements and are thereby harmed. Rather, it is that the current situation involves a human rights deficit; the poor do not have even their basic needs met, and these needs would be met under an alternative arrangement (2010: 195). Moreover, this deficit is foreseeable and reasonably avoidable (195). The rich states harm the poor by contributing to the unjust global order, while there is a feasible, just alternative (2008: 26). Using this subjunctive baseline, Pogge claims

that the poor are harmed. However, there are problems with Pogge's analysis. First I argue that the way that Pogge identifies harm is ambiguous, second I discuss that Pogge's notion of harm fails to meet the aims of the approach, first because it would be rejected by a libertarian, secondly because it presupposes the moral claims that the harm approach is intended to ground.

### Baselines

First I discuss the baseline that Pogge employs against which to measure harm. Pogge quickly considers and rejects the historical baseline. However, a historical baseline may support the claim that the global order harms the poor. First, many empirical studies show the gap between the global rich and global poor has widened. Relative inequality does not only make the worse off feel more badly-off, but also is a contributing cause of poverty (Van Treeck 2013). In addition, many of the gains in wealth have not been felt by the absolute poorest, and there are some countries in which poverty has not diminished in recent years. Moreover, we can take a slightly different focus, assessing not just how the poor have fared over time as a result of interaction with rich states, but addressing specific instances of interaction. The powerful states pursue individual policies that make the poor worse off than if they did not impose these policies. For example, when a country puts in place a protectionist policy, restricting exports from poor countries, these countries are made worse off than before this protectionism was enforced. However, Pogge wants to ground a general set of duties based on harm, so it is important to show that the global worse off are harmed overall by the global order. Moreover, it may be right to reject the diachronic baseline. Someone can be harmed even if they are not made worse off than they were before.

Though the diachronic baseline is flawed, we should not move from this to accepting Pogge's subjunctive baseline. There are other possible conceptions of harm we should consider. A comparative sense of harm is only one way of thinking about harm. We may regard a person as being in a harmful state, without



comparing this state to a previous or a hypothetical state. I shall explore non-comparative accounts of harm in the next chapter. There are, moreover, difficulties with Pogge's subjunctive baseline. Pogge claims that the poor are harmed by being subject to an unjust global order while a more just alternative is available. Does this mean that without this alternative, the poor would not be harmed, despite being subject to an unjust global order? If this is the case, the normative claim is greatly affected by empirical matters. This invites a line of questioning assessing how attainable this alternative is. When we consider what would be required to ensure stable, just global arrangements, we may doubt that this would be feasible to bring about (Risse 2005: 376). If this alternative would not be sufficiently feasible, this undermines the claim that the global order harms the poor by maintaining the status quo.

The existence of an alternative situation under which the poor fare better is important for the argument. In other words, Pogge adheres to a *comparative* notion of harm, where the relevant comparison is a feasible alternative under which the poor are, at a minimum, able to meet their basic needs. I identify several possible scenarios that Pogge may have in mind in putting forward his explanation of harming. One issue is that it is not clear which scenario Pogge is referring to in his argument. The other key difficulty is that many of these scenarios do not seem to be situations of harm. I shall outline the scenarios and then discuss each one.

With respect to a feasible alternative:

- 1) If A interacted with B, B would be at a higher level
- 2) If A interacted differently with B, B would be at a higher level
- 3) If A did not interact with B, B would be at a higher level
- 4) If A interacted with B, B would be at a level above sufficiency
- 5) If A interacted differently with B, B would be at a level above sufficiency
- 6) If A did not interact with B, B would be at a level above sufficiency

Scenario 1 would not strike most people as a situation of harm. We may ask why, just because someone is at a lower level of well-being than they could be, they are

harmed. Merely being worse off than one would be in a feasible alternative is not to be harmed. For example, if you approach me with services or goods to sell and I decline the offer, leaving you without an additional customer, most would not agree that I have harmed you. The same can be said for Scenario 2. If I agree to purchase your goods at a low rate, even though I have enough money to offer you a good price, most again, would not agree that I have harmed you. Perhaps, however, there are cases of omission which seem to be harms; as Mill states; '*a person may cause evil to others not only by his action but by his inaction*' (Mill 1982: 70). For example, if I could stop you from being crushed by a huge weight simply by pressing a button, if I decide not to press the button, some might say that I have harmed you. However, others would disagree. It is not straightforward to claim that an omission is a harm; further argumentation is required. I will discuss this in the next chapter

Scenario 3 is different, it suggests that but for my interaction, you would be at a higher level than presently. Yet this still may not strike people as harm. For example, I open a shop next to yours, if it were not for my shop, you would have more business, and thus I keep you, or even bring you down to a lower level than you could be at. If you are still well-off, many would deny I have harmed you. It seems to matter what level B is at. Merely being worse off than one could be, or was before, is not necessarily harm.

Pogge states that the current global order does not even meet the minimal human rights of the poor, and these would be met under a feasible alternative set of arrangements. The relevant baseline seems to be a standard of basic human rights. Perhaps then Scenario 4 is the relevant one. However, many would maintain that if I fail to help you when you are badly-off, I am culpable in some way, but I have not harmed you. In the scenario mentioned above, if I decline to buy your goods even though you are so poor that you are unable to meet your basic needs, many would still doubt that I harm you. Similarly in Scenario 5, if I buy your goods but could buy them at a higher price which would lift you above sufficiency, I still do not harm

you by buying your goods at the lower price. Scenario 6, where I interact with you in a way that brings you below a level of sufficiency would seem to meet our notions of what harm is. However, Pogge does not give an account of the interaction of the rich states with the poor that shows that this scenario fits. It seems that the poor would be better off if we interacted differently, but would not necessarily be better off if we withdrew our interaction with them.

Failing to meet a person's urgent needs is not necessarily harm or injustice. When we look closely at the possible claims that Pogge makes, the most plausible understanding of the situation is that we fail to help the poor, rather than harm them. Situations 3 and 6, which suggest that the poor would be better off without our interaction, are not empirically plausible. Scenarios 1, 2, 4, and 5 more closely fit the global picture, but if these describe situations of harm, the concept of harm is being used in a way that does not fit most people's use or understanding of the notion. Some of these types of interaction for example, failing to bring someone to a level above sufficiency may, at times, count as harming. This depends on several factors, such as, the attitude of the person. Pogge cannot judge that harm has occurred merely on the basis that the affluent states contribute to an unjust global order when a more just alternative is feasibly attainable. An even more significant problem is that Pogge's notion of harm would not be accepted by those whom the harm approach is intended to convince. I shall explain this next.

### Harm and positive duties

Several critics have pointed out that although Pogge wants to base duties of justice only on violations of negative duties, the premises he relies on putting forward his argument that the affluent harm the poor presuppose that we have positive duties of justice to the poor (Tan 2010, Patten 2005: 20, Satz 2005: 53). The affluent harm the poor, according to Pogge, because they fail to establish alternative, more just arrangements. This seems to assume that there is a positive duty to establish these arrangements. Many, however, would hold that the affluent owe no duty to

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**Comment:** matter because not just about testing intuitions, or fitting in with what people think but need to capture use of harm, moral significance, cannot give completely new definition 1. Lose what harm is 2 and for pogge purpose, need convince people

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**Comment:** go through diff possibilities v quickly, each need more attention to say whether are or are not harm. But point is pogge give no more detail than this, show how not sufficient

establish a more favourable, alternative set of global arrangements (Tan 2010: 60). The way in which the affluent might have violated a negative duty of forbearance towards the poor is if they force these arrangements upon them. However, the rich nations do not obviously and invariably force the poor countries to interact with them. The affluent countries opt to offer unfavourable rather than advantageous arrangements to the poor states. It seems true that the rich take advantage of the needy situation of the poor, however, being taken advantage of does not necessarily amount to being treated unjustly or being harmed. Pogge's argument that the poor are treated unjustly by being harmed would not persuade a libertarian, which he aims to do, because the notion of harm that is being used, the baseline being invoked, goes beyond what a libertarian would accept (Tan 2010: 60, Patten 2005: 20, Satz 2005: 53).

### Harm, justice, and human rights

Pogge points out that these critics misunderstand his approach. Pogge's strategy is not to provide an independently specified notion of harm, and then argue that in virtue of this harm, there is injustice. Instead, Pogge conceives of the relationship between harm and injustice in the reverse way (2010: 193). Pogge's approach is to provide an independently specified conception of social justice, and argue that in virtue of this injustice, the poor are harmed. Pogge's argument can be stated as:

1. We harm the poor in so far as we help perpetuate an unjust global order
2. The global order is unjust because it does not even respect essential human rights

(2010: 193)

It seems that there are several associated concepts that Pogge may be defining harm in reference to; harm as injustice, harm as human rights violations, and harm as wrongdoing. I shall discuss each in turn.

### Harm as injustice

The way in which we unjustly disadvantage the poor, and not just disadvantage them, according to Pogge, is by upholding a global order that is unjust; *'an institutional order harms people when its design can be shown to be unjust by reference to a feasible alternative design'* (2008: 5). Of course Pogge must make the philosophical case that the global order is unjust. Here there is scope for disagreement. Pogge invokes a minimal criteria of justice, namely, *'any institutional order is unjust if it foreseeably produces a human rights deficit'* (2008: 25). A libertarian, Pogge claims, would agree with this definition (2010: 193). Pogge's view is that the affluent harm the poor through contributing to the perpetuation of unjust institutional arrangements.

Defining harm as injustice has several advantages. First, it offers Pogge a way of answering the baseline problem, and thus maintaining that the poor are harmed by the global order. Secondly, by invoking a moralised notion of harm, showing that the rich harm the poor is sufficient to ground prima facie duties of justice. Thirdly, this preserves the ecumenical approach. Not labelling the poor as harmed in virtue of falling below a specified threshold allows Pogge's theory to be acceptable to egalitarians who may define a social order as unjust, even if it meets minimal human rights standards, if it engenders large inequalities. Pogge's strategy is to argue that we harm the poor, defining harm in terms of injustice and injustice in terms of a human rights deficit. According to Pogge, this allows duties of justice to be based on minimal moral commitments, and makes the approach persuasive to all (2010: 193).

However, there are several problems with the way that Pogge conceives of harm in terms of injustice. First, it remains unclear what harm is taken to be, secondly many would not agree with this way of defining harm, thirdly, defining harm in this way seems to negate the purpose of the harm approach. As I said of Pogge's general strategy of basing claims on harm, it may be efficacious to define harm as injustice;

however, this argumentative strategy may not be persuasive. It seems that Pogge is really making three distinct claims, namely:

1. We harm the poor
2. The global order is unjust
3. The global order fails to meet the human rights of the poor

Pogge, in pressing his claims, helps himself to different moral concepts, which may be relevant, but change the nature of the argument. If Pogge's argument is that we owe the poor duties because we harm them, it may be more helpful to focus on the concept of harm, rather than to define the central concept in terms of associated concepts.

Defining harm as injustice may not be met with agreement. It does not fit with most people's understanding and everyday use of the term. Harm and injustice seem to come apart. There may be occasions where someone is harmed but not treated unjustly. For example, a person rescuing me from a fire may break my arm to fit me through a window to escape. If this is the only way to save my life, the break is a harm, but is not unjust. Additionally, one can think of ways in which someone might be treated unjustly but not harmed. For example, if I receive an unjust distribution of a good that I do not want, it seems implausible to say I am harmed. It seems reasonable to insist that the concepts of harm and injustice be treated separately, and to maintain that one is not always harmed by being treated unjustly. Besides, it is not clear that claiming that the poor are treated unjustly is any more agreeable to the libertarian than the claim that they are harmed. Moreover, it should not be taken for granted at this stage that our duties to the poor are best thought of as duties of justice.

Pogge's argument is based on the claim that the global order is unjust. However, if the idea that the global order is unjust is the foundation of Pogge's argument, the harm approach seems to be futile. If we are responsible for injustice, we do not need to invoke the idea that we harm for us to have duties of justice. If one would

agree that the global order is unjust, duties of justice would follow directly from this. If one did not agree that global order was unjust, they will not share the view that the global order harms the poor, and so the argument would fail. Moreover, there are difficulties with Pogge's argument that the global order is unjust because it fails to meet minimal human rights standards, which I explain next.

### Harm as human rights violations

Pogge thinks that tying harm to minimal human rights standards will allow anyone to find his approach agreeable (2010: 195). It is true what Pogge considers to be basic human rights, such as a right to life, are things anyone could agree a person has claims to. However, the concept of human rights is highly contested. Drawing on human rights may make Pogge's approach less, rather than more persuasive to many. Pogge relies on the assumption that a distribution is unjust if it fails to provide people with the means to meet their basic rights (195). Pogge thinks this idea is incontestable, however, libertarians may not agree. Respecting rights is paramount to libertarianism. However, this does not mean that a human rights deficit is an injustice. Libertarians only accept that we have negative duties towards others. A human rights deprivation would only be an injustice if one is interfered with by another.<sup>13</sup> Being in a state of deprivation because one has not been sufficiently provided for by another is not necessarily a human rights violation. Therefore, it does not seem that any reasonable person would agree that the rich wrong the poor in virtue of this deficit.

### Harm as wronging

Perhaps Pogge's view is that the poor are harmed because they are wronged. Pogge thinks that the global order is unjust towards the poor. To be treated unjustly is to be wronged. However, perhaps not all injustice is wrong. Justice is only one virtue;

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**Comment:** if dispense with need to appease libertarian, harm approach may succeed, but then also no need for harm approach, other more plausible approaches.

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<sup>13</sup> We may draw a distinction between libertarians and left-libertarians, the latter whom also recognise certain positive rights

I may forsake justice for the sake of a different value, such that I do not wrong you. For example, in a familiar scenario from the literature on equality; if some people in the world are born blind and others are sighted, it may be more just to make things more equal by making everyone blind. However, a blind person would not be wronged if this policy was not carried out, as there are other moral considerations against it. Moreover, it does not seem that all wrongs are harms. For example, if you make a promise to me, it is wrong to break it, however, I may not care about the thing you promised me, or breaking the promise may work out well for me.

