



De Ethica

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Globalisation and Global Justice

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DE ETHICA

A JOURNAL OF PHILOSOPHICAL, THEOLOGICAL AND APPLIED ETHICS

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De Ethica was founded in 2013. It published its first issue in 2014, under the guidance of its first Editor-in-Chief, distinguished professor Brenda Almond.

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From the Editors

This issue of *De Ethica* addresses a fundamental ethical challenge of globalization, namely that of persistent and even growing global injustices. All contributions published in the issue were presented at the Societas Ethica 2015 conference in Linköping, Sweden devoted to the theme of 'Globalization and Justice'.

The introduction to the issue is written by Göran Collste, Societas Ethica's president at the time of the conference. Collste depicts several fundamental dimensions of globalization that demand theoretical as well as practical strategies for counteracting injustices. Furthermore, he offers an overview of the academic discussion on the issue of global justice.

In his article, 'Does Global Justice Require More than Just Global Institutions', Kok-Chor Tan elaborates on the institutional approach to justice in the non-ideal situation of unjust global institutions. In relation to the case of economic and distributive justice, Tan argues that individuals, as well as other agents, have an institutional duty to do their part to help create just institutions. According to Tan, this duty should be understood as sufficient.

In the article 'Global Responsibility and the Enhancement of Life', William Schweiker advances the centrality of responsibility to the moral good of the enhancement of life as a model of global ethics. In a dialogical relation to cosmopolitan ethics of human rights and the capabilities approach, Schweiker seeks to demonstrate advantages of the ethics of enhancement of life, such as the concept of conscience as the mode of moral being and the experience of religious transcendence within the social sphere.

Carl-Henric Grenholm's contribution to the issue, 'Global Justice in Lutheran Political Theology', addresses global injustices as a challenge to the political ethics of Lutheran theology. Grenholm advances the understanding of justice in terms of liberation from oppression, arguing that such an understanding demands a radical revision of the traditional Lutheran distinction between law and gospel.

In contrast to Kok-Chor Tan's view of institutional duty as a sufficient justice-related duty, Ville Päivänsalo states that private initiatives could be viewed as a proper response to the deficit of global justice. His article 'Talents in the Service of Justice: Responding to Unequal Ownership beyond Compliance' elaborates on the issue, utilizing the example of the Bill and Melinda Gates Foundation.

The articles published in this volume of *De Ethica* approach global injustices from different although related ethical perspectives. We hope that they will enrich the academic discussion on global justice and provoke political deliberations that are as crucial as they are difficult.

From the Editors

Diese Ausgabe von *De Ethica* widmet sich einer grundlegenden Herausforderung der Globalisierung, nämlich dem Problem der andauernden und wachsenden globalen Ungleichheit. Alle in dieser Ausgabe versammelten Beiträge waren als Vorträge auf der letztjährigen Konferenz der Societas zum Thema ‚Globalisierung und Gerechtigkeit‘ in Linköping, Schweden vertreten.

Die Einleitung der vorliegenden Ausgabe wurde von Göran Collste verfasst, zum Zeitpunkt der Konferenz Präsident der Societas Ethica. Collste beschreibt verschiedene Dimensionen der Globalisierung, die alle jeweils theoretische wie auch praktische Strategien zur Überwindung von Ungerechtigkeit erfordern. Darüber hinaus skizziert er einen Überblick der akademischen Auseinandersetzungen zum Thema globale Gerechtigkeit.

Kok-Chor Tans Beitrag ‚Braucht globale Gerechtigkeit mehr als gerechte globale Institutionen‘ untersucht das institutionenbezogene Konzept der Gerechtigkeit unter der Bedingung real existierender ungerechter globaler Institutionen. Tan argumentiert, dass im Fall ökonomischer Verteilungsgerechtigkeit Einzelpersonen wie auch andere Handlungsträger eine Pflicht zur Schaffung gerechterer Institutionen haben. Nach Tan handelt es sich dabei um eine hinreichende Pflicht.

In seinem Beitrag ‚Globale Verantwortung und Verbesserung der Lebensqualität‘ schlägt William Schweiker ein Modell globaler Ethik vor, in dem die zentrale ethische Aufgabe die Verpflichtung zur Verbesserung der Lebensqualität ist. In dialogischer Auseinandersetzung mit der kosmopolitischen Ethik der Menschenrechte und dem sogenannten ‚Capability Approach‘, sucht Schweiker die Überlegenheit seines Ansatzes zu demonstrieren, darunter der Begriff des Gewissens als Modus der moralischen Seins und die Erfahrung religiöser Transzendenz in der sozialen Sphäre.

