

Why ‘We’ Are Not Harming the Global Poor: A Critique of Pogge’s Leap from State to Individual Responsibility

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Abstract: Thomas Pogge claims “that, by shaping and enforcing the social conditions that foreseeably and avoidably cause the monumental suffering of global poverty, we are *harming* the global poor – or, to put it more descriptively, we are active participants in the largest, though not the gravest, crime against humanity ever committed.” In other words, he claims that by upholding certain international arrangements we are violating our strong *negative duties* not to harm, and not just some (perhaps much weaker) positive duties to help. I shall argue that even if Pogge were correct in claiming that certain rich states or at least the rich states collectively violate certain negative duties towards the poor and harm the poor, he is far too hasty in concluding that “we,” the citizens of those states, are thus harming the global poor or violating our negative duties towards them. In fact, his conclusion can be shown to be wrong not least of all in the light of some of his own assumptions about collective responsibility, the enforceability of human rights, and terrorism. In addition, I will also argue that his view that we share responsibility for the acts of our political “representatives,” who allegedly act “on our behalf,” is unwarranted.

Key words: collective responsibility, harm, individual responsibility, negative duties, Pogge, political representation, poverty.

Thomas Pogge claims “that, by shaping and enforcing the social conditions that foreseeably and avoidably cause the monumental suffering of global poverty, we are *harming* the global poor – or, to put it more descriptively, we are active participants in the largest, though not the gravest, crime against humanity ever committed.” (Pogge 2005a, 33) In other words, he claims that by upholding certain international arrangements we are violating our strong *negative duties* not to harm, and not just some (perhaps much weaker) positive duties to help. Therefore, he thinks that we, the citizens of the rich countries, are misguided in perceiving the problem of world poverty primarily in terms of (lacking) assistance or charity rather than in terms of our active, criminal contribution to the problem. We are not only not doing much *against* poverty, we are actually to a large extent producing it – poverty’s executors, as it were. I shall argue in this paper that Pogge’s claim is unwarranted and wrong. In particular, I shall argue that even if Pogge were correct in claiming that certain rich states or at least the rich states collectively violate certain negative duties towards the poor and harm the poor, he is far too hasty in concluding that “we,” the citizens of those states, are thus harming the global poor or violating our negative duties towards them. In fact, his conclusion can be shown to be wrong not least of all in the light of some of his own assumptions.

I. THE THREE STRANDS OF POGGE'S ARGUMENT

Let me begin by first giving a brief sketch of Pogge's argument (following his own crystal-clear summary in "Real World Justice"). The first step "is to show that our world is pervaded by [...] 'radical inequality.'" Radical inequality means that the worse-off are very badly off in absolute as well as in relative terms and that it is difficult or impossible for the worse-off to substantially improve their lot. Further, this inequality affects most or all aspects of the life of the worse-off and, most importantly, it is avoidable: "The better-off can improve the circumstances of the worse-off without becoming badly off themselves." (2005, 37) I have no criticism of this first step.

Pogge then presents "*in parallel* three second steps of the argument, each of which shows in a different way that the existing radical inequality involves us in harming the global poor." (2005a, 37). These three second steps refer to the effects of a common and violent history, to uncompensated exclusion from the use of natural resources and to the effects of shared social institutions.

The *first strand* of the second step attempts to appeal to readers who are attracted to historical-entitlement conceptions of justice, and emphasizes that "the social starting positions of the worse-off and the better-off have emerged from a single historical process that was pervaded by massive grievous wrongs." And he claims:

[This] approach is independent of the others. For suppose we reject the other two approaches and affirm that radical inequality is morally acceptable when it comes about pursuant to rules of the game that are morally at least somewhat plausible and observed at least for the most part. The existing radical inequality is then still condemned by the [first] approach on the ground that the rules were in fact massively violated through countless horrible crimes whose momentous effect cannot be surgically neutralized decades and centuries later. (2002, 203-4)

Moreover:

In short, then, upholding a radical inequality counts as harming the worse-off when the historical path on which this inequality arose is pervaded by grievous wrongs. (2005a, 38)

With the *second strand* of his argument Pogge explicitly wants to cater to Lockean. (2005a, 38) He explains:

Locke is assuming that, in a state of nature without money, persons are subject to the moral constraint that their unilateral appropriations must always leave "enough and as good" for others [...]. This so-called Lockean Proviso may, however, be lifted [...] if all can *rationally* consent to the alteration, that is, only if everyone will be better off under the new rules than anyone would be under the old. (2002, 22)

The better-off – we – are *harming* the worse-off insofar as the radical inequality we uphold excludes the global poor from a proportional share of the world's natural resources and any equivalent. (2005a, 40)

The *third strand* is to appeal to consequentialists. Pogge says:

On my ecumenical response to broadly consequentialist conceptions of social justice, we are *harming* the global poor if and insofar as we collaborate in imposing *unjust* social institutions upon them; and institutions are certainly unjust if and insofar as they foreseeably give rise to large-scale avoidable underfulfillment of human rights. (2005a, 46)

As Pogge emphasizes, this third strand is not addressed to libertarians. However, it seems to me that a libertarian – and most other people – might well agree that *imposing* on others an institutional order that will make them victims of infringements upon their rights *is* – under certain circumstances – harming them.