This is not to reject the suggestion that harm should be defined in relation to wrongdoing. Many insist that we require a notion of wrong to understand the concept of harm, as, only when an act is wrong does it count as harm. **All harms may be wrongs.** However, Pogge would be incorrect to assume that all wrongs are harms. Moreover, if Pogge thinks the rich states wrong the poor, there is no need to argue that they harm the poor. **Whoever wrongs someone has duties towards them.**

#### Harm as failing a duty

Pogge may look to Mathias Risse's suggestion of how the global order may harm the poor for support. Risse acknowledges a duty that affluent countries owe to assist other countries in establishing stable domestic institutions (Risse 2005: 358). Risse claims that the shortfall of meeting this duty, in so far as this can be attributed to the global order, is how the global order harms the poor (2005: 366). Not assisting in institution building seems to be failing to help, however, not harming. Risse's view may be that failing to help the poor *causes* harm. Perhaps, because we do not help the poor to build strong-institutions, they are unable to sufficiently develop, and are vulnerable to economic, political and environmental catastrophes, and cannot overcome their disadvantaged position in the global order. If poverty results from weak institutions, and we fail to help build strong institutions, we may be responsible for this poverty. This is close to the type of

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**Comment:** What about self-defense? Not harm?

Eliana Zur-Szpiro 6/5/14 16:43

**Comment:** Very vague. First mean prima facie duties. Also may be no more than apologising. May not be case e.g child, but then may not consider this to be wrongdoing. Coincidental, that wrongdoing bring duties? Or definitional? To wrong is to have a duty? No or conditional, if not have duty, not consider wrongdoing

Eliana Zur-Szpiro 6/5/14 16:55

**Comment:** Why bring in risse? Because is a form of the harm approach, need to review all, and more plausible, though also diff as not basing duties on harm, so is form of harm approach?



argument that Pogge is making. Such an argument would seem to be stretching the idea of harm too far. Risse's view is more likely that failing to fulfil the duty *constitutes* the harm.

Perhaps where we have a duty to act, failing to act, if this leaves a person worse off than before, or than they would be otherwise, is a harm. It may be plausible to claim that to harm is to violate a duty; I shall discuss such a view in the next chapter. On the other hand, violating a duty does not always seem to be harm, as illustrated in the promising example I supplied earlier. Risse claims that failing to assist in institution building is a harm, and it is a wrong because it is a failure to meet a duty (2005: 376). Risse may be defining 'harm' as a 'wrong' here, or, Risse may be defining this failure as a harm, and then stating that additionally, this harm is wrongful as it coincides with a violation of a duty. **It is more plausible to claim that violations of duties are wrongs than violations of duties are harms.** Risse's suggestion of how the global order harms the poor is more philosophically sound than Pogge's. However, while Risse acknowledges that the situation of the poor is one of harm, he claims that we cannot clearly attribute this harm to the global order, so Pogge cannot make the case, based on Risse's argument, that the global order harms the poor. Moreover the way in which Risse seems to argue that we harm the poor is by failing in our positive duty, the duty to assist in institution building. It is thus unclear what additional work the notion of harm is doing. If we hold that we have positive duties to people in need around the world, there is no need to base our duties on harm.

#### An account of harm?

I have suggested some problems with Pogge's account of harm. Pogge's subjunctive moralised account of harm does not fit with people's usual understanding of the concept. This may be one reason why there is often resistance to Pogge's argument. A more significant concern may be that Pogge does not really provide us with an account of harm. Pogge explains what he takes harm to mean in the context of the

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**Comment:** Why? Because wrongs and violating duty synonymous. But harms also meant to be wronging. But perhaps not all wrongs are violating a duty. So come apart there.

harm to the poor by the rich states, but does not tell us what it is to harm generally. Pogge states that his approach is not to specify an independent notion of harm but rather to define harm in terms of injustice. However, without a more thorough analysis of the concept of harm, it remains unconvincing to claim that the rich states harm the poor. Relying on the idea that the global order is unjust to argue that it harms the poor does not help make the harm approach plausible.

### Conclusion

One may expect Pogge, in proposing the controversial view that the rich states harm the poor, and drawing on this claim to ground duties of justice to the poor, to give a thorough explanation of how they harm. However, Pogge's account of harm is deficient in several ways that I have highlighted in this chapter. Pogge offers a moralised conception of harm, defined in relation to a conception of injustice. However, Pogge intends his argument to have widespread appeal, which such a moralised account of harm will not allow. This is because not everyone would agree that the rich states commit wrongful acts against the poor. Perhaps this does not demand an abandonment of the harm approach but only its ecumenical aims. There are other benefits to basing duties on harm. So perhaps if the argument is not aimed at appealing to libertarians, the harm approach can succeed. However, it is not only *some* that would not be convinced that the way Pogge thinks the rich harm the poor counts as wronging, *most* would not be.

The strategy of the harm approach is to show that harm is a type of wrong and thus overlaps with other theories of wronging. However, Pogge seems to claim that the rich harm the poor because they wrong them. Pogge's moralised baseline involves relying on premises that one should seek to prove. Moreover, if the way in which the rich wrong and harm the poor is by treating them unjustly, then duties of justice follow directly from this. The claim that they harm does not seem to add anything. Pogge's moralised account of harm does not support the aims of the harm approach. On the other hand, a non-moralised account of harm would pose other difficulties. The claim that the poor are harmed according to a non-moralised

definition of harm may be met with more agreement; however, it would be less persuasive that any duties of justice follow.

In the next chapter, I will explore alternative conceptions of harm to see if these can support the harm approach. These still may not find agreement among libertarians but may be more plausible and better meet our intuitions about harm than Pogge's account. The harm approach seems important given the difficulty of establishing duties of justice to the poor by applying our theory of domestic justice to the global sphere. However, I present the harm approach as an illustration that this general project is misguided. While it is a worthy aim, to make progress in the global justice debate given its state of impasse, positing an alternative theory is not the most effective route, and basing our duties on harm is not plausible. Instead of setting out to prove that we owe duties of justice, or rejecting this possibility from the outset, we should develop an account of what duties would be appropriate given the nature of the situation. Without assessing the global situation through the lens of a particular theory of justice, it would strike most as obvious that injustice is prevalent in the global sphere. However, the harm approach has received a lot of attention in the literature and seems to have been both lauded and rejected without a sufficient analysis of the concept of harm at its centre. In order to definitively accept or reject the approach, we must fully investigate whether it is plausible.

**Chapter Two: Is there an account of harm that can support the harm approach?**

The key aims of the harm approach are to break the stalemate in the literature over the question of whether distributive justice applies at the global level, and to widely persuade people that we have duties of justice to the global poor. In the first chapter I discussed the problems with Pogge's moralised, subjunctive notion of harm. Pogge does not provide an account of what he takes harm to be. Pogge only explains how, in this particular case of the interactions between rich and poor states, harm occurs, and explains this with reference to associated but contested moral concepts. Pogge's analysis is imprecise, and does not fit with common understandings of what counts as harm. In order for Pogge's approach to be persuasive, Pogge must draw on a theory of harm that we would find plausible, that would accommodate, within its conceptual framework, institutional harm as a case of morally significant harm.

To assess the claim that the rich states harm the global poor, we must come to a clearer understanding of what harm is; my task in this chapter. Harm is a familiar, yet, amorphous notion. I will investigate different views of harm, assessing how far they fit with how we use the term, and, account for harm's special status. I shall, alongside this, assess how well they might bolster Pogge's argument. While we may struggle to put forward an account of harm which is not vulnerable to counterexamples or challenges, I try to suggest the type of account that is most promising. An analysis of the concept of harm has been neglected in the literature on global justice that focuses on the harm approach. In my view, it is a worthwhile pursuit to explore whether other versions of harm can support the harm approach, because if we can devise a more plausible formulation of the approach, this may make important progress in the global justice debate. On the other hand, if we think that the harm approach is best dispensed with, we should formulate the most plausible version of the harm approach and show how even this will not succeed.

In this chapter, I will argue that there does not seem to be a notion of harm that can fulfil the aims of the harm approach. There are theories of harm that can support the claim that the rich states harm the poor, but not in a way that contributes anything to the debate. I will argue that harm, when we consider its importance in our moral theory, and its role in setting limits on action, should be conceived in moralised terms. Additionally, in order for the concept of harm to have content and to unify different cases of harm; harm must be defined in relation to a moral theory. However, there are two main problems with moralised accounts with regards to the aims of the harm approach. First, the question of what harm is gives rise to the same disagreements raised by the question of what our duties are to the global poor. For example, if harm is defined as the violation of rights, only people who share a view of what counts as a rights violation can agree on when something is harm. Secondly, moralised harm presupposes moral obligations, which negates the need for the harm approach. On the other hand, non-moralised accounts of harm will not help the harm approach. The key difficulties with these accounts are first, specifying a baseline that is not, on the one hand, too inclusive of cases of harm, nor, on the other, too exclusive, which can also provide a way of unifying what counts as harm. Secondly, non-moralised accounts of harm do not necessarily generate duties.

The harm approach is an attempt to ground duties of justice while avoiding the debate about whether we should extend our theory of justice within the state context to the global context. My view is that the harm approach is implausible, however, this should not lead us to pursue the project of arguing whether or not the state conception of justice is applicable to the global sphere. Rather, the best way to develop a theory of global justice is to start with our moral convictions about the global situation and build an account from these. The harm approach is symptomatic of the way that we misconceive the project of global justice.

## Harm

While there is some disagreement about the features a conception of harm should have; there is also a broad consensus. It is widely held that a theory of what harm is should account for the importance of harm in society and in moral theory, and thus not be excessively broad. It should accommodate the cases, and only those cases, that we usually count as harms, and should unify different cases of harm.

Pogge discusses the need for a notion of harm besides the historical, comparative conception of harm. It is a common perception that to be harmed is to be made worse off than one was before. However, such an analysis of harm fails to take into account cases of harming that a theory of harm should include. For example, if someone decreases the intensity with which they hurt a person, they have made them better off than they were before, but they still harm them. Additionally, we are not harmed if we merely are made worse off than we were before. If I am sitting in a waiting room and I leave to do something and come back to find my former seat occupied, forcing me to now stand, I am worse off than I was before, but it does not seem fitting to say I have been harmed.

According to a historical baseline, the poor are better off than previously, and thus, are not harmed by the global order. Pogge offers an alternative account of harm in terms of injustice. However, while we might agree that the historical comparative account is inadequate, Pogge's own account is problematic, as discussed in the last chapter. Yet, there are other notions of harm in the literature that Pogge does not consider. I shall begin with discussing non-moralised accounts of harm.

### Non-moralised accounts of harm

Non-moralised accounts take the view that harms are not necessarily wrongs. This seems to capture the way that we often use the term harm. For example, we say that one was harmed by accident, or people were harmed in a natural disaster. Non-moralised accounts take harm usually to involve either a worsening of one's position, or being in a bad state. This seems to accommodate many cases that we

would wish to describe as harmful. However the main problem is that this would also identify many cases of harm which seem to lack moral significance. An account need not bring out the wrongfulness of harm, but it must capture its normative significance. I will discuss the counterfactual account of harm, the event-based account, and then the non-comparative conception of harm, before turning to moralised accounts, which I explain are more relevant to our purpose of assessing our duties to the poor.

### Counterfactual Harm

According to the counterfactual account of harm, to be harmed is to be in a worse off state than one would be otherwise. The counterfactual account recognises harms that do not make a person worse off than they were before, such as being prevented from receiving a benefit. For example, A is blind and the only surgeon able to restore A's sight is on her way to operate on him. B decides to detain the surgeon, so that the surgeon cannot perform the operation, and A remains blind. B has thus harmed A; were it not for B, A would have had his sight restored (Thomson 2011: 444).

The counterfactual account seems to be promising for Pogge; providing a way of recognising the poor as harmed even though their situation has been slowly improving over the years. The counterfactual approach may provide a good structure to the concept of harm, however, it is not a full account, because it does not make clear what things are to count as harm. Merely being worse off than one would be otherwise is not necessarily harm. This would include too many cases as harm, and would undermine its moral significance. Perhaps, a worsening is only harm when one comes to be in a bad state. However this seems to raise the question; if a state is bad to be in, then why would one only count as harmed if this bad state follows from a better state, or if one could be in a better state? If we think that only certain states constitute harm, we may challenge the comparative aspect

of the account, and take it that harm is simply to be in a bad state. I shall explore non-comparative accounts of harm shortly.

However, the comparative aspect may be essential to an account of harm. Perhaps being in a bad state is not enough to qualify as being harmed. Additionally, there may be cases that we would wish to identify as harms where a person is not in a bad state. For example, if someone is defrauded out of much of their wealth yet left well-off still, we might think they are harmed. However, others may insist that if one is made worse off but not put into a bad state then they are not harmed. Perhaps the most plausible view would not identify any worsening as a harm, nor require that one must be in a bad state to be harmed. Instead, perhaps harm is when one is made worse off in a morally significant way. We must specify what is to count as morally significant worsening. I shall discuss some accounts that identify harm in this way below.

The benefit of the counterfactual account is that it can recognise failures to benefit as harms. However, harm may be over-generated if the account identifies harm every time one fails to be benefited when one could be. However, we may limit cases of harm through failing to benefit to those where one who fails to receive a benefit is left in a particularly bad state. However, we may still doubt that one is harmed even when actively prevented from receiving a benefit that would rescue one from a particularly bad state. In the first example of the surgeon, if A does not know that a surgeon is making her way to him to restore his sight, then if someone blocks her way, A is deprived of an important benefit, but many would deny that he is harmed. It seems that something additional is needed for this prevention of an important benefit to be a harm. If, in the scenario, A has a fair expectation of receiving this benefit, or if this benefit is owed to A, it seems more plausible to claim that A has been harmed when A is prevented from receiving it. This does not undermine the counterfactual analysis of harm as such, but suggests that we need a more robust account of what counts as harm, which identifies preventions of benefits as harm only when there is a claim to the benefit.



Proponents of the counterfactual account draw a distinction between *failing* to benefit and *preventing* a benefit (Hanser 2008: 427). The category of harm may be confined to cases of thwarting another from receiving a forthcoming benefit, rather than merely failing to benefit. However, the morally significant distinction may not be between failing to benefit and preventing a benefit, or at least the distinction between these is not clear. For example, if I see you drowning, and choose not to rescue you, it seems more plausible to say I have failed to benefit you than I have prevented you from receiving a benefit. I have not prevented a benefit from coming to you because the benefit was only available if I chose to rescue you; which I had no intention of doing. It seems that I can commit a morally repugnant act, with more serious consequences through failing to benefit than preventing a benefit.