Carl-Henric Grenholms Beitrag ‚Globale Gerechtigkeit in evangelisch-lutherischer politischer Theologie‘ befasst sich mit globaler Ungerechtigkeit als Herausforderung für die politische Ethik der lutherischen Theologie. Grenholm vertritt ein Verständnis von Gerechtigkeit als Freiheit von Unterdrückung und argumentiert, dass ein solches Verständnis uns zu einer radikalen Revision der traditionellen lutherischen Unterscheidung von Gesetz und Evangelium zwingt.

In Kontrast zu Tans Auffassung institutionenbezogener Pflichten als hinreichende Pflichten globaler Gerechtigkeit vertritt Ville Päiväsalo die Auffassung, dass private Initiativen als angemessene Antwort auf Defizite im Bereich der globalen Gerechtigkeit angesehen werden sollten. Sein Beitrag ‚Talente im Dienste der Gerechtigkeit: Antworten auf Eigentumsungleichverteilung jenseits von ‚Pflichterfüllung‘ lotet diesen Ansatz mit Hilfe des Beispiels der Bill-und-Melinda-Gates-Stiftung aus.

Die in dieser Ausgabe von *De Ethica* versammelten Aufsätze nähern sich dem Thema globale Gerechtigkeit aus unterschiedlichen und doch miteinander verbundenen Richtungen. Wir hoffen, dass sie die akademische Diskussion zum Thema bereichern und politische Auseinandersetzungen befördern, die so schwierig wie wichtig sind.

Globalisation and Global Justice: Introductory Essay

Globalisation and Global Justice - A Thematic Introduction

Göran Collste

Globalisation involves both promising potentials and risks. It has the potential – through the spread of human rights, the migration of people and ideas, and the integration of diverse economies – to improve human wellbeing and enhance the protection of human rights worldwide. But globalisation also incurs risks: global environmental risks (such as global warming), the creation of new centres of power with limited legitimacy, a ‘race to the bottom’ regarding workers’ safety and rights, risky journeys of thousands of migrants and not least growing global inequalities. Globalisation, therefore, is a key factor for today’s discussions of justice.

As globalisation connects people, it also raises associated responsibilities between them. Until recently, the interest in justice among political philosophers and social ethicists was mainly focused on the nation state. However, this is no longer feasible. Since economic globalisation affects how wealth and power are distributed globally it has become indispensable to discuss social ethics in a global context and to develop principles of global justice. Global justice, therefore, entails an assessment of the benefits and burdens of the structural relations and institutional arrangements that constitute and govern globalisation

The academic discussion of global justice is vibrant and expanding. In my introduction I provide an overview of the discussions on global poverty, justice, cosmopolitanism and statism, migration, the capability approach and different dimensions of global justice.

In a way, globalisation is nothing new. Great empires have had global ambitions all throughout the history of mankind. The Roman Empire enclosed the whole of the ‘civilised world’, the Moghul Empire extended from East Asia to Europe and the British Empire covered at the beginning of the last century 20 per cent of the world’s area and contained 20 per cent of its inhabitants. In contrast, the present globalisation is not territorial, instead it transcends territories. Indeed, ‘globalisation’ has become a buzzword often used in today’s political and economic rhetoric, but it is also a word that catches something significant that has happened the last, say 30 – 40 years. As Jan Scholte said at the Societas Ethica conference in 2015:

To be sure, global social relations are not new to the present generation. Transplanetary migration, intercontinental trade, long-distance empires, and world religions go back many centuries. However, society today involves far greater amounts, ranges, frequencies, speeds, intensities and impacts of global connectivity. To this extent it is understandable that narratives of 'globalization' have risen since the late twentieth century and not before.

Today's world is therefore suitably characterized as a global world. In other historical contexts the social world has encompassed a locality (e.g. the village world) or a region (e.g. the Mediterranean world). Now the term 'world' for most people conjures up images of the globe and is equated with planet earth¹

Human practices are increasingly transnational and global in scope and globalisation refers to processes and relations in a range of spheres – including social, economic, political and cultural – that transcend national borders and link distant places and people.

What then are the implications of globalisation for ethics?

- Although globalisation entails many other practices than the economic, economic globalisation is a driving force. Economic globalisation has integrated the world economy through trade, multinational companies and not least through the explosive growth of the global financial market. Economic globalisation has led to economic leaps in China and elsewhere and, as a consequence, raised hundreds of millions from dire poverty to a decent living standard. But it has also implied widening global gaps and commercialisation and privatisation of social services and institutions with some harmful implications. For example, the global intellectual property regime (the TRIPS-agreement within the WTO) has raised the prices of pharmaceuticals in poor countries with the result that many millions diseased people have lost access to life-saving medicines.
- A central facet of globalisation is thus the increasing power of global financial institutions, transnational economic organizations and multinational corporations. What are the implications of this 'supraterritoriality' – to use Scholte's term – for accountability and democracy? Is state power withering away? Is there a need for cosmopolitan political institutions?
- Through media and various social networks we are now better informed about peoples' lives in different parts of the world; about human rights violations, terrorist attacks, natural disasters and wars. When informed, we become involved – but how do we handle this? What are our moral obligations to the distant others? What are their limits?
- Our collective actions have increasingly global reverberations – global warming is perhaps the most obvious and frightening example. Our individual