In any case, Pogge claims that the international institutional order is predominantly shaped by the rich countries, often in collaboration with the corrupt elites of the poor countries. The detrimental institutions of the international order include the *resource privilege* and the *borrowing privilege*. These privileges confer upon a group in power “the power to effect legally valid transfers of ownership rights in such resources” and “to impose internationally valid legal obligations [of paying back debts made, for example, by a dictatorial regime] upon the country at large” (2004, 270-71). Pogge rightly says that these privileges “provide strong incentives to potential predators (military officers, most frequently) to take power by force” and to oppress their people and divert state revenues into their own pockets (2005a, 49). Moreover, with tax laws the rich countries have contributed to the bribery of elites in poor countries, and by insisting “on continued and asymmetrical protections of their markets through tariffs, quotas, anti-dumping duties, export credits, and subsidies to domestic producers, greatly impairing the export opportunities of even the very poorest countries [...] these protections certainly account for a sizeable fraction of the 270 million poverty deaths since 1989.” (2005a, 50)

II. INDIVIDUAL RESPONSIBILITY UNPROVEN

I now want to provide an argument that undermines – indeed, I think, refutes – all three strands of Pogge’s argument at once.¹ I shall do so by focusing the attention on a *structural flaw* in Pogge’s argument: his argument consists of two steps – but it needs at least three. In his first step Pogge establishes the fact of radical inequality. In his second step he establishes at best the responsibility of some individual rich countries (but perhaps only the responsibility of the rich countries as a collective) for this radical inequality. Thus, what he fails to offer is a third (or perhaps fourth) step establishing the responsibility of the individual citizens of the rich countries (and before that, perhaps, their collective responsibility), that is, their responsibility in terms of the violation of a negative duty or in terms of inflicting harm.

[1] In a sister paper to this one (“Are We Violating Our Negative Duties Towards the Global Poor? A Critique of the Three Strands of Pogge’s Argument,” unpublished ms.) I also criticize the three strands separately.

Note that the first two strands of Pogge's argument ultimately come down to the accusation that "we" are "upholding" the radical inequality Pogge criticizes; while the third strand accuses us of "collaborating in imposing *unjust* social institutions." However, it is anything but clear *how* "we" "uphold" the radical inequality. I, personally, am actually not aware of "upholding" it. And as regards imposing unjust social institutions, Pogge refers, as I explained, to the resource privilege, the borrowing privilege and to certain unfair tariffs and trade regulations. But *how* exactly do I (or you) "collaborate in imposing" these institutions? It might be plausible to claim that *rich countries* uphold the radical inequality or collaborate in imposing unjust social institutions, but to show that "we" do these things too, and that we do so in a way that can really count as harming the global poor or as violating our negative duties towards them would most certainly require a very significant amount of argument.

On the Gap between Collective and Individual Responsibility

However, in my view, Pogge is too quick in moving from the responsibility of governments to that of citizens.² He takes this step – or leap, rather – literally between commas, talking, for example, about "the global institutional order for which our governments, *hence we*, bear primary responsibility" (2002, 13, my emphasis) or affirming that "the conduct of our elected representatives" is "*our* conduct" (2008, 22, Pogge's emphasis).

Yet, the assertion that if our governments bear "primary responsibility," we do as well, is clearly mistaken. First of all, "My government bears primary responsibility for X" does certainly *not* entail "I and my compatriots bear primary responsibility for X." For example, the government might do something we asked it not to do. Why should we then automatically be responsible for what it has done? Or what happens if my government decides to unjustly kill me? It is obviously wrong to say that my compatriots *and I* bear primary responsibility for my murder. The same holds if my government decides to kill me and my girlfriend. It is still obviously wrong that my compatriots *and I* bear primary responsibility for our murders. Nothing changes if my girlfriend is a foreigner. To say that *that* suddenly completely changes the story and now *does* confer upon me primary responsibility for her murder seems to be little more than a belief in magic. But then, what is the difference if the foreigner to be killed together with me is not even my girlfriend nor anyone I know at all? Why should that now confer primary responsibility on me? There is no discernible reason.

Second of all, the fact that our government violated a negative duty towards foreigners does *not* mean, for purely logical reasons, that we have also violated a negative duty. For example, maybe my government violated a negative duty not to veto a certain Security

2] This point is also made by Shei (2005). However, Shei's criticism relies on what he calls "*the contribution condition*" (148), which in my view is *not* a valid condition of moral responsibility. I also reject Shei's own, enormously sweeping and counter-intuitive account of collective responsibility.

Council resolution on behalf of an oppressed people. I certainly cannot have violated that duty, because it is logically impossible for me to violate that duty. I simply cannot veto Security Council resolutions.

In the same vein, and third of all, the fact that “we” as a collective violated a negative duty towards foreigners does not mean that the individual members of the collective violated a negative duty. Consider a collective like a football team that violates a negative duty by entering the game with more players than the rules of the game allow. The individual players are, again, not even logically able to violate that duty.

These examples show that two general claims are necessarily and clearly wrong: “Whenever my government or my state or country or ethnic group violates a duty I violate the same duty” and “Whenever my government or my state or country or ethnic group violates a duty I violate some correlative duty.” (Already the example of my government unjustly killing me and my foreign girlfriend suffices to show that both general “principles” are wrong.) Thus, Pogge cannot rely on these or similarly general principles in an attempt to derive the claim that “we” harm the global poor from the premise that a collective of rich countries or each individual rich country is doing so. Instead, he would have to provide a specific argument that *shows and explains that and how* “we” harm the global poor.

Pogge’s First Attempt to Bridge the Gap: The Upstream Factories and Joint Action

Yet, it is very difficult to find in Pogge’s work any passages providing an explanation as to *how exactly* “we” – the citizens of the rich societies, and not only our governments – violate negative duties towards the poor. Here is one, and I will quote it at length:

[...] I must not help uphold and impose upon [others] coercive social institutions under which they do not have secure access to the objects of their human rights. I would be violating this duty if, through my participation, I helped sustain a social order in which such access is not secure, in which blacks are enslaved, women disenfranchised, or servants mistreated, for example. Even if I owned no slave or employed no servants myself, I would still share responsibility: by contributing my labor to the society’s economy, my taxes to its governments, and so forth. I might honor my negative duty, perhaps, through becoming a hermit or an emigrant, but I could honor it more plausibly by working with others toward shielding the victims of injustice from the harms I help produce or, if this is possible, toward establishing secure access through institutional reform. (2002, 66)

This argument faces several problems. First of all, *why* and *how* exactly would I share responsibility just by contributing my labor to the society’s economy, my taxes to its government? *How* would I thereby *harm* the global poor or *violate a negative duty*³ towards them? To simply *claim* that I thereby share responsibility is certainly not enough.