There are a number of possible responses to this point. First, perhaps the concept of harm does not track what acts are worse than others, but only picks out a certain act *type*. It may pose no problem for there to be actions, which are not harms, which are worse than actions that are harms. Our theory of harm should capture why harms are treated so seriously. This does not mean there cannot be very bad actions that are not harms. A different response is that this scenario would be wrongly classified as failing to benefit, or preventing a benefit. Feinberg argues that rescuing a person in peril should not be considered a 'benefit'; rather, it is a moral duty, and if we fail to meet it, we harm (Feinberg 1987: 143). I shall say more about this when I discuss Feinberg's view of harm. However, this way of classifying failing to help as harm relies on a moralised conception of harm, according to which, failing to meet a duty, or violating a right is to harm. Alternatively, one could maintain that this is a case of failing to benefit. There is a possible benefit, in the form of my ability to help, and it is my will that prevents you from receiving it. More needs to be said by proponents of the non-moralised, counterfactual view of harm about when failing to benefit or preventing a benefit counts as harm.

Even if a distinction between preventing a benefit and failing to benefit can be maintained, and an explanation of when this counts as harm provided, the counterfactual account may still be criticised for failing to distinguish between harm through preventing a benefit and ordinary harm (Hanser 2008: 428). It may seem worse to blind a person than to prevent someone else from restoring their sight. The counterfactual account fails to capture any moral difference between these two cases because, in both, the person is worse off than they would have been otherwise. However, one may also deny that this is a morally significant distinction. It may seem no worse to blind someone than to fail to restore someone's sight. For example, if a surgeon is assigned your case for eye restoring surgery and decides during the operation to abandon the surgery out of boredom, leaving you blind still, this may seem as bad as if the surgeon actively blinded you. This seems to be because the surgeon had a duty to restore your sight. The reason, perhaps, why blinding a person seems worse is because to blind a person violates their right. On most occasions, a person does not have a right to have their sight restored, but where there is such a right, its violation seems as bad as blinding a person. This suggests that the concept of harm is linked to the violation of rights.<sup>14</sup>

eliana 8/5/14 14:37

**Comment:** Does it need to?

eliana 8/5/14 14:37

**Comment:** Not sure it does

eliana 14/5/14 11:21

**Comment:** Not sure this is true. mY NOT SEEM AS BAD BECAUSE CHARACTER THAT GOES WITH VIOLATING NEGATIVE DUTY SEEMS WORSE EG EVIL, SPIRE, THAN POSITIVE DUTY EG NEGLECT. BUT IS AS BAD?

eliana 14/5/14 11:58

**Comment:**

#### Does the counterfactual account of harm help support the harm approach?

It seems that Pogge can draw only limited support from the counterfactual theory of harm. The counterfactual account is advantageous as it does not require a change in the agent to have occurred for there to be harm. This lends itself to a notion of institutional harm that Pogge wants to argue for. According to the counterfactual account, someone could be harmed by slavery even if they were

<sup>14</sup> Kamm argues that there is a morally significant distinction between harming and not-aiding (Kamm 2007: 18). However, rights affect the moral weight of this distinction; where we have no right to the good in question, it may make no difference whether we are deprived of it, or not provided with it (p20).

Quinn argues that doing harm is worse than allowing harm, as he holds negative rights to be more stringent than positive rights (Quinn 1989: 289). However, Quinn acknowledges that this principle does not hold when special rights to harm and duties to prevent harm are present. For example, one may have the right to harm through competition or punishment, and one may have a duty to aid arising from jobs, contracts, or having caused someone's present predicament (1989: 302).

'born a slave'; because they would be better off if the institutional arrangements supporting slavery were not in place. However, the global institutional arrangements that favour the affluent states do not make the poor worse off than they would be if they did not exist. Rather, there are other institutional arrangements which, were they to be in place, would make the poor better off than they are. Thus, it seems that the rich merely fail to benefit the poor. The idea that the poor are harmed because the rich perpetuate a certain set of institutional arrangements when a feasible, alternative set would make the poor better off, would not find support from the counterfactual theory of harm.

It, therefore, may be worth exploring an alternative account of harm in terms of gains or losses a person experiences, and not with respect to their state. I will explore such an account next.

### Event-based harm

Matthew Hanser puts forward an event-based account of harm, according to which harm is the losing of a basic good, and benefits involve gaining a basic good (Hanser 2008: 441). The account identifies harm as the act of losing a good, and not as the state that follows. Hanser describes basic goods as *'those the possession of which makes possible the achievement of a wide variety of the potential components of a reasonably happy life'*, they include *'certain fairly general physical and mental powers or abilities. The power of sight, for example'* (2008: 440). This account seems to be a version of harm as morally significant worsening. Harm is not identified as an overall bad state, nor, on this account, does any worsening count as harming. Rather, only worsening in terms of goods which are necessary for a good life counts as harm.

The paradigmatic case of harm is *'someone suffers a level-1 harm with respect to a certain basic good if and only if he loses some quantity of that good'* (2008: 441). The event-based account can accommodate different levels of harm; cases where one is prevented from being benefitted; *'Someone suffers a level-(n+1) harm with respect to a certain basic good if and only if he is prevented from receiving a level-n benefit*

*with respect to that good'* (2008: 442). We can recognise harm at even higher levels: level 4 harms, level 12 harms even, if one can track a chain of preventative harms, whereby one is 'being prevented from being prevented from' receiving a harm, and so on (2008: 429).

The advantage of such a 'multi-level' analysis is that its structure accommodates more complex cases of harm, such as failures to benefit. This account may support the harm approach as our analysis may be that the poor are prevented from receiving benefits by the rich, or even prevented from being prevented from suffering harm. This conception of harm can account for indirect chains of harm, and harm which does not leave a person worse off than before. Also, the advantage of this approach is that it can distinguish between ordinary harms and harms that are the preventions of benefits.

The advantages of this account of harm, however, come at a cost. The account would over-generate cases of harm. The conceptual means are in place to classify preventions of preventions of preventions of a benefit as harm. However, most would not count an instance of this as harm. It is one thing if a theory identifies X as harm when one is unsure about whether X is harm, it is another to do so when one has no inclination to label X as harm. If a theory would classify X as harm when people have strong intuitions that X is not harm, it is problematic. The question that arises from this concern is how do we identify an appropriate cut-off point; at what level does something stop being harm? The wish, however, to avoid drawing an arbitrary line should not lead us to adopt this account. The problem of where to draw the line affects other concepts, for example what is to count as a need. It seems sufficient to have a clear conceptual notion, even if we are uncertain where the exact cut-off point is, and are left with hard cases which we are not sure fall into our moral category or not. We should not try to identify harm at every level. Rather, in order to maintain the conceptual clarity and moral significance of harm, we should have a clear account of what counts as harm, for example, violations of rights.

However, there still might be a difficulty in specifying when, for example, a rights violation has occurred. For example, if I have the right to bodily integrity, does B violate this right if B prevents C's prevention of A's attack on my person, or does only A violate my right? It seems that Hanser's account suffers, not from an inadequate definition of harm, but from a troublesome account of action. When something counts as a specific act type is an important question. We need an account of causation, as well as a definition of harm to determine what counts as harm. This goes beyond the scope of this thesis. It seems clear, however, that the multi-level aspect of the event-based account is not plausible.

Another concern is that the list of basic goods is vague. It remains unclear exactly what would count as harm. However, perhaps this is sufficient for the purpose of outlining the framework for a theory of harm. A full account of harm requires a unified account of the goods, losses of which, count as harm, but perhaps this can be worked out in due course.

The event-based account identifies harm as the act of losing a basic good, and not in reference to a person's prior or subsequent state. Identifying harm as an event seems implausible when we consider how we assess the gravity of a harm. Factors such as severity and duration usually determine how serious a harm is; these relate to the state of harm and not the act of coming to be in that state. For example, if two people are in an accident and are both paralysed from the waist down, if one of them recovers the use of their legs, they are harmed less than the other. The harmful event is the losing the use of the legs. This happens in its entirety when both people become fully paralysed in their legs; there is not a continuous state of losing the good until the use of one's legs is recovered. There also seems to be a state of harm, namely, lacking the use of one's legs, and the duration of this state determines the seriousness of the harm. However, perhaps a proponent of the event-based account can maintain that the state of harm dictates how serious the harm is and yet identify harm as the event and not the state (2008: 444). This seems to be an inconsistent view; as the event-based account takes it that an event

is harmful, not in virtue of the badness of an associated end state, and, yet, at the same time, the account assesses the seriousness of harm according to its end state (Thomson 2011: 457).

However, perhaps an analogy may help lend this idea plausibility. If A goes away, and B is sad about this, this makes the event of A having gone away, retrospectively, a sad event. If B is very sad, this makes the event a very sad one. The effect of the event, the state of sadness, shapes how we evaluate the event. However, the badness of A going away is identified with reference to the badness of the end-state of this event, namely B's sadness. It does not seem plausible to say that the departure of A is bad merely because A is leaving, while allowing that how bad the departure is depends on how sad B is about it. It seems the departure is only bad because B is sad about it. Therefore, I think it is most plausible for harm to be identified as a harmful event with a harmful state that follows. The state of harm must be included in the account of what harm is, and not just referred to as a measure of its seriousness. It is not plausible to identify a harmful state without a harmful event, but conversely, harm should not be only identified as an event.

The main problem with this event-based account of harm is that it would over-generate cases of harm by identifying an indefinite chain of preventions of preventions of benefits as harm. It also seems too broad to allow that any losing of extent of a basic good, to whatever extent, is necessarily a harm.

#### Does the event-based account of harm help support the harm approach?

While the event-based account seems advantageous in providing a structure which allows very indirect causal chains to be identified as harm, it is not clear this would help make the harm approach more plausible. Though the theory would recognise very indirect acts as harm, most people would not. Given that the aim of the harm approach is to widely persuade people that we have duties to the poor based on harm, an argument that relies on a controversial notion of harm will not suffice.

Whether people are persuaded by a theory does not determine whether it is plausible but rather reflects whether it is. The point is that the harm approach, if based on the event-based account of harm, would be implausible.

The event-based account may not help Pogge's theory for additional reasons. The difficulty in showing that the rich states harm the poor is not because harm is meted out through a long chain of preventions of benefits. Rather, the harm is more direct but the result of small contributions from many different agents, which, when combined, have a harmful effect. The situation is more akin to Parfit's harmless torturers scenario; in which each person dispenses a small amount of pain which alone is negligible, yet, in conjunction with the rest, amounts to torture (Parfit 1984: 80-1). It does not seem that the multi-level account helps accommodate the situation of the rich states harming the poor.

The event-based account, like the counterfactual account, limits harm caused through omission to when there is an act of preventing a benefit, rather than the absence of an action that benefits. As I already suggested, it does not seem that the rich *prevent* benefits to the poor, but rather, only fail to benefit them.

### Non-comparative harm

I suggested earlier that a comparative account of harm must identify a state that is not merely worse than a previous or an alternative one, but a state that is also, in itself, harmful, to be plausible. I raised the question why a harmful state alone would not count as harm. I, therefore, shall assess the 'non-comparative' account of harm. On this account, harm is identified purely with reference to the type of state the person is in, with no reference to changes occurring within the agent. A list of harmful states may include, '*physical injuries, many physical disabilities, many mental disabilities, some material inabilities, incidents of pain, the failure or ruin of certain sorts of important projects and relationships, some losses, and death*' (Shiffrin 2013: 5). If we judge someone to be in a harmed state, we make a comparison to a standard of normal or proper functioning. As this account of harm is still comparative in this respect, it might be misleading to label it 'non-comparative'.

eliana 14/5/14 12:00

**Comment:** Remain unsure about how to conceive of harm. On one hand, needs unified theory, needs be moralised. But also want to call things harm, eg any bodily interference whatever cause... May be that asking a diff q, not what is harm, but when can be said to have harmed anotheer, still want to include non moralised cases in everyday, but not when comes to theory. So maybe philopshical concept and ordinary conceot but should be such a discrepancy. Remain unsure. So thesis not successful on putting forward positive claims regaring harm, but negative arg remain true that opogge certainly fails

However, the crucial distinction is that harm is assessed according to absolute standards rather than in relation to other states of the agent or the states of other agents, and as this term is used in the literature, I will continue to refer to 'non-comparative' harm.

It may be more promising to focus on the non-comparative account of harm to lend support to the harm approach. It seems surprising, given the problem of showing how the poor are harmed by the institutional order, even though they are not made worse off by it, that Pogge does not consider a non-comparative account of harm. Pogge identifies harm with the lack of fulfilment of the basic needs of the poor under current global arrangements. Perhaps this is a non-comparative account of harm. However, Pogge does not identify harm as the deprivation. Rather, harm is identified as injustice, and the failure of global institutions to meet the basic needs of the poor is how, according to Pogge, the institutions are unjust. Injustice is surely a *wrong*, but then the notion of harm is redundant. Instead, however, Pogge could focus on the dire situation of the poor. Many would agree that the poor are clearly in a harmful state. Perhaps Pogge could claim that the poor are harmed by the global order as they are in a state of harm, without arguing that they are worse off than they could be otherwise.

A non-comparative account of harm must do more than list states of harm; it must provide a unified explanation of what harmful states consist in. Such an explanation may be provided; according to Shiffrin, harm is to be in a state which '*place agents in a relation of conflict with or estrangement or alienation from significant aspects of themselves, their conscious experience, their lives, or their circumstances*' (2013: 31).

The non-comparative account of harm only identifies someone as in a state of harm when they are badly-off. However, others find this feature a weakness of the account. For example, if a Nobel prize winning genius suffers a stroke and comes to have only average intelligence, proponents of the non-comparative account would



not register this as a harm, because having average intelligence is not a bad state for a person to be in (2011: 440). However, others would insist that the loss of a valuable good, such as intelligence, should qualify as a harm. If we think the person is in a harmed state even though having average intelligence is not a bad state for other people, this can only be because we are comparing this present state to the agent's former state (2011: 440). It does not seem possible for the non-comparativist to recognise this as harm. Perhaps losing the good life one had is clearly a harm, but this still makes reference to the agent's former state. Perhaps non-comparativists could argue that if the Nobel Prize winner were aware of the loss of her abilities, this may have harmful psychological consequences such as unhappiness. However, then we are referring to a different harm; her unhappiness, not the reduced intelligence. We may want to say that the reduced intelligence is a state of harm regardless of any unhappiness the prize winner may feel. Moreover, mere unhappiness may not count as harm.<sup>15</sup> Others may maintain that losing a good, which, nonetheless, leaves the person in a state that is not bad, is not to be harmed. However, it seems more needs to be said about what counts as a bad state. For example, having less than perfect vision may not be regarded as a bad state, however, if one has less than perfect vision and a desire to be a fighter pilot, this may be a bad state. What non-comparativists recognise as harms depends on whether the basis of our theory of harm is an absolute standard of functioning or of flourishing.