¹ Jan Aart Scholte, 'Rethinking Social Justices for a Global World', in *Societas Ethica's Annual Conference 2015: Globalisation and Global Justice*, edited by Göran Collste (Linköping: Linköping Electronic Press, 2015), pp. 14-17, at p. 14.

disseminations are neglectable but the collective disseminations of greenhouse gases of the industrialised countries pose a risk to the survival of the planet. What does this imply for our responsibilities as individuals and as members of the human family? Is it feasible – and foreseeable – that those who live in the industrialised part of the globe and who collectively have caused and still causes the damage, also take a collective responsibility to set things right?

- Globalisation also implies gaps between – to use Sigmund Bauman’s words – ‘the globals’ and ‘the locals’, in both poor and rich countries. The globals are those who benefit from globalisation; corporative executives, international politicians, academics, media people, etc. The locals are those left behind; peasants in poor countries, unemployed workers in the North. As Baumann writes: ‘Whoever is free to run away from the locality, is free to run away from the consequences.’² Many challenges follow from this: how can all sectors of a society benefit from globalisation?
- Another aspect of globalisation are the many people migrating from the South to the North. Many are escaping war and political oppression and others want to leave poverty behind and are enticed by the affluence in the North. Migration challenges established principles of sovereignty and citizenship. Have those who are well off in the receiving countries earned their welfare or is it not rather a result of luck in the natural lottery? How could they then justify keeping the migrants out? What does *Justice Without Borders* – to cite the title of Kok-Chor Tan’s book³ – imply and how should the growing popular resistance against immigration and multiculturalism in the wealthy part of the globe be met?
- As connections and exchanges over cultural and religious borders intensifies, so does the encounter of values and beliefs. Does globalisation imply dialogue and better understandings of the Other, or does it imply value imperialism and ideological dominance?

Globalisation obviously involves both promising potentials and risks. It has the potential – through the spread of human rights, the migration of people and ideas, and the integration of diverse economies – to improve human wellbeing and enhance the protection of human rights worldwide. But globalisation also incurs risks: global environmental risks (such as global warming), the creation of new centres of power with limited legitimacy, options for tax evasions ruining poor but resource rich countries in the global South, a ‘race to the bottom’ regarding workers’ safety and rights, as exemplified by the tragic Rana Plaza catastrophe in Bangladesh in 2013, risky journeys of thousands of migrants over the Mediterranean and elsewhere as they attempt to reach Europe, North America and Australia, and not least growing global inequalities.

Globalisation, therefore, is a key factor for today’s questions of justice. As a matter of fact; at least for applied ethics and political theory, discussions of justice cannot

² Zygmunt Bauman, *Globalization. The Human Consequences* (Oxford: Polity Press, 1998), pp. 8-9.

³ Kok-Chor Tan, *Justice Without Borders* (Cambridge: Cambridge University Press, 2004).

avoid taking globalisation into the picture. With the expanding reach of international economic and political activities and the inclusion of the whole world in one economic global structure, the questions of how to uphold laws, implement human rights and combat poverty and inequality have become acute.

As it stands, the global village is at present a place characterised by deep injustices. Although the UN governed development project the Millennium Development Goals (MDG) has been a success, implying for example that from 1995 to 2015 extreme poverty rates are reduced by half, enrolment in primary education in developing regions reached 91 per cent in 2015 and the global under-five mortality rate declined by more than half, dropping from 90 to 43 deaths per 1000 live births, global poverty is still challenging. One billion people lack clean water, 795 million people are estimated to be undernourished, 896 million people live on less than \$1.90 a day, 19 000 children die per day from avoidable illnesses and still the health budget in Sub-Saharan African countries is on average per capita around \$15-30/year, while around \$2000-4200 in industrial countries. And the global gaps are widening. One per cent of the world's population at the top earn 48 per cent of the total global wealth. Yes, in fact, the top 80 individuals' income equals that of the poorest 3.5 billion people.⁴

Another facet of globalisation is the creation of global networks; including social forums like Facebook and LinkedIn, virtual communities campaigning peace and justice like Avaaz, and global jihadist and terrorist networks. The world is connected – for better and for worse.

Globalisation poses challenges to both theoretical and applied ethics: it raises the question of universalism and particularism in ethics anew, as well as the role of ecumenism and inter-religious dialogue; is it possible to achieve common understandings and shared ethical values and principles across cultural borders, or does globalisation imply value conflicts and a 'clash of civilizations'?