Yet, Pogge might actually have an explanation. Elsewhere he considers

two upstream factories releasing chemicals into a river. The chemicals of each factory would cause little harm by themselves. But the mixture of chemicals from both plants

3] There can of course still be other duties and responsibilities.

causes huge harm downstream. In this sort of case, we must not hold each factory owner responsible for only the small harm he would be causing if the other did not pollute. This would leave unaccounted-for most of the harm they produce together and would thus be quite implausible. [P]rovided each factory owner knows about the effluent released by the other and can foresee the harmful effect they together produce, each owner bears responsibility for his marginal contribution, that is, for as much of the harm as would be avoided if he alone were not discharging his chemicals. Each factory owner is then responsible for most of the harm they jointly produce. (2005a, 48)

This account of collective responsibility, however, is not strong enough to support Pogge's case. After all, it is safe to assume that the marginal harm the average citizen of the rich states produces by his or her participation in the economic process of his or her state is *zero* – or at least infinitesimally close to zero, so that the infinitesimally small amount of money we give to development aid or charities or invest in academic discussions on poverty might already be a sufficient compensation. Moreover, there is no argument available in the first place that could show that by dropping out of the economic process and by ceasing to pay taxes one could not *also* harm the global poor⁴ (cf. Reitberger 2008, 389-90). This could mean one person less who buys their products. Elsewhere Pogge makes measures that impair the “export opportunities of even the very poorest countries” responsible for “a sizeable fraction of the 270 million poverty deaths since 1989” (2005a, 50). Obviously, “our” dropping out of the economy and going into the woods would harm their export opportunities even more than the other measures Pogge mentions. Thus, it would “kill” more, not fewer people. And if many of “us” did not pay taxes, the state might perhaps try to compensate for missing revenue by cutting development aid that actually worked and by offering less for possible disaster relief. Pogge therefore simply has no evidence for his claim that by paying taxes or taking part in the economy “we” harm the global poor or violate a negative duty towards them.

To be sure, it is not correct that in cases of collective action people will always only be responsible for their marginal contribution. But then, again, it would be Pogge's task to give us a mechanism that actually explains how we do become responsible. Since he does not do that (leaving aside his ideas about “delegation,” which we will turn to later), let us ourselves try to shed some light on the issue with the help of an analogy, namely with a clear case of unjustly imposing something on innocent people. This is the case of

Angela, the minions, and the ordinary citizens

In a remote, lawless area of country X there is a small town where Angela is the local strongwoman. She collects “taxes,” but she indeed provides protection in exchange and also sees to it that there are schools, health services, etc. If you do not pay the taxes, you will be imprisoned in her private jail for quite a while. The ordinary citizens pay, although they foresee that at some point Angela will use part of the money to hire 100 minions (although 70 of them would also suffice) to help her to push the big rock on

4] Cf. Reitberger 2008, 389-90.

a cliff above the poor people's boarding house over the edge, knowingly killing many poor people below. And this is indeed what happens in the end.

If country X is a Western jurisdiction, then (barring special circumstances) Angela and the minions are legally guilty of manslaughter or murder, and the ordinary citizens *of nothing*. Note that Angela and *each* of the minions is guilty of manslaughter or murder although the marginal contribution of each of them was zero: the non-participation of one of them would have made no difference at all. Yet, each of them participated in the unjust and foreseeably deadly imposition of a rock on innocent poor people, and thus each of them is guilty of murder or manslaughter.

We can also consider the situation from the perspective of self-defense law. The poor people below would certainly be justified in killing Angela and the minions above – all of them, if necessary to avert the attack. They have *no* such legal self-defense justification for killing any of the ordinary citizens paying taxes. They might have a *necessity* justification (under some US state jurisdictions) to kill a smaller number of the citizens – or, for that matter, of people from a completely different place – to save a larger number of themselves, the poor; but a necessity justification implies that the people who are harmed on its basis are *innocent and wronged* and their *rights violated*, even if justifiably so.

Thus, from the legal perspective – and I submit from the perspective of common sense – Angela and the minions are *participants* in crime, but the ordinary citizens are *not*. Pogge might still claim that they are “implicated” in the crime by paying taxes, but now this looks like mere rhetoric. This kind of “implication,” after all, intuitively and legally does not amount to a *participation in crime* or to a *violation of a negative duty*.⁵ The application of this example to the case of the citizens of the rich countries and the global poor is obvious.

Second, suppose, for the sake of argument, that Pogge were right that by paying taxes and partaking in the global economy we do harm the global poor. Then he would certainly be wrong with his claims about what would constitute the most plausible way of not harming them (cf. also Hayward 2008, 5). To wit, by participating in a conspiracy to kill an innocent person and simultaneously hiring bodyguards to protect that person I do not honor my negative duty not to harm that person “more plausibly” than by abstaining from that conspiracy in the first place.⁶ If the conspiracy succeeds I will have harmed the victim and violated a negative duty towards him, whether I paid the bodyguards or

5] Ci (2010, 90) recognizes that Pogge's account of responsibility involves a “leap” but claims that “*the leap is justified*.” He provides *no argument* for the latter assessment and overlooks that it is not only unjust to unduly limit responsibility, but also to unduly expand it.

6] A critic claimed that by “honoring a duty” Pogge means less than discharging it or complying with it, and that therefore my criticism here is a “red herring.” Seriously? First, I do not believe for a moment that Pogge really meant by “honoring” less than “complying with.” Second, if he did, then he might indeed be right – by definitional *fiat* – in claiming that one can “honor” a duty by merely compensating for its violation. The problem then, however, would be that one cannot discharge a duty by “honoring” it. And the duty demands that we discharge it, comply with it, not just “honor” it. Thus, my argument stands.

not. Nothing changes if we are not talking about a *conspiracy* to kill an innocent person (which implies an intention) but rather only about the *foreseen* killings of another person.⁷ By simultaneously hiring a private security company that is notorious for its members' penchant for rape and excessive, murderous violence *and* yet another private security company to protect the innocent people in the surrounding area from the first PSC, the CEO of a mining company somewhere in Africa certainly does *not* honor his negative duty not to harm the innocent persons in the surrounding area "more plausibly" than by abstaining from hiring the brutal and barbaric PSC in the first place. If the first company rapes women and kills innocent people he will have violated the negative duty, whether he hired the second company or not.