The reverse problem may afflict the non-comparative account. If causing a person to be in a non-comparatively bad state is to harm, one could harm someone even if they improve their situation. For example, a doctor C performs an operation on a blind person A, who was blinded by B, bringing A into a state of having dim vision. Dim vision is better than blindness but it is still a bad state. It is implausible to say that A has been harmed by the doctor. However it also seems hard to avoid this conclusion without making reference to the fact that the doctor has made A better

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<sup>15</sup> Shiffrin's analysis of what is a harmful state would be able to accommodate such a case, as it allows that we can be harmed without being aware of this, if our current experience is in some way in conflict with other aspects of our circumstances or experiences (2013: 28).

off than A was before. Perhaps, to avoid this conclusion we could reject the idea that the bad state is caused by the doctor. On the other hand, this conclusion would not be implausible in all cases. For example, perhaps, the doctor was tasked, and had the ability, to put the blind person into a state of good vision, but, due to culpable negligence, left him in dim vision; then it seems that C harms A. Moreover, A may still be harmed by C if it was C who blinded A. This suggests that harm cannot be sufficiently identified by assessing a person's state without a comparison against past or future states. Whether a person harms another also seems to depend on what their duties are in the situation, and their role in bringing about the harm.

Does the non-comparative account of harm help support the harm approach?

One of the implications of the non-comparative account of harm seems to be that one can cause someone to be in a harmed state by bringing them into an improved state which is still, nonetheless, bad. This view would, in fact, benefit Pogge's account, as one of the main objections to the harm approach is that it is implausible to claim that the global order harms the poor when it has improved their situation. However, as this is an implausible implication of the non-comparative account, proponents would either adapt the theory to avoid this consequence, or we would be forced to reject the account. On the other hand, it is plausible to say that I harm someone, even if I improve their situation, if I am responsible for their original bad state. This may be a fitting analysis of the global context. The rich countries, even if they bring advantages to the poor today, may be held responsible for poverty due to historical events, such as colonisation. This, however, would change the nature of our harm-based duties. We would need to show that the rich states are responsible for the historical origins of poverty, and our duties would arise as duties of reparative justice, rather than duties of social justice. This approach to global justice may be most promising; however, Pogge wants to avoid this type of argument, because it is, he alleges, more controversial (2010: 234).

Additionally, the non-comparative approach poses a greater difficulty than the comparative accounts in a certain respect. If harming someone is causing them to be in a harmful state this places a stronger burden on proving the causation than if harm can be identified as merely making someone worse off than they were before or than they could or should be. It is a very difficult task to prove that the rich states are responsible for poverty. It is easier to show that the rich states make the poor worse off than they could be otherwise.

The non-comparative approach seems, on the whole, a plausible account of harm. However, it does not seem able to help the harm approach in the context of global justice. The non-comparative account, as with the other non-moralised accounts, identifies harm that may not give rise to any duties. For example, I may make you worse off in a normatively significant way by legitimately firing you from your job, however, I may not have any duties towards you arising from this. Non-moralised accounts of harm aim to account for what is normatively significant about harm, but stop short of arguing that to cause harm is *prima facie* wrong. Thus duties of justice would not necessarily follow from showing that the rich harm the poor. Pogge's aim is to show that we harm the global poor, and *therefore*, have duties of justice towards them. If we adopt a non-moralised account of harm, there is still the need to show that, even if the rich harm the poor, they also *wrong* them. The real task then is to show that the rich states wrong the global poor. Moralised accounts, thus, seem more promising to lend support to the harm approach. Moreover, given that it seems that the duties one has in a situation have a bearing on whether harm occurs, moralised accounts of harm seem more plausible.

Our reason for exploring harm is to see if its role as a reason for limiting conduct in society helps show that the rich states have duties to act differently towards the poor. We are interested in harm in the sense that Mill uses it when he writes that '*the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others*' (1982: 67). Mill tells us there is something morally significant about harm. Given this, the notion of

eliana 14/5/14 13:27

**Comment:** Non comparative is [lausable. Esp shiffrin view. Account for why inclined to identify so many cases as harm, even when not wrongful. Ways of delaing with issues of harm because cause to be in bad state even though improve, or harm when in worse state nt bad. But issue is no account for duties arising. Seem have two ideas of harm . harm which gives rise to duties, and set limits on action – require moraised. And harm which not. Use both but cannot have both at same time. Which pogge tries to do.

harm as a non-moralised concept, in the sense of mere damage, which can be used to describe inanimate objects being harmed, or forces of nature harming people, is not relevant. A moralised notion of harm is our appropriate focus.

#### Moralised accounts of harm: harm as rights violations

Given that we are interested in harm a basis for limiting actions and giving rise to duties, our concern is harm that is wrongful. Harms that are not wrongful do not give rise to any duties or prohibitions. Mill writes that the harm principle ensures that one not injure the interests of another '*which either by express legal provision or by tacit understanding ought to be considered as rights*' (1982: 191). It seems, according to Mill, that harm is an injury to interests which are rights. It seems plausible, following Mill, to define harm as a rights violation; a view which has been taken up in the literature. Feinberg puts forward a moralised counterfactual account of harm, according to which, harms are setbacks to interests that are wrongful, and by wrongful is meant rights-violating (Feinberg 1987: 34). The rights that Feinberg has in mind are moral rights. Interests that may pre-theoretically be considered rights may include rights to life, economic sufficiency, political liberty, and health (1987: 41).

A harm is wrongful in virtue of the attitude the agent has, which may include intention, recklessness, or negligence, and if the harm is unjustified (1987: 107). The moralised account of harm may be counterfactual, taking the view that A is harmed when she is worse off than she would be if B had not acted as he did. There are many ways our interests can be injured. They can be thwarted, i.e. progress towards fulfilment is halted, or impeded, i.e. progress towards fulfilment is slowed. Progress does not need to be reversed to count as harm, though impeding interest fulfilment will qualify as a weaker harm than stopping or reversing it (1987: 106). There is a baseline against which we measure harm, so, in this way, the account of harm is comparative. However, harm is not just assessed in relation to whether an agent is made worse off or better off. This account also takes into account what level a person is at on an absolute scale of interest-fulfilment. If a person is well-off

and events or actions keep a person at this level, without raising them higher, these may come to him as a benefit, whereas, if a person is badly-off, and events or actions do not improve her situation, but keep her badly-off, we may consider her to be harmed (Feinberg 1994: 5).

The moralised counterfactual account also allows that harm can occur through not acting. According to Feinberg, we have duties of rescue when we can easily help someone in need. Feinberg argues that when we fail to meet our duties to help others, at reasonable cost to ourselves, we violate the rights of those people and commit an injustice. This is to harm them (1987: 132). Others may resist the idea that we have a moral obligation in such a case, as we would be conferring a benefit onto another, which we cannot have a duty to do. However, it may be wrong to think of this as a case of 'benefitting' another. Feinberg points out that there are different senses of the concept of 'benefitting', which often are equivocated (1987: 143). The generic sense of benefitting relates to acting favourably towards someone, which we may do by preventing a worsening of their interests or advancing their interests. The other sense of benefitting relates to raising someone's level of interest fulfilment beyond its current or normal level. This latter sense of benefitting often involves going beyond one's duty; and the recipient of the benefit experiences an advantage or windfall. Cases of the first kind may involve preventing a dramatic decline to someone's interests, as in the case of rescuing someone drowning (1987: 137). In this case we have a duty towards this person. We should not confuse the different ways in which we can benefit someone; this may lead one to think we are improperly assigning duties. If we cannot keep these senses apart, then, in the rescue case, it might be better not to regard this as a case of benefitting at all.

One may ask why there is a difference between these two meanings of 'benefit', and what is more morally significant about preventing someone's interest level from falling, rather than raising it. It would seem more important for us to improve the situation of a worse off person than to stop the situation of a well-off person becoming worse. However, the point is not that we only have duties when we could

restore a person's interest level to what it was before an event, or when we could preventing it from declining, and not when we could raise it above its normal or current level. Whether we have a duty depends on various factors, such as the relationship between the parties in the case. The point is that we should not assume that, because we are talking about acting favourably towards someone, there are not duties to benefit.

The moralised counterfactual account of harm seems to do better than the non-moralised counterfactual account in several respects. First, the moralised conception of harm provides a clear, unified account of what harm is, namely, violations of moral rights. Secondly, the moralised account gives a clear way of determining which failures to benefit are harms, namely those which violate a duty. On the one hand, the moralised counterfactual account is broader than the non-moralised, as it allows that we can harm through omission, not only by preventing a benefit, but also through failing to benefit. On the other hand, it is narrower, as it takes it that we harm through omission only when we have a duty to help.

However, the account raises some issues. First we require a comprehensive account of what welfare interests counts as moral rights to be certain about which situations count as harm. We may also question whether this account captures how we ordinarily think of harm. It states that harm is to violate a moral right. However, if someone has a moral right which they do not consider a live interest for them, if this is interfered with, we may doubt that they are harmed. The account makes it hard to distinguish harm from our other moral concepts, such as right violations. Harm is usually regarded as a distinct category with its own important role within our moral theory. While it is plausible to claim that a necessary feature of harm is that it violates a right, it seems less plausible that this is sufficient for something to be harm.

For example, a land owner has a right, pertaining to an interest, in the free and exclusive use of their land. If someone trespasses on their land, even if this does not adversely affect the land, or the land owner, Feinberg takes it that the trespasser

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**Comment:** Not necessarily saying sufficient, may just be saying necessary, but trespass example suggest think sufficient.

harms the landowner because it violates the interest the land owner has in the exclusive enjoyment of his property (1987: 107). According to Feinberg, if I cross your land, without leaving any trace or causing any damage, but without your consent, I harm you. This makes interests seem independent from the desires and aims of the interest holders. While we may plausibly assign interests to all people, in virtue of being human, we may still doubt that someone is harmed whenever one of these interests is violated if that person places no importance on that interest. Even for the important interests that are rights, such as life and economic security, there are people who do not value them, or come to stop valuing them. The main concern is that, on this view, one can harm without any harm having been caused.

Nonetheless, whenever someone's right is interfered with, this would seem to impinge on that person's liberty, and it may be less plausible to argue that someone may not have any interest in their own liberty. So perhaps it is right to insist that whenever someone's right is violated, they are harmed in that respect, even if they are not harmed overall. On the other hand, even if my right or liberty is interfered with by another, not all interferences of rights or liberties are morally significant. Feinberg states that claiming that all violations of rights are harms does not mean these are harms on balance, but insists that it is hard to find a wrong that is not, to some extent, a harm (1987: 36). We may concede that the landowner has been, to some extent, in one aspect, harmed by the trespass, but we may remain reluctant to say this; it seems worth retaining identifications of harm for cases where the harm is morally significant, to preserve the importance of harm in our moral theory.

Instead of describing all rights violations as harms, we may wish to say that harm is a type of rights violation, for example, a violation of rights that causes psychological or physical injury. However, we have seen that injury is neither necessary nor sufficient for something to be harm. It seems plausible to link together cases of harm through the feature of rights violations. However, on this account it becomes hard to see what the notion of harm adds. Given that harm is regarded as a distinct moral concept, and its distinctiveness should be preserved, it seems that our theory has gone wrong. This does not mean the moralised approach

is wrong. It still seems that harm must be wrongful to account for its moral significance. Perhaps it is correct to identify harm with rights violations. However we should insist on the subjective element of harm; rejecting the move that all rights violations are harms.

One must conclude, therefore, that an interest must be a right for its setback to count as harm, but that not all rights are interests.

Does the moralised counterfactual account of harm help support the harm approach?

In many ways, the global context seems to be a case of harm according to the moralised counterfactual account. The rich states act in ways that demonstrate a wrongful attitude towards the poor, namely 'negligence, and recklessness'. The interests of the poor that are interfered with through poverty are important welfare interests. It would also seem hard to argue that the harms of poverty can be justified by the rich states. We have already established that it is most promising to argue that the rich fail to benefit the poor, which, according to the moralised counterfactual account, can be a form of harm. The difficulty, however, in drawing on such an account to support the harm approach is that harm is identified only when there has been a wrongful act which is determined to be wrongful because it has violated a right.

The harm approach aims to show that A has duties to B because A harms B. If A harms B by violating B's right, A already had duties towards B. So while A now has duties towards B in virtue of this harm, there is no need to draw on this harm to establish that B has duties towards B. It is only plausible to claim that A harms B because A already has pre-existing duties towards B.

On the moralised counterfactual account, we harm someone by failing to benefit them when we have a moral obligation to do so. If we do not have a moral obligation to act then failing to benefit someone is not to harm them. Feinberg thinks that others have claims on us to come to their rescue when we can do so at



reasonable cost. If we do not rescue a person in need, this is unjust, and we harm them. This, however, is not the harm argument that Pogge is putting forward. Pogge argues that our duties of justice towards the poor arise from the harm we bring them. On Feinberg's view, the claim that we harm the poor, or treat the poor unjustly relies on the idea that we have duties to aid those in need. The notion of harm is doing no additional work.

If we harm the poor through failing to prevent harm to the poor, it seems that at core is a positive duty to help the poor. Pogge's aim is to base our duties on negative duties only. Pogge also wants to argue that our duties are duties of justice, and not duties of benevolence or charity. Feinberg, however, takes our duties to aid those in need to be duties of justice, and states that they are, at times, perfect duties (1987: 149). So while Feinberg's account of harm does not support the harm approach, Feinberg's views would ground strong duties towards the poor, and seem to negate the need for the harm approach. On the other hand, Feinberg's makes some claims that seem to lend strong support to the harm approach. Feinberg states '*When a person's situation is bad enough, simply to maintain it there when one could let it improve, may be to harm that person*' (1994: 5). However, Feinberg does not say more than this, and as elsewhere Feinberg makes clear that we only harm where we violate a right, it seems we should interpret this statement as saying that to maintain a person's bad situation is to violate their rights and thus to harm them (1987: 34). The underlying framework remains that rights violation is prior, and harm is the secondary moral concept.

The moralised counterfactual account, conceived as rights violations, seems to identify harm too widely, as it would take any violation of a right to be a setback to interests, even when one does not have an interest in the object of the right. One might speculate that a more plausible moralised account would not define all rights violations as harm. As an example of such a view, I shall turn next to Raz's account of harm, which defines harm in relation to an infringement of autonomy, but does not claim that all interferences with autonomy are violations of a right. Raz claims that impingement on autonomy is necessary for something to be harm, but he does

not assert that it is sufficient. The autonomy-based account may be a more plausible moralised account of harm, so it is worth exploring and assessing how far it may support the harm approach.

### Autonomy-based harm

On Raz's view, harm is interference with one's autonomy (Raz 1988: 419). As coercion is a restriction on one's autonomy, it is only permitted where it leads to an autonomy gain overall, namely, by restricting harm (1988: 413). We might think that other disvalues in society, and not just harm, should be restricted through coercion, such as harmless wrongings or worthless options. However, Raz's view is that this would result in an autonomy loss overall. Raz's aim is to use harm in a way that people usually mean it, but to bring out the connection between harm and autonomy.

Raz conceives of harm as a moralised concept. Raz claims that 'causing harm' entails by its very meaning that the action is prima facie wrong. Harm acquires its specific meaning within a particular moral theory (1988: 414). Without being grounded in a moral theory, harm, according to Raz, would be an empty, merely formal notion, and would not suggest any implications for policy (414). Raz's notion of harm is embedded in his moral theory which values autonomy as the supreme value of society. We may harm a person by interfering with their autonomy by depriving them of opportunities or of the ability to pursue them (1988: 413). We may also harm a person by frustrating their pursuit of the projects and relationships they have set upon (413). Other accounts would take harm to include mere injury; pain or hurt. However, the autonomy account would only count these as harm when they affect our ability to carry out our plans of life.

Raz notes that there is a common misconception that harming is to make someone worse off than they were before. We have already explored theories that take harm to be making someone worse off than they would be otherwise. According to Raz, we may also harm someone when one's actions make another worse off than they

are entitled to be, in a way which affects their future well-being (1988: 414). Raz states that sometimes failing to improve the situation of another is to harm them; by denying them what is due to them. It is not clear if this is Raz's explanation of how we harm someone through omission, or merely one way. Raz seems to stress that the way in which we harm someone by not making them better off is by failing in one's *duty* to them. It seems that we harm when we make someone worse off than they *should* be, and not merely worse off than they *could* be. So according to Raz, failing to fulfill a duty is itself a form of harm, even though this is a duty to improve their situation and the failure does not leave them worse off than they were before. For example, a disabled person, who has a legal right to be employed by any employer to whom she applies and who has fewer than four per cent disabled employees in his work force, is harmed by such an employer if he turns her down, though he does not worsen her situation (1988: 416). Raz's account shares, with Feinberg's, the view that the category of harm includes cases where one fails in their duty towards others.

According to Raz, one can harm groups of people if one fails in one's duty to a class of persons and a member of that class suffers as a result. For example, a government which has a moral duty to increase pensions harms pensioners if it fails to do so (1988: 417). Raz's view, however, is that particular individuals within this class cannot claim they are harmed (1988: 417). Raz claims that '*an action harms a particular person only if it affects him directly and significantly by itself*' (1998: 416). The allocation of loss among particular people is determined by the actions of many other agents (1988: 417).

Many of Raz's claims seem to lend support to Pogge's harm approach. Pogge's view takes it that the rich harm the poor because they fail to implement a more just alternative set of global arrangements. I suggested that this would not strike people as harming, as this seems to be a mere failure to benefit the poor. Raz's account, however, suggests that failing to improve a person's situation may count as harm. In addition, Raz's view that harm's meaning come from whichever moral theory it is embedded within seems to fit with Pogge's ecumenical approach. Also,

Raz's view that we can harm a class of people through failing to fulfill a duty helps make the case that we can harm the global poor as a large group, even if we cannot show how our actions harm particular individuals.

However, we may question whether Raz's theory of harm is persuasive. Raz's view is that coercion is only permissible to restrict harm, because only harm diminishes autonomy. However, it seems a largely empirical claim that only harm detracts from autonomy. We can imagine other worthless but harmless options compromising one's autonomy, for example, gambling (Stanton-Ife 2006). It does not seem that restrictions on coercion match onto our concerns about harms if autonomy is what matters. However, if the criticism is that other repugnant options inhibit autonomy and thus coercion should apply to these too, this may not undermine Raz's account. Perhaps they should also be considered harms, and coercion against these would be justified.

The difficulty is that, although Raz emphasises the connection between harm and autonomy, he does not give a definition of harm *in terms* of loss of autonomy. Raz states that the meaning of harm is that '*one harms another when one's action makes the other person worse off than he was, or is entitled to be, in a way which affects his future wellbeing*' (1988: 414). It seems that diminishing autonomy is the way in which a person is made worse off. However, this leaves it unclear whether all restrictions of autonomy are harms, or only that all harms involve adverse effects on autonomy. If it is the former, repugnant options that inhibit autonomy may be considered harms, and included within the scope of coercive principles. If, however, not all infringements on autonomy are harms, Raz's account may face the tension that Stanton-Ife identifies. Raz's theory raises the same question as Feinberg's. While most cases of violating a duty would seem to count as harm, it may seem implausible to claim that any violation of a duty is a harm. This may lead to the identification of harms that are not morally significant. Raz might insist that any violation of a duty is an interference with autonomy and thus any violation is morally significant. However, Raz's discussion suggests that, while all harms involve interferences with autonomy, not all infringements of autonomy are harms.

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**Comment:** But raz specifies must affect future well being

This is a strength of the account, as it maintains a conceptual space between harm and interferences with autonomy. On the other hand, this makes Raz vulnerable to the objections raised by Stanton-Ife. If there are practices which diminish our autonomy, but may not be considered harms, then Stanton-Ife may be right in saying that coercion should not only limit harms, but also other repugnant, non-harmful options.

Does the autonomy-based account of harm help support the harm approach?

It is not clear that Raz's notion of harm would provide Pogge's theory with added support. Raz includes as harm failure to improve a person's situation, however, as with Feinberg's account, this seems only to be when there is an existing duty in place. What is at issue is whether the rich have duties to the poor. If harm can be shown on the basis that these duties are violated, then it seems that we do not need to invoke harm. We cannot rely on harm to define our duties if duties are the conceptual basis of our notion of harm.

However, perhaps these duties would be of a different kind; we could argue that there are duties of justice to the poor based on harm in a more indirect way using Raz's account. The argument could be stated as follows:

1. We have duties of charity to the poor
2. If we fail to fulfill our duties to a person we harm them
3. If we harm a person we have duties of justice towards them
4. We fail to fulfill our duties of charity to the poor

Therefore

5. We harm the poor

Therefore

6. We have duties of justice to the poor

This seems coherent. However, we may ask what we gain from establishing the conclusion in (6) beyond what our starting premise (1) provides. This approach relies on the assumption, which is not explained by Pogge, that duties of charity are

insufficient, and that duties of justice are required. The reason I briefly suggested in the first chapter, which I shall discuss in the third chapter, for wanting a justice approach is that duties of justice can fail to be met sufficiently; they are perfect duties, unlike imperfect duties of charity. It may seem inadequate for our duties to the global poor to be based on charity if it cannot be specified what complying with these duties would require.

However, on the argument just proposed, the claim that we harm the poor; conclusion (5), relies on the claim that we fail to meet our duties of charity; premise (4). The argument that we harm the poor thus relies on the idea that duties of charity are the kinds of duties we can fail to fulfill. This, therefore, removes the motivation we identified for arguing that our duties to the global poor are duties of justice, instead of being satisfied with duties of assistance.

Moreover, in Raz's discussion of how we harm someone by failing to make them as well-off as they should be, Raz gives examples of clear duties of justice, such as owing someone money, or having a legal duty of fair employment (1988: 416). Perhaps Raz would not consider failing to fulfill a duty of charity a harm. The examples Raz draws on suggests that he thinks that we can harm someone by failing to enhance their autonomy, only when there is a duty of justice to do so. This is the very thing in question in the global justice debate. As with Feinberg's account, the key reason why Raz's account of harm does not help make the harm approach, as exemplified by Pogge, more plausible is that it negates the need for basing duties on harm. At the basis of both Feinberg's and Raz's view of how we harm by failing to benefit are positive moral obligations, only when these are in place does harm arise. The notion of harm thus becomes otiose. These accounts, therefore, do not help Pogge fulfil the aims of his theory.

Moreover, moralised conceptions of harm get their content from within a particular moral theory. This may give rise to disagreement. Some may reject that interference with autonomy is what makes something harmful; if they deny the centrality of autonomy as a value. If harm is defined in relation to rights violations,

proponents of different moral theories will disagree about when something is harm, as they have different views of what counts as a rights violation. Libertarians accept that we harm someone by violating their rights, but only recognise a minimal set of rights. Basing our duties on harm may not help transcend the disagreements between proponents of different moral theories regarding what our duties are to the poor. Perhaps we could point to rights violations that any theory would recognise, for example, the right to life. Even this, however, is not uncontested. Moreover, there will still be disagreement across different theories on when a right has been violated. For example, different theories have different positions on when not saving a person's life is to violate a right to life. The question of when harm occurs is highly contestable, and thus, basing our duties on harm will be unlikely to help gather widespread acceptance of duties of justice towards the poor.

An interpretation of Raz's account of harm has been suggested which may lend stronger support to the harm approach. I shall briefly consider this before concluding the chapter.

#### Threshold accounts of harm

While not prominent in the literature, an account of harm has been put forward, based on Raz's approach, which may provide support to Pogge. Lukas Meyer interprets Raz's account of harm as based on a subjunctive-threshold, expressed as follows: '*Having acted in a certain way (or having refrained from acting in that way) at a time  $t_1$ , we thereby harm someone only if we cause this person's life to fall below some specified threshold*' (Meyer 2003: 147). This appears similar to the non-comparative account. However, the difference is that, here, one must have caused the other person to fall below a threshold, for harm to have occurred. It is hard to see how this is other than very loosely based on a formulation of Raz's account of harm, given that Raz does not define harm in relation to a threshold. Nonetheless, it is worth assessing this conception of harm in its own right.

Meyer suggests how we could devise a plausible egalitarian conception of harm, proposing that one is harmed if caused to fall below the level of well-being of one's contemporaries, and also that one causes harm if one leaves people in the future with the possibility of falling below current levels of well-being (2003: 149). Conceiving of harm in terms of an egalitarian threshold seems in line with Pogge's approach. If harming is to act in a way that causes a person to fall below the level of well-being experienced by one's contemporaries, then it may seem plausible that the rich harm the poor, if 'contemporaries' includes people in other countries, and not just one's co-citizens. Meyer suggests that we can harm people by '*causing them to fall below this threshold or by not helping them to reach the threshold*' (149). This helps accommodate the global case, where it seems most plausible to claim that the rich states fail to help the poor but do not cause their bad situation.

Many situations that we would want to regard as harm would not fall under an egalitarian conception of harm. For example, if a wealthy person was robbed of all but a fraction of their possessions, they may be better off in material terms than most other members of their society and yet, on some conceptions of harm as rights, they would have been harmed. There are, of course, many harms that we can think of that would not affect future generations. Perhaps, however, this notion of egalitarian harm does not specify what harm is generally, but rather provides just one example of a relevant threshold level, and these cases may just be two examples of egalitarian harm.

However, we may reject this egalitarian threshold as appropriate. This would not strike most people as what harm is. The task I pursue in this chapter, on behalf of Pogge, is not only to find an account of harm in the literature that can accommodate institutional harm, but an account of harm that would persuade people that we harm the poor, and have duties of justice in virtue of this harm. The egalitarian subjunctive-threshold account can support the claim that the rich harm the poor; however, this would not help make the argument more plausible.



However, there may be other possible, more plausible threshold levels that would still identify the global poor as harmed. Meyer suggests we may invoke a '*sufficientarian threshold defined in terms of absolute, non-comparative conditions*' (2003: 149). However, the subjunctive threshold account of harm, however it is specified, seems to face the same difficulties that we have discussed in reference to the other conceptions of harm in this chapter. If Meyer thinks we can harm someone by failing to help them rise above a certain threshold level then that is because we have pre-existing duties towards this person.

The key problem is not that Pogge's account of harm is in itself flawed. Pogge identifies harm where there is injustice, where this means the failure to meet basic rights. This may be a plausible assessment of harm. The problem is that identifying that harm has occurred relies on showing that we fail to fulfill the positive duties that we have to the poor. Thus, as previously stressed, the harm approach does not add anything to the common sense ways of thinking of our duties to the poor.

#### Harm in the global sphere

I have argued that Pogge's account of institutional harm does not fit among any of the leading theories of harm. However, it still may be true that the rich states harm the poor in certain ways. There are individual instances of interaction in the global sphere that uncontroversially would count as cases of harm. For example, western-owned companies operating in poor countries often have negative externalities such as pollution and waste that cause health and environmental problems for the local population. This would count as harm on even the temporal comparative view, as it makes the poor worse off than they were before.

Within the global development literature, frequent reference is made to the Washington Consensus as contributing to today's global poverty. The Washington Consensus involved the IMF and World Bank, led by representatives of affluent countries, establishing policies to reform the economies of countries in economic crisis, regarded as neo-liberal policies, such as trade-liberalisation, which had a crippling effect on these countries. It is argued that for many countries, these

reforms made them worse off than before, and for others, allowed their growth to stagnate while other countries, not included in the Consensus, experienced huge growth. Arguably, these countries were harmed by these policies, according to the historical and counterfactual accounts of harm, as they were made worse off by them and would have been better off had they not been implemented.

We need to know more about the attitudes of the agents in these cases, and the causation to know if it is plausible to count these as cases of harm. However, the way that the actions of the rich affect the interests of the poor seems to fit with accounts of harm we have explored. Earlier, I listed Pogge's examples of how the rich states harm the poor. Some of these would not seem to be harm, having explored the concept more closely, while others would seem to be. It would be worth assessing each case closely, however, there is not the space for this exercise here. On the other hand, this may not be required, because even if some situations are clear harms, this seems insufficient to support the harm approach. We cannot construct a general theory of global justice from these select cases alone. It is not plausible to ground the duties that we all have towards every needy person based on isolated cases of harming. Not everyone is connected to these incidents of harm.