But what if the second security company succeeded in protecting the innocent? Well, Pogge does not require that in the above quote. "Working with others toward shielding the victims of injustice from the harms I help produce or, if this is possible, toward establishing secure access through institutional reform" is not the same as *actually* shielding them from the harm I help to produce. If the harm has occurred it has occurred; I cannot make that go away with reform efforts. As already Tim Hayward has pointed out against Pogge, compensating people for harm is simply not the same as not harming them; indeed, the possibility of compensation conceptually presupposes that the harm has occurred (Hayward 2008, 5). Thus, one can *not* discharge one's negative duty not to harm by later making amends.

Elsewhere, however, Pogge distinguishes negative duties not to harm from "intermediate" duties "to avert harms that one's own past conduct may cause in the future" (2005a, 34). Might discharging an intermediate duty to avert the harm that one's past conduct may cause amount to discharging the negative duty not to harm? I think it would. If the second PSC really had successfully protected the innocent persons in the surrounding area of the mining company from encroachments by the first, brutal company, the CEO would indeed, all else being equal, have discharged his negative duty not to let the innocent people in the surrounding area of the mining company be harmed by the first security company. Nevertheless, he would *not* have discharged his negative duty *not to impose a terrible and unnecessary risk upon them*. If at this point someone asks, "What is the difference, since after all they did not really get physically harmed?", I would invite the questioner to consider the case of someone telling a judge: "Yes, your honor, I indeed knowingly hired a serial child abuser as nurse for our kindergarten, but I also hired a private detective to keep an eye on him, and the latter indeed managed to keep the former all eight times from abusing a child. So what is the difference?" Isn't it obvious?

Besides, while the CEO of the mining company might be able to keep the first Private Security Company from harming innocent people with the help of the second

7] A condition for citizens' responsibility for a human rights deficit caused by the "imposition" of an unjust institutional order is, on Pogge's view, that they at least foresee that this order they cooperatively "impose" comes with those deficits. See Pogge 2005b, 60.

one, there is no way that “we” can shield the global poor from the harm arising from the unjust institutional order to which we allegedly contribute by paying taxes. Interestingly, Pogge even thinks that the harm we cause is quantifiable. He claims that “our obligation to compensate is limited to the amount of harm for which we become responsible by cooperating in the imposition of an unjust social order” (2005b, 60-61). However, it is far from clear what that means. How much money do you have to pay to Oxfam in order to “compensate” for one month’s contribution to the unjust institutional order killing about 20 million people every year? What impact factor does the journal need to have so that your article against global poverty compensates for 5 weeks of contribution? How can you possibly measure that? What is the unit of measurement? This is not only a “practical” or “epistemological” problem; it is a problem of intelligibility.

But we do not even have to go further into this. The global institutional order, according to Pogge, harms practically all the global poor. This means that by contributing to that institutional order you are contributing to harming all the poor affected by it. Suppose you gave all your money to Oxfam yesterday, and yet today thousands of poor people still died from poverty-related reasons. Obviously, you have not managed to avert the harm to *them*. You have not even contributed to averting the harm from them. If it had been averted, they would not be dead. The effects of the unjust global institutional order to which you contribute have killed them. So, even if your money shielded many other poor people today, it obviously did not shield those who died. You have *not* discharged your negative or intermediate duties towards them. (Recall also the “Angela” example: even if they simultaneously pay money to the “Help the poor below” program, Angela and the minions still remain guilty of murder or manslaughter if they kill many of the poor below by imposing a deadly rock on them.)

Thus, Pogge’s idea that by discharging a duty to compensate others for the harm you inflict on them you also discharge the underlying negative duty not to harm them is mistaken. However, even if this idea were not mistaken – if compensation were understood as shielding – the further idea that it is applicable to the relations between the global rich and the global poor is still mistaken.

Consequently, if by contributing my labor and my taxes to a government that imposes an unjust institutional order on others I am violating certain negative duties, then becoming a hermit is the *only* way to honor these negative duties. Secondly, by compensating someone for the harm I have done to her I am doing something or assisting someone, not refraining from doing something. I cannot, even in principle, discharge *this* duty by inaction. It is therefore certainly not a negative duty (unless one wants to engage in false labeling). That does not mean that it cannot have been derived somehow from the more fundamental negative duty. By violating that negative duty I might have incurred a positive duty to compensate. However, my point is that discharging *that* duty is not the same as discharging the more fundamental negative one.

This finding has unfortunate consequences for Pogge's argument,⁸ for duties sometimes conflict. My taxes do not only do harm, they also do good; for example, they help the poor and sick people in my own society. Besides, what about a mother and her special duties towards her children? Even if her only way to honor her negative duties towards the poor consists in becoming a hermit or an emigrant (and an emigrant to where and to what?), is she really morally required to do so, given her obligations towards her children? Intuitively, this seems to be not particularly plausible.

At this point Pogge's idea that you can fulfill the negative duty not to harm the global poor by "compensatory" or "shielding" measures would come in handy for him, for it would shield him from the charge that he makes completely unreasonable, indeed morally unacceptable demands on the rich. He could say that he does not want to drive them into the woods, but only for them to pay money to Oxfam or organize or partake in reform movements. However, this escape route is blocked by my argument above. If Pogge is right that by paying taxes and partaking in the economy you harm the global poor, then he cannot also be right in claiming that you can cease harming them by simply adopting those alternative measures that Pogge thinks are "more plausible." For the reasons adduced, they are anything but plausible; they simply cannot serve as a way to discharge the negative duties in question. Thus, in its present form Pogge's theory is inconsistent.