Perhaps Pogge's idea is that the only way to rectify or prevent these harms is to reform the global institutions that enable these harms, to make them less weighted in the favour of the rich and powerful. The thought would go as follows. If we harm, we must stop harming. If the only way to stop harming is to reform the global order, then we would have duties of justice to do this. This way of stating the harm approach is not philosophically unsound. However, it still seems an inferior approach to global justice than the alternatives. First, we would need to make the empirical case that these harms are only preventable with an upheaval of the global order, instead of more targeted reform. Secondly, we would need to address the difficult question of who bears this duty. Whereas, if we base our duties merely on the claim that people are in need of our assistance, and that we are in a position to give it at little cost to ourselves, these tasks and potential obstacles are bypassed.

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**Comment:** Not bypass question of who bears duty. Or easier, because all have duty, just need to allocate it fairly. Rather than question of whether responsible at all in harm case.

### What now for the harm approach?

Having explored the concept of harm more closely, the claim that we harm the poor by supporting unjust institutions instead of establishing more just ones seems hard to defend. Rather than harming the poor, the rich seem to fail to benefit them. While moralised accounts of harm identify failing to benefit as harm, failing to help is only a harm when we have a duty to help, and if we have a duty to help there is no need to ground duties on harm.

I argued that the moralised accounts of harm, such as Feinberg's and Raz's are most plausible. Without basing harm on a moral concept such as rights violations, we struggle to unite different types of harm, or to distinguish mere failures to benefit from harm through omissions. However, moralised accounts of harm show that the harm approach has little to offer.

This chapter has shown that the harm approach is not widely persuasive, and thus we should not aim to circumvent the usual positions within the global justice debate by basing our duties on harm. In the third chapter I will return to the global justice debate. I will suggest that we may have duties of justice based on need, as Feinberg argues, which undermines the motivation for basing our duties on harm. I will also consider the strengths of an approach to justice based on egalitarian principles. However, I regard the harm approach as an illustration that our thinking regarding global justice has gone wrong. I suggest that the intractable nature of the debate about whether ideas of justice within the state are applicable to the global sphere motivates Pogge to find an alternative way of grounding our duties to the poor as duties of justice, which bypasses the debate. However, the view I shall suggest is that we do not need to formulate our global duties with reference to the duties we have within a state. Rather, our approach should be to assess the global situation itself, and to build an account of our duties that seems to best capture the moral facts of the case. This goes beyond the stalemated debate about the scope of justice, without relying on the implausible claim that we owe the global poor duties of justice because we harm them.

**Chapter Three: What is the most plausible basis for our duties to the distant needy?**

The previous chapters explored whether the harm approach succeeds as a plausible grounding of our duties to the poor. In chapter one I identified the absence of an account of harm as the key problem with the harm approach. In chapter two I explored the possibility of a plausible account of harm. I argued that no account of harm would lend support to the harm approach in a way that would allow the kind of claims made in the literature. This is not to say that we ought to abandon the task of finding a coherent narrative for explaining our duties to the distant needy. In this chapter I wish to suggest how we should proceed in establishing the basis of our duties to the global poor.

My main conviction is that while the global and domestic spheres are different, they are not so different that they require different moral frameworks. Both contexts raise considerations of justice. This thought may be generated by two views. One is that our theory of justice in the state seems applicable to the global situation, thus, we have duties of justice to the global poor, but the content of these are not the same as our duties to our fellow citizens. The other thought is that, without having a fully worked out theory of justice, we have a pre-theoretical sense that the global context is unjust. It seems that there are inequalities that need addressing and ways in which global arrangements are wrongfully unfair. Though we may hold that the global order raises considerations of justice, we should not begin with the objective of proving that our duties to the global poor are duties of justice. This is where the harm approach goes wrong. The harm approach tries to paint a picture of the global situation, claiming that the rich states harm the poor, that leads to the conclusion that we have duties of justice. Instead, for a more plausible view, we should assess the global situation itself as our starting point, and see what moral considerations it raises.

First, I shall discuss whether our duties to distant others are best thought of as duties to help based on need. I shall then discuss whether our duties are most plausibly based on a relational justice approach. I shall then suggest that the way to proceed is to focus on what seems least contestable, which the theoretical debate obscures, namely, that there are inequalities and injustices in the global domain that need addressing.

### Needs

It seems that the harm approach is born out of the desire to show that while we disagree about what justice is, we can at least agree that we have duties of justice towards those we harm, and as we harm the poor, we have duties of justice towards them. However, we might question the need to ground our duties to the global poor as duties of *justice*. Justice is only one virtue. It may be that justice is a value that arises in a particular institutional context, yet other duties of charity, compassion, and humanity are required outside of this context. Instead of basing our duties to the poor on harm, we should instead, perhaps ground them in the idea that the poor clearly are in urgent need and we are in a position to meet these needs, and thus, we have a duty to help.

However, there are perceived to be key differences between duties of charity and justice; which may lead one to conclude that a charity approach is not the most plausible basis of our duties to distant others. One concern is that a charity approach would leave the claims of the needy under-fulfilled. The other is that it fails to capture accurately the moral facts of the situation.

Duties of charity are often regarded as less stringent or extensive than duties of justice because, first, it seems we only have duties when people are in need, secondly, we only have duties when we can help at reasonable cost to ourselves, and thirdly, duties of charity are imperfect duties; there is no way of acting so that one discharges exactly what one owes. I shall develop these points.

The first point of difference is that duties of charity arise when someone is in need, whereas a justice approach is aimed at achieving a fair distribution of resources among people, regardless of whether they are in need. However, while there is a distinction between these approaches in principle, there may not be in practice. First, needs may not be desperate for there to be duties of charity. There are charitable causes aimed at fulfilling non-urgent needs, to which we may have a duty to contribute, for example, a fund for setting up a local youth club, or a project to widen access to computers around the world. Secondly, it is rare for people to be worse off than others and not in some form of need. Thirdly, a justice approach may not mandate redistribution in a case where some are worse off than others but still well-off. On the other hand, there may be reasons for caring about equality that a needs approach overlooks, for example, social cohesion. Moreover, our main concern may be whether a distribution is fair rather than whether everyone has their needs met.

Another feature of charitable duties is that they only arise when we can help at reasonable cost to ourselves. The point is not that we have no duties when this requires self-sacrifice, but that when the cost is reasonable, it would be wrong not to help. This raises the question of what is an unreasonable cost. However, this question is also posed with respect to duties of justice. If a duty would be too demanding, then it may not qualify as a duty of justice. All the same, it seems that what is considered reasonable is affected by the type of duties we have. When we owe someone something, we are willing or required to make a greater personal sacrifice to fulfil this, than if someone has a need that we are not responsible for. I will, however, postpone this discussion of the issue of demandingness until later.

Another distinction, touched on in the first chapter, is that duties of charity are imperfect duties, while duties of justice are perfect duties. The key difference between these is that we are able to specify what it is for a perfect duty to be fulfilled, whereas, there is no upper or lower limit on what complying with an imperfect duty requires. Why should this matter? We might think that duties to the global worse off should be duties that can be under-fulfilled. Duties of justice are

directed towards achieving a goal. We have an idea of what a just situation would look like, and aim to achieve that. However, duties of charity are also goal-orientated. In the global case, the point of charity may be to eradicate poverty, or to decrease poverty by a given amount. However, if what is required is not just meeting needs, but redistribution and fair procedures across the global domain, it does not seem that an approach which allows duties to be met to varying degrees, and with leeway in how this duty is fulfilled, would be sufficient.

While imperfect duties of charity are not less stringent than perfect duties of justice per se, it seems there is a relevant distinction with regards to stringency. It is hard to say that someone has under-fulfilled their imperfect duty of charity. Any contribution may be regarded as fulfilling a duty of charity. However, in the case of duties of justice, it is possible to state what is required and show that one has failed to meet this standard. People may face condemnation, or coercion, if they do not adequately meet their duties of justice. Duties of justice may be thus regarded as more directly constraining.

Given these differences, needs-based duties of charity and egalitarian duties of justice may mandate different courses of action. This may be a reason for opting for a justice based approach. This is not because our motive is to adopt an effective response to poverty. My aim is to identify the most plausible basis for our duties to the global worse off. The reason why I think these distinctions may highlight the need for a justice approach is because it does not seem plausible that our duties to those outside our borders should be so different – less stringent and less demanding – than to those within them. The same sorts of reasons we have for thinking we have duties to our fellow citizens seem to apply in the global sphere, so the duties we have should be more equivalent. As in the domestic sphere, people in the global sphere are worse off than others due to morally arbitrary factors, while joined together in coercive and cooperative relations that produce social and economic benefits. I shall say more about the ways in which the global sphere seems to trigger requirements of justice shortly. While the value of justice need not

account for all the duties we have, it does seem that justice is appropriate in the global context. When we compare the global context to the domestic context, it seems plausible that similar approaches should apply. More important, however, is to assess the global situation itself, and what would be appropriate in this case, regardless of how it compares with the domestic case.

The main reason for doubting that our duties to distant others would be appropriately captured as duties of charity is not because a charity approach would be deficient. Rather it is because it misrepresents the moral relations in the global sphere. Framing a duty as charity implies that one is an outsider to the other person's situation, rather than implicated in it. Acting charitably is to act virtuously from goodwill. If we encountered a needy people on a distant planet we would have duties of charity to them (Pogge 2008: 204). Yet charity is also being posited as the appropriate moral duty to those with whom we are closely related in cooperative and coercive relationships. Our theory should capture the relevant distinction between these situations.

In the case of duties of charity, the relationship is perceived as one party doing the other party a favour. Even if I am required to give charity, I can set provisos on the receipt of my aid. Rich countries impose conditions on how their money should be spent; those who spend it must report to donors, and aid is often withheld from leaders who are corrupt or who are assumed to squander the money (Barry 1982: 248). This may not be wrong, but, it shows an important difference between charity and justice. If I have a duty of justice towards you, what I owe you is essentially yours; I am not in a position to set conditions on what you are entitled to. If I borrow or even steal money from you, when I give the money back, I cannot set limits on how you spend it. According to Barry, this is an appropriate analogy for the global case (1982: 249).

It seems that if we frame our global duties as duties of charity, rejecting duties of justice as relevant or necessary, we may distort the moral relations in the situation. Whether or not we agree that the way resources were acquired and transferred by

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**Comment:** As in, equivalent to affluent countries having stolen from poor. Owed to the poor, so not view as charity



different countries over time is akin to theft or borrowing, we may still challenge the fairness of the discrepancy between the positions of rich and poor.<sup>16</sup> Therefore, we may resist framing our duties as charity, because charity tends to reinforce disparities in power and maintain differential positions. Reduced inequality may be a by-product of giving up some of one's resources to another. However, a justice approach challenges the fairness of these disparities, and aims to redistribute resources more fairly. Additionally, charity does not seem to address all the relevant aspects of justice, focusing most naturally on wealth, and not on opportunities or liberties.

I have argued against framing our duties to the global worse off solely as duties of charity based on need. However, duties based on need may not necessarily be duties of charity. Scanlon posits that we have a duty of rescue; he writes '*if you are presented with a situation in which you can prevent something very bad from happening, or alleviate someone's dire plight, by making only a slight (or even moderate) sacrifice, then it would be wrong not to do so*' (Scanlon 1998: 224). Yet, Scanlon states that the duty of rescue may not be a case of '*mere charity*', where it would be good to give aid, rather there is a duty to give aid that it would be wrong to violate (Scanlon 1998: 225). Similarly, Feinberg states that if we fail to rescue someone in need when we could easily do so, we violate their rights and commit an injustice (1987: 132). Scanlon also posits a '*duty of helpfulness*' (Scanlon 1998: 224). This requires us to help, when we are able to, when the stakes are lower, for example, when we can save someone time or effort through helping. For example, if someone asks us for directions, it would be wrong not to help if we can. These writers identify duties based on the needs of a person that go *beyond* duties of charity.

However, duties of rescue and helpfulness, even if they are not duties of charity, still do not rise to the level of duties of justice. These types of duties seem to rely on

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<sup>16</sup> Wenar supports such a view, Wenar, L. 2008, 'Property Rights and the Resource Curse' *Philosophy & Public Affairs* 36, no. 1

the fact that it is easy for us to help. Feinberg qualifies the duty to rescue as a duty of *easy* rescue (1987: 137). Scanlon requires us to help when this would require only a *moderate sacrifice* from us. However, Feinberg also states that we have a duty to help when we can do so at *reasonable* cost to ourselves (1987: 153). Scanlon also states that we may have duties which require a higher level of sacrifice at times (1998: 224). Scanlon claims that we cannot say exactly what level of sacrifice would be reasonable, but states that giving our own interests no weight in a situation would be unreasonable (1998: 225). These duties may not leave us worried that claims of the worse off would go unmet. Nonetheless, they do not go far enough in capturing the moral facts of the global situation. I maintain that a needs-based approach is inferior to a justice approach.

I am concerned with finding the most plausible way of grounding our duties to the distant needy. Whether our duties would be effective is one aspect of this. It is also important to reflect the moral features of the situation. Without being able to state a complete theory of justice, the global situation seems to raise considerations of justice. It seems that we are not only in a position to help those worse off than us, but also implicated in their situation. Benefits that we enjoy are related to burdens that those worse off than us endure. Without going so far as to apply directly our theory of justice from the state context to the global case, given that there seem to be relevant moral features in both cases, it seems we should not rule out that the global situation raises justice considerations. The most plausible approach, however, is to investigate the moral features of the global situation rather than starting with a particular theory.

As Rawls suggests '*the correct regulative principles of anything depends on the nature of that thing*' (Rawls 1999: 25). The obvious and most appropriate starting place for working out the duties we have in a situation is to assess the nature of the situation. I suggest we should take seriously the views of those who argue that we should not blindly extend principles of justice to the global sphere without assessing whether they are appropriate in that context (Sangiovanni 2008, James 2005). It is right that we should construct a theory of justice taking into account the

nature of the culture, social and economic relations and institutions within the context hand. However, this approach requires us not to reject, without discussion, the possibility that principles of justice are also required in the global sphere.

Before turning to put forward considerations in favour of this approach, I will return to the global justice debate to show why there is a need for a different approach.

### Global egalitarianism

A needs-based approach to our duties to the global poor is straightforward and convincing in its reasoning, and would not leave us worried that the situation of the poor will be insufficiently addressed. However, I maintain that it seems puzzling why we would have, in the global sphere, only duties of charity, and in the domestic case, duties of justice, as well as charity. It seems plausible to many that considerations of justice apply at the global level. **The idea of justice is that it is not fair that morally arbitrary factors dictate how well-off someone is in society;** therefore, redistribution of wealth, liberties and opportunities is required. Given that the country into which one is born is a morally arbitrary factor, it seems unfair that people in some countries are worse off than in others, and so redistributive principles should apply.<sup>17</sup>

However, on other hand, it does not seem straightforward or plausible to extend our theory of domestic justice to the global sphere. Redistribution seems too demanding, and unfeasible between citizens of different nations. Some also deny that the moral grounds for justice are present in the global domain. This includes not just libertarians, who share very different premises regarding justice, and whom our theory of global justice need not, I maintain, persuade. We cannot hope to supply a theory of distributive justice that meets the convictions of all positions, and in particular of people who start from premises so opposed to the very idea of distributive justice. In fact, this is not what theories of domestic distributive justice

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**Comment:** What idea of justice? Idea at heart of rawls theory even if only applied within state. And others take more general idea of justice

<sup>17</sup> Beitz, *Political Theory and International Relations*

typically aim at doing: converting libertarians to adopting principles of distributive justice. Moreover the starting assumptions of libertarians are, as is widely discussed, highly questionable. However, egalitarians who argue that we have extensive duties of justice within a state, have also voiced doubts that we have duties of justice to those worse off than us in other parts of the world. This disagreement is more noteworthy. Such 'anti-global justice egalitarians' hold that it is not significant in itself that morally arbitrary factors influence positions in society. Rather, this only gives rise to injustice within certain types of relations, which only exist within a state. This view is often referred to as 'relational justice'. I shall explain this position next, before turning to explore the suggestion that the relations which make justice appropriate exist at the global level too.

### Relational justice

According to the relational justice view, justice is only a relevant value within a state, where certain morally significant relations feature. It is argued that coercion is what triggers duties of justice (Nagel 2005, Blake 2001). Coercion limits our autonomy. Therefore, for coercion in society to be morally permissible it must be justifiable. Something is justifiable if we could consent to it; the appropriate consent here is hypothetical consent (Blake 2001: 274). We could consent to the system of coercive laws in the state if they distribute resources in a just way. However, even if we accept Nagel and Blake's link between coercion and distributive justice, we may note that coercion also features in the global sphere, and therefore doubt that justice demands only arise in the state.

According to Nagel, however, it is not mere coercion in a state that is morally significant, but the fact that we are coerced by institutions in which our membership is *non-voluntary*, and that we are not just coerced in society but play a part in coercing others. It is these features, Nagel argues, which generate the need for justification and make arbitrary inequalities within the state morally problematic. Nagel states that while there are coercive institutions at the global level, these are of a kind crucially different to those which obtain within a state.

Global coercive institutions arise voluntarily. Additionally, they do not purport to represent all citizens, but only states and their functions. As they only *indirectly* coerce individuals, only citizens' own states have responsibilities to them, and not all members of these institutions. Therefore, Nagel concludes, demands of justice only arise within a state.

Another view that is put forward is that duties of justice are essentially duties of reciprocity (Sangiovanni 2007). Citizens, but not non-citizens, play a role in upholding institutions that create the conditions that allow each individual to pursue their plan of life. In order to enjoy the benefits of the state, such as enforcement of property rights, public services, and protection from attack, each citizen must accept the full scope of obligations that state membership imposes. Submitting to the rules of the state produces benefits for other members. This creates a web of reciprocity. When we are in reciprocal relationships with others, it is morally significant that morally arbitrary factors among us influence our positions in society (Sangiovanni 2007: 26). Arbitrary factors giving rise to differences in well-being alone do not ground principles of justice. Thus distributive justice is required within a state, but not outside of it.

Rawls, famously, also limits the scope of distributive justice to the state. For Rawls, cooperation is the key moral feature of relations within a state that triggers demands of justice (Scanlon 1997: 209, Wolff 2009: 11). On Rawls' view, members of a state cooperate in the collective production of social goods. It is unjust, according to Rawls, if some people are worse off than others due to morally arbitrary factors when all share the burdens of cooperation, and collectively produce its benefits. Outside of the state, it is argued, these cooperative relations do not exist, and so, considerations of justice do not arise.

The key idea that these views have in common is that justice is appropriate when citizens play a role in upholding the state. The functions of the state make up the essential elements of the basic structure of society, and this basic structure is the site of distributive justice. Through one's role in supporting the state, relations of

coercion, cooperation and of reciprocity arise, and only within such relations, it is argued, is it morally significant that some are worse off than others due to morally arbitrary factors. However, some have argued that there is a global basic structure, and therefore, principles of global justice are required. I shall discuss this type of view next.

### Global basic structure

In arguing against the exclusive application of principles of justice to the domestic sphere, there are two main possibilities. One may deny that these features, supposedly present within a state and absent beyond it, are morally significant. The other approach is to argue that these features are present in both spheres. The best approach makes both claims; first demonstrating that these features are present in the global domain, and secondly arguing that the way in which these relations feature is not less morally significant than in the state.

Cooperation and coercion feature at the global level. Many countries amass and maintain their wealth by operating companies extracting resources within other countries, or using labour from poorer countries to help produce goods. Citizens in other countries, thus, help collectively produce goods and generate wealth for affluent countries. There are many international institutions with coercive effects, a few examples being the WTO, multi-national corporations, monetary laws, and immigration policy. The distinction that Nagel points out is that these institutions do not coerce *in the name* of all citizens (Nagel 2005: 128).

However, we may ask why this is a particularly morally significant form of coercion. Coercion within a state is largely attributable to policies which protect citizens' interests. For example, we face coercion in the form of taxation, which helps to support public services. Coercive laws against criminal behaviour help protect us from harm. These benefits, we may suggest, are sufficient justification for the coercion. Coercion in the global sphere, by contrast, is usually a result of decisions which benefit more powerful states disproportionately to weaker states.

While coercion in the global sphere is less direct, and is not carried out with the supposed legitimacy of a state, it seems more morally problematic in other ways.

It seems that we can identify in the global sphere the relevant moral features that make justice appropriate. However, proponents of the relational view recognise that there is global interdependence and integration; that markets and legal bodies span borders, yet deny that the cooperation and coercion present rises to a level that triggers duties of justice. On this point there is somewhat of a stalemate.

It is true that coercion in the global domain differs to coercion within a state. Not only is state coercion supposedly imposed with the legitimacy of the people, but it is also more direct and more widespread than coercion in the global sphere, and backed up by force. However, perhaps the way to break the stalemate is to suggest that, while the situations are not identical, given that the relevant moral features are present in the global sphere, considerations of justice are required, though identical principles of justice are not. For example, perhaps the difference principle is appropriate within a state, but only some level of sufficiency is required in the global case. This may appeal to those who argue that global justice would be too demanding given that our moral ties are weaker at the global level. Even if we think there is moral justification for equivalent principles in both contexts, sufficiency may meet our concerns about the feasibility of a global difference principle. Reaching a level of sufficiency throughout the global sphere would still be demanding. However, we should not reject, at the outset, the possibility of global redistribution as a matter of justice, simply because the global sphere is not identical to the domestic sphere. The contexts are not so different that we must adopt a different moral framework in the global case. We may design principles of justice that correspond to the moral features and practical facts of the global situation.

Opponents of global justice take too much of an 'all-or-nothing' approach towards the question of whether there is a global basic structure. They analyse the global situation taking too broad a brush. Some institutions and practices are more

coercive than others. Relations at the global level are more varied. Because not all individuals are brought into coercive, cooperative relations and because some of these arrangements are informal, voluntary, and more localised, they perhaps do not meet a standard to ground duties of justice. However, in other cases, interactions are closer and more coercive. So perhaps it would be better to take a more piecemeal approach to capture accurately the moral relations within the global sphere. I shall explore such an approach next.

#### Variable notions of justice

Nagel suggests a sliding-scale notion of justice as a possible approach to global justice (2005: 140). Nagel points out that while our cooperative relations are stronger among our fellow citizens, we are, nonetheless, connected to people beyond our borders in coercive and cooperative relations. There are many collective practices and associations, which transcend borders, that we participate in jointly with distant others, such as international currency markets, or agreements made under the WTO. For example, we are related to the Brazilian farmer who grows the coffee we purchase through the system of international trade (2005: 141). Given that this system, in which we participate, is pervaded by inequalities based on morally arbitrary factors, this may give rise to considerations of justice. This may not require extensive duties such as redistribution of wealth, or large scale reform of the global order, but only the fulfilment of certain policies as a condition on participation in this system; for example, fair labour practices (2005: 141). Our obligations could vary in relation to the degree of collective engagement there is.

This seems a plausible proposal. Nagel, however, rejects it. Nagel insists that the level of collective engagement in such situations does not generate duties of justice, as this level is only reached when rules are enforced by a collectively authorised sovereign (2005: 141).

However, Nagel's rejection of this approach does not seem persuasive. As already suggested, it does not seem necessary to take an 'all or nothing' approach. We may



argue that even minimal forms of cooperation, such as mutual advantage, trigger some duties of justice. I shall discuss this idea further below. Alternatively, one may agree with Nagel, that this feature of coercion which engages one's will is the relevant moral feature which triggers duties of justice, yet deny that it is absent beyond state borders. A.J. Julius takes seriously Nagel's view that duties of justice arise when we co-author coercion. Julius aims to give the best explanation of this associative duty, and finds that it arises beyond the state as well as within it (Julius 2006: 178).

Julius identifies one way in which coercion may invoke our acceptance. If I know that you will uphold the terms that I set, because I know you hold yourself to have a moral reason to obey me, I have a duty to impose terms that you can accept (2006: 180). The problem with making justice entirely conditional on the existence of co-authorship, however, is that no considerations of justice would arise in a tyrannous society in which no acceptance from citizens is sought, and citizens take themselves to have no moral reason to obey the terms of their society (2006: 183). Julius, thus, formulates a different account of when coercion gives rise to justice. Julius explains that considerations of justice arise when one directs other people to conform to their will through the social positions they occupy. Some people are in positions where they can make people who occupy certain social roles act in a way which suits their purposes (2006: 188). Julius invokes the moral principle that one should not use other people to fulfil one's will, unless this course of action is justifiable to them (2006: 188).

To explain our relations to our fellow citizens within the grouping of a state, Julius describes a group of people where each person may direct the actions of people in certain roles to achieve the aims of their projects, while, at the same time, each person is able to be directed by each other person (2006: 189). Each person must be able to justify their policy for pursuing their projects to everyone else. Julius cites Rawls' view that the difference principle is the closest we can come to a policy that is agreeable to each person (2006: 189). Therefore, the difference principle is a required principle of justice within a state.

This is Julius' illuminating explanation of Nagel's position. Where Julius' view differs to Nagel's is that Julius holds that we do not only bear such relations to people within a state. We have projects, which, in order to fulfil, require us to direct people occupying social positions beyond our borders (2006: 190). However, the global sphere is not a group like a state, where each person is both directed by others and directs others. Many people are not in a position to direct people in other parts of the world. We then are faced with the option of a society by society application of the difference principle, leaving the effects on people beyond state borders unregulated. Or, we could adopt a global application of the principle, but this would distort the fact that most people's projects are concentrated locally. Instead, Julius suggests that the most appropriate approach is to move between the two applications, in accordance with how closely tied we are to people outside our borders (2006: 191).

This sliding scale approach seems plausible, as we cannot ignore these two different features of the global picture. However, we may raise two doubts. On the one hand, this picture may seem too limited. We may press the same challenge against Julius as we did with Nagel; rejecting the idea that coercion that implies our acceptance is more morally significant than coercion that does not. For example, coercion that does not invoke one's will may have worse consequences. On the other hand, Julius' account may seem too unbounded. Julius argues that we should move between a society by society and global application of the difference principle. However, the difference principle is very demanding. It is hard to even conceive of how the difference principle would function across borders. Given that the difference principle requires an overall assessment of who is the worst off group, and that forms of life vary dramatically across the globe, it would be hard to come to any conclusive judgment of how different people fare against each other. The difference principle would require a transformation of global arrangements in order to distribute the burdens and benefits of social cooperation according to what makes the worst off as well-off as possible. It is hard to see how this distribution would only occur some of the time.

The worry here is not only that the global difference principle would be hard to implement in practice, but that it is not a coherent possibility, given that we cannot make sense of the notion of 'the worst off' in the global context. Because global justice seems implausible, some egalitarians want to reject the idea. The worry may be that, as global justice seems to follow from the premises of domestic justice, the idea of domestic justice may be rejected by *reductio ad absurdum* (Wolff 2009: 2).

The problem is that what Julius proposes seems demanding and unfeasible. However, we may ask why that would make it an implausible approach, given that local justice would also be demanding and difficult to realise in practice. Perhaps there are relevant differences in the two cases. Or, the more appropriate response may be to question our approach to justice in both contexts. I shall pursue this suggestion shortly. Perhaps, however, one may reject these difficulties, as even if we cannot conclusively identify who is worse off overall, we are still in a position to make comparisons.

Even if a global difference principle is conceivable, it still does not seem appropriate, overall, in the global case. Nonetheless, Julius is right that the global case is not so markedly different from the domestic case in the respects that warrant distributive justice.

Faced with the difficulties we have identified, I suggest that the most sensible approach is to *start* with an assessment of the global situation itself and ask what principles would be suitable. I shall pursue this suggestion shortly. First, we must explore whether there are good reasons for considering the requirements of distributive justice problematic in the global case but not within a state.

#### Working out what is required of us

Perhaps redistribution within a state is not excessively demanding because we have more fellow feeling for our co-citizens. However, that is a contingent, empirical claim. People belong to many different identify groups, some of which span borders. The strongest attachment is not necessarily to one's national group;

one may have more intense affiliation to fellow members of one's religion, or profession, or with those with whom one shares a particular medical condition. Often, ties of solidarity are weak within a nation state.

Perhaps, we treat the cases differently because the global justice debate is more focused on non-ideal theory; proponents of global justice tend to refer to inequalities in the world today and the unfairness of current global arrangements, when making the case for global redistributive justice. Formulating principles of justice within a state, by contrast, seems more of a theoretical, idealised project at the outset, with discussions taking place at a greater level of abstraction. This may help explain why demandingness and unfeasibility are regarded as problems in the global case, but not the local. However, if we consider justice within a state from the perspective of non-ideal theory, we may be similarly concerned about these issues.