Incidentally, Pogge also could not escape this problem by simply abandoning the negative duty not to harm and by claiming that we only have the more complex duty not to harm without compensation. For if we do not have a duty not to harm in the first place, why should we be obliged to compensate if we do harm? We can only be obliged to compensate for a violation of a duty if we in fact *have* violated a duty.

If, however, one insists – as Pogge must, as we just saw – that there is indeed a duty not to harm the poor, then Pogge's theory demands far too much, as shown by the example of the mother required to live in the woods. Moreover, it should be noted that many of the *poor* also help to "uphold" the unjust global order, for example by working for transnational companies or mines or by transporting goods or people, etc. This would weaken their position considerably if they asked us to do otherwise. To be sure, one might argue that, as long as this order exists, we cannot reasonably expect the poor not to try to carve out a better life for themselves. But can this be expected of us? If they are not expected to live as hermits, why are we? Again, to say that the rich have other alternatives is to ignore the fact that this road is blocked. The only alternative is to live as a hermit. And it is not immediately clear why it should be more difficult for the poor to live in the woods as hermits without economical exchange with the rest of society than it would be for the rich. Besides, even if it *were* for some reasons more difficult – it might also be more difficult

8] While Hayward (2008, 5) notes the difference between discharging one's negative duty and compensating for its violation, he does not notice how extremely damaging the existence of this difference actually is for Pogge's account.

for a poor kid in a Brazilian *favela* than for one in a high school in Beverly Hills to resist becoming a contract killer. However, even if that were true, this greater difficulty might at best be a mitigating circumstance, not an excuse, let alone a justification. Analogously, if by partaking in the global economy you unjustly harm the poor, then you unjustly harm the poor – whether you are poor yourself or not.⁹

The Contradiction between Pogge's Views on Poverty and His Views on Terrorism

Pogge's problems do not end here. His idea that we (unjustly) harm the global poor or violate negative duties by doing such *prima facie* morally innocuous things as paying our taxes and going to work can also be undermined by an appeal to Pogge's own assumption that human rights "are in principle enforceable." That they are in principle enforceable means that someone's omission or, more relevantly here, someone's action can constitute a human rights violation "only in cases where it is morally permissible for some other agent to use some coercive means to force the relevant individual or collective" to desist from the omission or action (2005a, 44).

Is it permissible to force individuals in the rich countries into the woods, so that they do not continue upholding the unjust institutional order? Actually, this would intuitively seem to be a gross violation of *their* negative rights. If in an attempt to reach a "reflective equilibrium," that is to reconcile our intuitions with our principles and philosophical positions, these intuitions prove to be more resilient and fundamental than Pogge's position, then this speaks strongly in favor of rejecting Pogge's position. I do in fact think that these intuitions I just appealed to are more resilient than Pogge's position. They can also be further supported by an additional argument.

Just war theory provides the basis for this argument, by stating that non-combatants are not liable to direct attacks. It is widely accepted that, for example, a baker or a farmer is a non-combatant while a worker in a munitions factory is not. What is the difference? Jeffrie G. Murphy provides the following influential explanation:

The farmer qua farmer is, like the general, performing actions which are causally necessary for your destruction; but, unlike the general, he is not necessarily engaged in an attempt to destroy you. [...] The farmer's role bears a contingent connection to the war effort whereas the general's role bears a necessary connection to the war effort [...] The farmer is aiding the soldier qua human being whereas the general is aiding the soldier qua soldier or fighting man. (Murphy 1973, 532-34)

9] Note, by the way, that Pogge meanwhile realizes this problem, and therefore uses a mere "can" now (2010, 244 n. 48): "Only if the existing global order is unjust can our mere contribution to its imposition count as wrongful" (194). On the next page he again uses such a formulation with "can". So the question arises (and this is a question for an account of collective responsibility): when *does* the mere contribution to its imposition count as wrongful? The answer comes still a page later: if you are "affluent" (196). And why does it count if you are affluent but not when you are poor? As to be expected, Pogge provides absolutely no explanation, thus "implicating" the rich and exempting the poor by way of dogmatic stipulation.

In other words, the mere fact that a farmer is producing food which might then, in part, be eaten by the soldiers does not yet make the farmer liable to attack – and therefore, to draw on Pogge's assumption, he cannot be violating the negative rights of the enemy soldiers (not even if they are on the just side). Of course, a farmer could quite deliberately support an aggressive war with additional payments to the cause and with propaganda or other means. And this might indeed make him liable to attack (although it might still, for consequentialist, particularly rule-utilitarian, reasons, be unjustifiable to attack him, but this lack of justification would no longer be due to a *right* of the farmer not to be attacked). In my view, this is a very plausible position. Although the first farmer, the one who does not deliberately support the war, is still causally contributing to the war effort, “upholding” it, this does not mean that he is violating others' rights. He is just going about his business, as he did before the war, and this business is not, not even in a time of war, directly devoted to destroying other people. He cannot reasonably be expected to give up his work (especially, by the way, as this work not only feeds soldiers but is also necessary to feed innocents – for example children). Analogously, by simply living in a rich country and working and paying taxes there, one is *not* sufficiently and in the relevant way implicated in the plight of the poor to become liable to coercion by a third party in defense of the poor.

To be sure, liability to attack and enforceability are not the same standards. My right that others do not steal my cookie is enforceable: if someone tries to steal it, I have the right to prevent this, if necessary by force. Yet, given that a cookie is not of huge value, there apply certain proportionality constraints. Although the thief is liable to some force, he is not liable to deadly attack. However, we are not talking about cookies here but, according to Pogge, about the “largest [...] crime against humanity ever committed.” We are talking about starving people to death. And of course Pogge does regard the participation in this crime as a human rights violation. Thus, his premises that human rights are enforceable and that we are “active participants” in their massive violation and his ideas about what counts as such “participation” do imply that “we” are becoming liable to attack just by buying salad dressings in a supermarket or paying taxes.¹⁰

At least it does imply this if Pogge accepts a correct understanding of human rights. As a critic pointed out to me, Pogge could just flatly deny – but I seriously doubt that he would – that human rights are enforceable by more than ordinary governing institutions and the coercive imposition of tax burdens (for the benefit of the poor). Yes, he could. A philosopher, for example, who claims that all human beings deserve an apple and denies that any human being deserves a physical object does not involve himself in a contradiction as long as he denies that apples are physical objects. Thus, he would have achieved the coherence of his account at the price of its blatant incorrectness. What we obviously want, however, are accounts that are not only coherent but correct. And hence the question becomes whether Pogge's account is still coherent *in conjunction with what we*

10] That “we” become *liable* does not yet mean that it is *justified* to attack us, only that we have lost the *right* not to be attacked. See also my further comments in the next paragraphs.

know about the world – in particular in conjunction with what we know about the human right to life. The answer is that it is not.