Perhaps the distinction between the two cases, with respect to demandingness, is a normative one. It may not be that duties in the domestic case are less demanding, but that this level of demandingness is more *appropriate* within the state. However, this takes us back to the question at hand of what is required in the global sphere.

I leave the feasibility concern aside for now but I wish to explore the demandingness objection further. Global justice is often opposed on the basis that the absolute low level of the poor and the discrepancy between the global rich and poor would make global equality very demanding (Miller 2007: 63). To raise the poor to a level of sufficiency, let alone equality, may require us to sacrifice our personal projects and non-basic interests (2007: 185). The demands of morality, the thought goes, cannot alienate us from our own concerns and commitments (Williams 1973). So if a duty or set of duties would be too demanding, this undermines its appropriateness in that situation.

However, it seems that how demanding a duty is does not only determine whether it is appropriate, but also, whether a duty is appropriate determines how demanding it permissibly can be. I suggest that the demandingness objection is bit

of a misnomer. We do not regard something as demanding in and of itself. Rather, we experience something as demanding in relation to what we believe to be expected of us. For example, common humanity posits a duty to help an old lady to cross the street. However, it would seem too demanding if I was also expected to assist the woman all the way home, to then help her at her home and on subsequent days. This would not be too demanding, however, if the old lady is my own mother. If I am present when a person is hit by a car, I have a duty to call an ambulance and wait until I see that they are given sufficient care. It may seem beyond what is required of me to visit the victim in the hospital, and to give them compensation for the accident. However this may not seem too demanding if I am the driver who hit the person.

It seems, therefore, that the type of a situation we are addressing, factors such as the relationships between the people involved, at least to some extent, determines what is or is not too demanding. This thought seems to be part of the motivation for the harm approach. Redistributing wealth across the globe may seem too demanding, but not if we cause global poverty.

What I am suggesting, therefore, is that instead of positing a set of duties and assessing how demanding they are, we might start with our underlying convictions of what is the nature of the situation we are dealing with.

#### Global injustice

I suggest that the way to proceed in formulating our duties to people in need beyond the state is to start by assessing the global situation. What seems clear is that there are urgent injustices and inequalities in the global sphere that need addressing (Scanlon 2004, Sen 2009).

The project of global justice is largely focused on applying ideas of justice drawn from our approach to justice within a state to the global sphere, and on the demonstration that we have duties of global justice. This seems the wrong approach. Proponents of global justice face a doubly demanding task of first

defending a demanding set of principles within a state, and then applying these at the global level. This involves the heavy argumentative burden of showing that individuals across the world are engaged in coercive and cooperative relationships within global institutions to an extent akin to relations within a state. Thus the discussion tends to focus on the meaning of 'institution', and 'coercion', and the extent to which these features are present. Proponents of global justice are vulnerable to the criticism that they overstretch these concepts to argue that there is a global basic structure.

On the other hand, others, who find the idea of justice inapplicable to the global domain, may be vulnerable to the criticism of being dogmatic. Moreover, they adopt a libertarian type position, denying that we have any duties of justice to those beyond the state unless we harm them, without showing why libertarian premises are plausible. It seems that assessing whether justice claims arise in the global sphere *only* through comparison with the domestic sphere forces opponents of the view that the contexts are similar into an implausible position.

We might see the harm approach as a symptom of this more general problematic approach to global justice. Pogge's failed strategy is to find an alternative route to grounding our duties to the global poor as duties of justice. Pogge focuses on harm because, whatever else justice is taken to be, all can agree that we have duties of justice not to harm others, and that if we harm, we have duties of justice to compensate.

The theoretical debate about whether justice is the right virtue at the global level seems to start in the wrong place. We should begin by identifying the nature of the conviction that the global situation raises considerations of justice. This view may come from our theoretical engagement with justice. One might think that, given our approach to justice within a state, the global situation shares the relevant moral features and so also gives rise to considerations of justice. Or perhaps, it seems clear, without being able to articulate a full theory, that, given that we interact with a wider community than just the state, and that historically and presently play a

part in shaping global arrangements, we have obligations to help those who do less well than us, which seem best captured as duties of justice, rather than virtuous acts of charity. Even if we cannot state what justice is and what equality is, we can recognise global arrangements to be unfair, and, from a pre-theoretical perspective, unjust. As Nagel himself states '*We do not live in a just world. This may be the least controversial claim one could make in political theory*' (2005: 1).

Perhaps one may insist that we cannot speak of injustice before formulating a theory of justice and demonstrating its relevance to the global sphere. One could maintain a definitional limitation to the application of justice to state institutions. However, there seems no reason to accept this thought. The concept of justice strikes us as relevant beyond this context. Perhaps, this is referring to a different idea of justice. Perhaps neither view – justice as applied to institutions, and justice applied more generally - is wrong, but rather, they are approaches directed towards different projects. Establishing standards for institutions within a state may be worthwhile. Yet we may also explore the idea of justice in a more general sense. While the arrangements of institutions need to be assessed as just or unjust, as their influence is so pervasive, our ultimate concern is with how people, with whom we interact, fare. We must not overlook any justice claims that may arise out of our cooperative relationships with those we interact with outside of the state system.

It seems plausible to suggest that, at a minimum, considerations of justice arise from such practices as climate change policy, immigration laws, and labour practices of multi-national corporations, and that if a theory could not accommodate this view, this would be grounds to question it. We might still be pressed to say why these would be justice claims. I think we can draw on a rudimentary notion of justice as fairness to explain this conviction, though I cannot explore this in detail here (Sen 2009: 54).

I suggest that our approach to global justice should be to start by identifying ways in which global arrangements seem unfair and unjust. I shall raise and deal with

three objections that I anticipate against this suggestion. First, this seems to undermine my claim that the global sphere and the state are similar in the morally significant respects and so we should not adopt a different moral framework in each case. However, though I am suggesting we take a different approach towards assessing injustice in the global case, this is not to employ a different moral framework. The concept of justice is relevant in both contexts. Nonetheless, the contrasts between these approaches may reflect that the two situations are different. Perhaps the theoretical justice project is more fruitful in the domestic case, as there is likely to be greater consensus in a more homogenized society, than across the globe. While the theoretical project of global justice appears to be in constant stalemate, the theoretical project of justice within a state is more established, and better understood.

An alternative response is to argue that our theory of justice in the domestic context should also be revised. The difficulties of the global justice debate may be symptomatic of the problems with the dominant, general theoretical approach to justice. It is difficult in any society to make summary judgements about how well-off people are. It may seem unrealistic that we could come to any consensus of what would be a fair distribution, even under conditions of impartiality (Sen 2009: 15). Our approach to domestic justice, perhaps, should be less focused on an ideal, and more concentrated on assessing and making comparisons between existing arrangements and feasible alternatives (Sen 2009: 7). We have nothing close to a just society in reality. Given that the difference principle seems hard to realise, even within a state, our project of justice should, perhaps, take a more realistic approach. Alternatively, perhaps this emphasis on identifying unjust practices and institutions and reforming them is required *in addition* to the theoretical project in both cases. What is required in the domestic sphere cannot be settled here. Regarding global justice, however, it is clear that we must rethink our approach.

Secondly, one may worry that our application of the concept of justice would be too wide. However, the idea here is not that anything that seems very bad in the world is an injustice. We must still apply reasoning to the identification of an injustice.



However, we may start with what strikes us as unjust, and build from that to a diagnosis of injustice, and from that to a theory of justice. Additionally, we may limit the scope of justice to systems of cooperative interaction, and subjection to rules, for example, global trade agreements. Taking our convictions of what is unjust as our starting point does not mean that we will find injustice in every interaction.

Thirdly, earlier I voiced the concern that framing what we owe to distant others as charity would be inadequate because charity is primarily concerned with absolute deprivation. However, my suggestion that we begin by identifying clear cases of injustice seems to be vulnerable to the same critique. However, manifest injustice and absolute deprivation are not the same. We might be struck by the mere fact of inequality, or by the lack of equal participation and power differentials in global bargaining processes. These seem to be injustices that a charity approach would not acknowledge as absolute deprivations. Moreover, while our starting point may be identifying manifest injustice, we may, from here, develop a theory of justice in the global context that would recognise less extreme forms of injustice.

We may require more of an idea of how we would build a comprehensive theory. This is a task for another time. Perhaps, however, two roughly drawn suggestions may be offered. One starting approach would be to identify the inequalities that raise moral concern in the global domain and assess the different reasons for objecting to them (Scanlon 1997). We may have humanitarian concerns; wishing to take from some to give to others to raise their level of well-being. Some reasons for caring about inequality may be more egalitarian; some inequalities seem to violate the idea of fair cooperation, other inequalities may undermine self-determination, and lead to power differentials, from which exploitation can arise (Scanlon 1997). We may aim to avoid injustice in a more rudimentary sense, rather than pursuing equality under the belief that every person deserves equal treatment or equal opportunities (Miller 2005: 75). We should not assume at the outset that inequalities do or do not raise considerations of justice. Rather, we should start by

assessing the moral significance of the social and material inequalities that pervade the global sphere.

Another possibility would be to start with existing practices. A key objection for extending principles of justice from the state context is that they are based on a notion of justice as impartiality that seems inappropriate in the global context. Demanding principles that, for example, require us to arrange institutions so as to benefit the worse off, only seem appropriate in a society where people feel a sense of responsibility for others, where there is a sense that people's fates and lives are bound together. However, other conceptions of justice may be appropriate in the global context, where ties and cooperation are weaker.

Within a state there are weaker forms of cooperation which still give rise to considerations of justice. For example, in corporate relationships, companies aim to get the most that they can get, and do not regard each other as co-members of a cooperative project to support the social goods of the state. Yet duties of justice still arise in commercial transactions. If people group together out of mutual self-interest, and formulate rules that, if followed by all, yield a greater gain for all participants, then they have duties of justice to abide by these rules. Moreover, if the arrangement makes anyone worse off than they were without it, this violates the idea of mutual advantage, and the arrangements would be unjust (Wolff 2009: 17). Cooperative relations between employers and employees may give rise to a stronger notion of justice; duties of fair reward (Wolff 2009: 17). Therefore, forms of cooperation present within the global sphere, which may be agreements of mutual advantage, or ones that mirror employment relations, should give rise to principles of justice, based on weaker notions of justice, which are applicable at the global level.

I have suggested two approaches from the literature of building an account of what duties we have to others worse off than us in the global sphere. These approaches address what strikes us as appropriate in the situation, rather than applying a pre-existing theory. Much more work needs to be done to develop an account of global

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**Comment:** As in reciprocity, fair reward for efforts.. Proportionality

justice. The most plausible way, however, to approach this task is to begin from an assessment of the global situation.

### Conclusion

In this chapter I suggested how we should proceed in the global justice debate, given that the harm approach fails in achieving its aims. I first explored a needs-based approach, which would seem to address the situation of the poor sufficiently, yet, would not adequately reflect the moral features of the global situation. I then explored a variable, relational approach to justice, which argues that considerations of justice arise in the global sphere, but the application of principles of justice should vary according to how far coercive and cooperative interactions are present. However, I raised the concern that duties of justice that would arise seem too unfeasible and demanding. I then assessed the demandingness objection further, discussing that what is too demanding depends on what are the appropriate duties in the situation. I then put forward the view that the most appropriate starting point in developing a theory of global justice is our convictions about the nature of the situation. My view is not that our theory of justice cannot be applied to the global sphere, but that the theoretical debate obscures what is most clear, namely that there are urgent needs, and unacceptable inequalities and injustices within the global sphere. This should be the starting point from which to develop our account of our duties to the distant needy.

## **Conclusion**

My project may be regarded as a largely negative diagnosis of the global justice debate. Through this perspective, we can understand the harm approach as reflective of what goes wrong in the debate. It seems that given the impasse between proponents and opponents of the project of extending domestic ideas of justice to the global sphere, Pogge, out of a conviction that the global order is unjust, and that our duties to those worse off than us around the world are best framed as duties of justice, tries to base our duties on harm, as a way of avoiding the points of contention in the debate. In this way, the harm approach seems well-motivated; it is a worthy aim to get clearer on the nature of our duties, while avoiding this seemingly intractable debate. The harm approach tries to bypass the debate regarding whether notions of justice within the state apply in the global case by basing our duties on what anyone could recognise as grounding duties of justice.

However, in assessing the harm approach, I found that Pogge does not provide an account of harm that achieves the aims of the theory. Moreover, there are reasons to doubt that a theory of harm can be formulated to lend the required support. The approach lacks plausibility as, in order to show that we harm in a way which grounds duties, we have presupposed that we have moral obligations to those that we harm. In many ways Pogge's aims seem misconceived. Firstly, we should not set out to prove that our duties are duties of justice. What is important is to capture the moral facts of the global situation. Secondly, while we want to make progress in the debate, we should not set out to convince everyone with our theory. This seems to confuse our philosophical project with a political one.

I argued that we should not aim to bypass the debate by basing our duties on harm, but nor need we take a stance on whether our theory of justice for the state extends to the global sphere. Instead, our starting point should be the global situation itself. My aim was to work towards the most plausible approach of

formulating our duties to the global poor; one that accurately captures the moral significance of the global situation. For this reason, I rejected the idea that our duties to those worse off than us in the rest of the world are charitable duties based on need. This seems to distort the facts, implying that it would be virtuous to help the poor, with whom we stand in no relation. Whereas, in reality, we are bounded with people the world over who are worse off than us in coercive and cooperative practices. However, a justice approach equivalent to our theory of justice within the state does not seem plausible either, as this would ground duties that seem unfeasible and overly demanding when applied to the global sphere. Additionally this focuses the debate on the question of whether coercion and cooperative in the global domain rises to the level of that within a state.

However, I maintain that from a pre-theoretical perspective, it seems clear that there are deprivations and morally unacceptable inequalities between the rich and poor globally. Our interactions seem to raise considerations of justice. I argued that this is what most people would agree on. Disagreement arises when one tries to fit the global situation into our theory of justice in the state context. Therefore, we should instead take, as our starting point, our convictions about the global situation, and build an account that fits with our intuitions and captures the moral facts of the case.

My focus in this thesis is primarily a critique of the dominant views in the literature and the character of the debate. However, I also suggest, positively, that how we should proceed is through adopting this 'bottom-up' strategy: starting with what seems to us obviously unjust. There is much more that needs to be said about what such an approach would look like, and how we would develop our basic intuitions into a comprehensive theory of global justice. This should be our project of global justice.

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