Remember the “Angela” example. Angela and the minions are liable to defensive attack – and thus not only to taxation – when they try to impose the rock onto the poor below. They are liable to attack because they are themselves participating in an unjust attack on the poor, violating their right to life. (Even the unjust potentially lethal attack on a person is a violation of the person’s right to life and not just the successful attack. If, however, one would like to take the latter position, this would only show that *less* than a violation of a right to life can be enough to justify lethal counter-measures.) The ordinary citizens of the example, however, are not liable to attack, precisely because they are not participating in a rights-violation. Thus, in the light of the actual normative status and implications of the right to life, a responsible adult person is either not unjustifiably violating another person’s right to life or liable to potentially lethal counter-attack. One simply cannot have it both ways.

But it seems that “we” are *not* liable to potentially lethal attack. This then implies that “we” do *not* violate “their” human rights and hence are *not* active participants in the largest crime against humanity ever committed.¹¹

Incidentally, Pogge actually *agrees* that “we” are not liable to attack – which seriously undermines his position. Discussing the attack on the World Trade Center in September 2001 he claims that the majority killed in these attacks were *innocent*, and he explains:

By calling a person innocent, I mean that this person poses no threat and has done nothing that would justify attacking her with lethal force. (2008, 5)

However, the majority of the people (practically all) killed in those attacks were active participants in the world economic system and also taxpayers and thus “active participants in the largest ... crime against humanity ever committed.” Still, he thinks that they are not liable to attack. But if they are not liable to attack then, according to his own premises, they cannot be violators of human rights. Pogge’s position is inconsistent.

It is, by the way, irrelevant that al-Qaeda did not attack those and other civilians because they were harming the global poor (as such) but for other reasons. If the civilians had not been innocent, the attack could still have been unjustified, for reasons Pogge mentions himself: for example the attacks were not necessary to achieve the good or supposed good the terrorists aimed at; or they were not in the least likely to contribute to achieving it. Yet, the *intentions* that guide an attack on a person are completely irrelevant for the *liability* of the targets – a person that is killed for the wrong reasons can still have been liable to attack, can still have done something that *would* have justified attacking her with lethal force. But Pogge insists that those taxpaying civilians who, working in the World Trade Center, will have “upheld” the unjust international institutional order to a

^{11]} To be sure, this argument does not contradict the possibility that we are harming them in some way below the threshold of human rights violations.

much greater extent than most of “us,” are innocent. Thus, the argument stands: Pogge’s position is inconsistent.

Just for the sake of argument: What would happen with this argument if Pogge or a Poggean would bite the bullet and say that “we” are liable to attack? Would this then not make my argument question-begging? After all, if Pogge were right that we are violating the human rights of the poor, then the conclusion that “we” are liable to attack might indeed be correct. This conclusion could, it seems, not be rejected by simply *postulating* that we are not liable to attack and then conveniently deriving the falsity of Pogge’s premises.

However, this is a misunderstanding. I would not have to present my appeal to just war theory and Pogge’s enforceability requirement as a knock-down argument against a radicalized Poggean. *If* Pogge had actually *shown* that “we” are violating human rights, I would without any hesitance say that we are liable to attack. However, as I have argued in this paper, Pogge has nowhere come near to showing anything of this sort. Thus, even against a radicalized Poggean the argument in terms of just war theory would still work as an appeal to plausibility considerations: we weigh the plausibility of the conclusion of the argument in question against Pogge’s contradicting claims. Given that, as it seems, our intuitions and just war theory are able to give very strong support to the thesis that “we” are not liable to attack even if this is the only way to keep us from shopping, paying taxes or going to work, whereas Pogge is not able to muster arguments or intuitions that undermine this thesis, the argument by appeal to just war theory further confirms my skeptical stance towards the claims even of a more consistent Poggean.

*Pogge’s Second Attempt to Bridge the Gap: Political Representation*¹²

Let me finally turn to Pogge’s attempt to use the concept of “political representation” to impute on us the largest crime against humanity ever committed. Arguing against Debra Satz, who is also rightly skeptical with regard to Pogge’s accusations against “us,” the citizens of the rich countries (Satz 2005, esp. 50-51),¹³ Pogge says:

Our politicians and negotiators wield powers *we* delegate. Their decisions and agreements would be of little consequence if they were not so empowered by us.

12] To be sure, there are other accounts of collective or national responsibility, but none of those other accounts is invoked by Pogge; and I do not have the space to deal with them here. I intend, however, to deal at least with David Miller’s well-known account of national responsibility on another occasion. Suffice it to say here that, in my view, Miller’s account fails for some of the same reasons Pogge’s appeal to political representation fails.

13] I am even more skeptical than she is. Satz believes in something she calls “civic responsibility – the responsibility of each citizen to do her part in honoring the state’s obligations.” This seems to be the outward-oriented sister of the inward-oriented political obligation. I have yet to come across a plausible argument for political obligation; and the situation of civic responsibility does not appear to be better. See also my remarks on “political representation” and “delegation of power” below. Pogge’s reply to Satz, by the way, misses the point. See in particular his use of the example of the campaign against slavery in Manchester in 1787, see Pogge 2005b, 81ff. Maybe “we” could indeed eradicate poverty. But that is not the issue here. The issue is whether we are violating a negative duty or are harming someone if we do not eradicate it.

[...] Satz is quite wrong to believe that the obscurity of political decision-making disconnects us from responsibility. We cannot disown responsibility for how our politicians and negotiators wield our collective power by appeal to *our own* failure to insist on transparency and accountability. (2005b, 79)

While I completely agree with Pogge that one cannot dissociate oneself from responsibility by one's own failure to insist on transparency and accountability, it still has to be noted that this is not the issue. The issue is whether by "delegating" one's power to a rich state a citizen of this state is violating a negative duty or harming someone. And the claim that he does is, again, vulnerable to the series of arguments I have adduced above.

However, the word "delegate" sounds of course very "political." Perhaps the delegation of power Pogge is talking about does not merely involve the paying of taxes or the involvement in the economic process. Maybe it has something to do with what is called "democratic representation." After all, Pogge also says that "our collective power is wielded *in our name*" (2005b, 79).

But – so what? To be fair, there are certain interpretations of democratic theory which might have an answer to this obvious question. Michael Green, for example, claims in the context of just war theory:

In a perfect democracy each and every person would be [...] fully responsible, because if the method of consent has been in operation, each has agreed to the decision reached by that method, or, if not that, to be bound by whatever decision was reached by that method. [...] Within democratic theory, it is not clear that even children, the insane, and the mentally handicapped are innocent. These have guardians who represent their interests. These guardians are still bound by and to the general will of the society in which they find themselves in representing their interests. Thus, even if as a matter of fact political authorities are responsible for most wars and citizens are usually forced into being soldiers against their will, it is not clear that this absolves them from responsibility if they were responsible for letting themselves be put in circumstances in which they are so passive. (Green 1992, 51-52)

These ideas, it seems, could also be applied to the issue of radical inequality. The problem, however, is that here Green might give us a more or less accurate characterization of totalitarian democracy à la Rousseau, but the current paradigm is the liberal-democratic one. And the characteristic of *liberal* democracy is precisely that the individual is *not* required to accept whatever is collectively decided. Rather, such decisions are constrained by the space of individual rights. Since Pogge also wants to cater to libertarians, it is worthwhile to take note of what John Locke has to say about the idea of the responsibility of the whole populace:

For the People having given to their Governors no Power to do an unjust thing, such as is to make an unjust War, (for they never had such a Power in themselves:) They ought not to be charged, as guilty of the Violence and Unjustice that is committed in an Unjust War, any farther, than they actually abet it; no more, than they are to be thought guilty of any Violence or Oppression their Governors should use upon the People themselves, or any part of their Fellow Subjects, they having impowered them no more to the one, than to the other. (Locke 2002, 388, § 179)

To be sure, Locke does not deny that citizens can be guilty to the degree that they do abet the crimes of their government. And I agree with him. I do not deny that, for example, citizens of a democratic state who vote for a known war criminal as prime minister or president then become liable to attack if this man is committing crimes of aggression against other peoples.¹⁴ The voters who voted for a decent person, however, do not become liable to attack. Moreover, deliberately voting for a known war criminal is one thing; paying taxes, going to work and buying in supermarkets is something completely different. It does certainly not amount to “abetting.” Thus, Pogge’s appeal to the delegation of power does not support his sweeping claims about the individual responsibility of not only some of us but of “us,” period.

Moreover, the claim that “we” delegate our power to our so-called political “representatives” is wrong. Let me illustrate this contention by first looking at an uncontroversial example of the delegation of power: I have some legal matter to settle. I look for a lawyer, find someone I like and trust, tell him what to do and sign a grant of power of attorney which says that the settlements she reaches are binding on me. That is delegation of power. Even here, however, her actions are not mine, not even actions she commits in my name. Strangely, Pogge at one point goes so far as to say that the conduct of “our elected representatives” is *our* conduct (2008, 22). However, for obvious logical and conceptual reasons the conduct of *another* entity (be it a person or an institution) cannot be *mine*. (If, however, it were, then *all* adult citizens of a country waging an unjust war would be liable to attack. Their president’s waging the war would be their waging the war. Pogge just cannot have it both ways.) And if the lawyer decides to threaten other people at gun point to sign contracts favorable to me, I do not bear the slightest responsibility for this if I could not reasonably foresee or suspect that this would happen. If I am informed that this lawyer acts in this way, I should fire her. (Yet, my last attempts at firing the chief executive of my state or giving her instructions on the phone on how to handle the banking crisis were unsuccessful.)

The case of political “delegation of power” is not like the lawyer example. It is more like this: I am born in a certain country. At some point I realize that the whole country has been taken over by one law firm. It has the monopoly. Every attempt of other people within the country to form their own law firm is crushed by the *Überfirm*. Any attempt by people to let their national legal matters be handled by one of the foreign law firms is crushed by the national *Überfirm*. Whenever I try to buy something or import something, the *Überfirm* comes and forces me to pay “handling fees” to them. When I call the management of the *Überfirm* and tell them that I do not want their “services” any more, they tell me that I am crazy. Mostly, I do not even get connected: “Don’t call us, we call you.” However, for public relations reasons, to enhance the company’s acceptance in the

[14] Again, that they become *liable* to attack, that they are *not innocent* in the relevant sense, that they lose their *right* not to be attacked does not yet mean that they *may* be attacked. Further considerations would come into play here (these are, however, not relevant in the present context). See Steinhoff 2007, 130-32.

population, it some time ago came up with the idea of allowing the population to vote for the highest executives of the firm. Theoretically, everyone is eligible; in practice, however, only people that have for many years been allied with one of the major “parties” within the firm, the *Business as Usual Party* and *The Business as Usual with Cream on Top Party*, have any real chance to get elected. Sometimes I vote, persuading myself that by doing so I can somehow contribute to the lesser of two evils being elected; sometimes I do not.

At no point have I signed any grant of power of attorney stating that I authorize the Überfirm to settle matters in my name or that what they decide is binding on me. By voting I do not give any of those I vote for (let alone those I do not vote for but who will be elected anyway) any permission or authorization to “represent” me or to speak in my name. I just try to exert influence, however marginal, on who will *claim* to represent me and will in fact make decisions that will greatly affect me, whether I like those decisions or not. Moreover, I try to exert this influence in a situation where I know that in the end, whether I like it or not, someone *will* claim to represent me and make decisions in my name. So where is the “delegation of power” here? As a simple matter of fact: there isn’t any. I did not *delegate* any power; rather, I tried to somehow *influence* a power that is already there, and perhaps much so against my wishes (thus, by voting for a certain person within an unjust institution I certainly did *not* vote for that unjust institution itself).¹⁵

Let me give a second example. There is a big transnational corporation, which, among other things, also owns a private military company with which poor people sometimes have enormously unpleasant encounters. As a public relations measure, the corporation decides to allow people all over the world to elect its CEO, and it offers five candidates. Two women in Sudan think that this is a good opportunity to have at least some beneficial influence on this nasty corporation, and they vote for the least disgusting of the five candidates. He indeed gets elected, and soon after has the private military company, “in the name of all those fine people who elected me,” invade Liberia to set up a lucrative mining company. Many Liberians get killed in the process. Is this invasion the act of the two Sudanese women? Obviously not. Do the two women share in the responsibility for the invasion and for the unjust killings? That is utterly counter-intuitive. If Pogge thinks otherwise, then he would have much explaining to do. It is not only that the two woman did not *delegate* any power, they also did not delegate any *power* (nor do “we” by voting). What “power” are they supposed to have “delegated?” Pogge simply *claims* that by voting for our alleged “representatives” we are automatically responsible for the wrongs they do. For the reasons given, this claim is not only entirely unwarranted, it is also wrong.

15] Incidentally, whether the citizens *could* overcome the *Überfirm* if they collectively acted against it is completely beside the point. I might also be able to overcome a robber who is robbing somebody else. That does not mean that by not overcoming the robber I violate a negative duty, however much the robber might claim to act on my behalf and however often I said on earlier occasions: “Well, if we cannot completely get rid of robbers, than I’d rather have him.”

III. CONCLUSION

In this paper I argued that Pogge's charge that "we" are harming the global poor or violating our negative duties towards them is unjustified and indeed wrong.

I first challenged his rather blanket claim that if "our" governments or states harm people or violate negative duties towards them, then "we" do so as well. I then argued that indeed even Pogge's *own* assumptions, in combination with some entirely plausible additional premises, imply that we do *not* harm the global poor or violate our negative duties towards them.

1. Using several examples I showed that two general claims are necessarily and clearly wrong: "Whenever my government or my state or country or ethnic group violates a duty I violate the same duty" and "Whenever my government or my state or country or ethnic group violates a duty I violate some correlative duty." Thus, Pogge would have to give a specific argument that *shows and explains that and how* "we" harm the global poor.

2. The only mechanism Pogge mentions, however, is that we are paying taxes and taking part in the economy, and thereby somehow "contribute" to upholding the unjust institutional order. Yet, it is not clear *why and how* we thereby *harm* the global poor or *violate a negative duty* towards them. His example for sharing in collective responsibility, the example of the two upstream factories releasing chemicals into a river, completely *undermines* his case: the marginal harm the average citizen of the rich states produces by his participation in the economic process of his state is *zero* – or at least infinitesimally close to zero. In fact, perhaps it is even negative: Pogge simply has no evidence for his claim that by paying taxes or taking part in the economy "we" harm the global poor or violate a negative duty towards them.

3. Pogge's idea that by discharging a duty to compensate others for the harm you inflict on them you also discharge the underlying negative duty not to harm them is mistaken. It is also mistaken to suggest that one could shield the poor from the harm allegedly produced by paying taxes or partaking in the global economy.

4. Consequently, if by contributing my labor and my taxes to a government that imposes an unjust institutional order on others I am violating certain negative duties, then becoming a hermit is the *only* way to honor these negative duties. However, then it seems that these duties are unreasonably demanding – and unreasonably demanding not only on the rich, but also on many poor – and therefore cannot be valid duties at all.

5. Pogge could not escape this problem by simply dropping the negative duty not to harm and by claiming that we only have the more complex duty not to harm without compensation. For if we do not have a duty not to harm in the first place, why should we be obliged to compensate if we do harm? We can only be obliged to compensate for a violation of a duty if we in fact have violated a duty.

6. On Pogge's own assumption human rights "are in principle enforceable." He also claims that "we" are active participants in the world economic system and taxpayers and thus "active participants in the largest [...] crime against humanity ever committed." Yet, he claims that most of "us" are "innocent," that is, that we pose no threat and most of "us" have "done nothing that would justify attacking [us] with lethal force." This position is inconsistent. If "we" really have done nothing that would justify attacking us with lethal force, then we can hardly be active participants in the largest crime against humanity ever committed.

In the last section of this paper I dealt with Pogge's attempt to use the concept of "political representation" or "delegation of power" to impute on us the responsibility for harming the global poor or violating a negative duty towards them. This attempt fails for three reasons:

1. As Locke emphasizes, simply being the subject of a government (including a liberal-democratic one) does not make one responsible for the crimes that that government or state commits. One is only responsible to the degree that one actually abets those crimes. However, simply paying taxes or taking part in the economy cannot count as "abetting" (not least for reasons already adduced).

2. The claim that "we" delegate our power to our so-called political "representatives" is wrong. I tried to show this by comparing real delegation of power, for example by signing a grant of power of attorney, with what actually happens in states. There simply is no relationship between citizens and states that could in any literal sense be described as a delegation of powers from the individual to the state. There is rather the *assumption* of power *by* the state.

3. Voting for someone does not automatically make us responsible for the act of the person we voted for if this person is actually elected, as my example with the two Sudanese woman shows. Moreover, voting for a person within an institution does not amount to voting *for* the institution.

I conclude that Pogge's claim that "we" are harming the global poor or violating negative duties towards them or with regard to them is unwarranted and, moreover, wrong.¹⁶

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