Ethics and Global Justice

As globalisation connects people, it also raises associated responsibilities between them. Until recently, the interests in justice among political philosophers and social ethicists was mainly focused on the nation state. However, this is no longer feasible. Since economic globalisation affects how wealth and power are distributed globally – and the gaps between the global rich and the global poor widens – it has become indispensable to discuss social ethics in a global context and to develop principles of global justice. Global justice, therefore, entails an assessment of the benefits and burdens of the structural relations and institutional arrangements that constitute and govern globalisation. Let me in what follows give an overview of some of the more influential contributions to the ethical discussion on global ethics and justice.

⁴ Data retrieved from World Bank, *Poverty* (2013), available online at www.worldbank.org/en/topic/poverty (accessed 2016-03-21); UNICEF, 'The Millennium Development Goals', available online at http://www.unicef.org/mdg/index_childmortality.htm (accessed 2016-03-21); United Nations, *We can end poverty* (2005), available online at <http://www.un.org/millenniumgoals/> (accessed 2016-03-21); Oxfam, *Wealth: Having It All and Wanting More* (2005), available online at https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/ib-wealth-having-all-wanting-more-190115-en.pdf (accessed 2016-03-21).

Global Poverty

Broadly speaking, global poverty entered the discussions in theology in the 1960s with the advent of Liberation theology. However, if we limit our scope to the discipline of ethics, the discussions started in the 1970s. One of the first philosophical contributions to the debate was Peter Singer's essay 'Famine, Affluence, and Morality'.⁵ Here Singer wants to direct attention to our irrational and hypocritical moral intuitions by telling the story of a child in the pond: Assume that you pass by a pond and see a child playing there. The child suddenly falls in the pond and you are able to save it but your boots will get wet. Still you have a moral obligation to intervene, Singer argues. Your minimal sacrifice is not a tenable excuse for not trying to save the child. Similarly, we know that we can save the lives of children in poverty stricken nations by contributing to aid organisations. In this case we will use our money to aid the poor instead of buying something for ourselves. Also in this analogous case, we are obliged to aid the children even at some costs, Singer argues. He then goes on and discusses how much we reasonable ought to sacrifice to help children in poor countries to escape from poverty. A great contribution of Singer's thought experiment is the way it illustrates that our moral responsibilities are global in range. Neither the value of a child nor our moral obligations to aid are dependent on nearness or distance.

However, Singer's analogy has also been a target of criticism. Scott Wiser argues that it degrades people in developing countries to represent them as vulnerable receivers of aid, it fails to put global poverty in a historical context and it misdirects our attention to the individual level instead of seeing poverty as a structural and institutional problem. The result is then a focus on aid rather than on justice.⁶

Justice

Justice became the main topic for discussions in social ethics and political philosophy in the 1970s mainly due to the publication of John Rawls's *A Theory of Justice*.⁷ How did Rawls's contribution to political philosophy influence the discussion on global justice? In fact Rawls's theory was a theory for nations and he did only *au passant* mention a law of nations, i.e. international morality.⁸ However, in *Political Theory and International Relations*,⁹ Charles Beitz made an effort to apply Rawls theory of justice, including the so-called difference principle stating that '[...] social and economic inequalities are to be arranged so that they are [...] to the greatest benefit of the least advantaged [...]'¹⁰ Beitz argues that similar to the arbitrary distributions of talents, which for Rawls is a ground for redistribution, so is also the international natural distribution of resources arbitrary. Furthermore, Beitz also argues in relation to Rawls's institutional approach to justice that there are global institutions that influence the global distribution of income and wealth and he sees no reason why not also the global basic structure should be the subject of justice. Beitz writes: '[...] an international difference principle applies to persons in the

⁵ Peter Singer, 'Famine, Affluence, and Morality', *Philosophy & Public Affairs* 1:3 (1972), pp. 229-243.

⁶ Scott Wiser, 'Against Shallow Ponds: An Argument against Singer's Approach to Global Poverty', *Journal of Global Ethics* 7:1 (2011), pp. 19-32.

⁷ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

⁸ *Ibid.*, p. 378.

⁹ Charles Beitz, *Political Theory and International Relations* (Princeton: Princeton University Press, 1979).

¹⁰ Rawls, *A Theory of Justice*, p. 303.

sense that it is the globally least advantaged representative person [...] whose position should be maximized.¹¹ As we will see, Beitz' contribution was then followed by other ethicists who tried to apply Rawls's principle of justice on a global level.

Thomas Pogge, the philosopher who perhaps has had the greatest impact on the philosophical discussion on global justice, also made an effort to apply Rawls's principles globally. In *Realizing Rawls*, published in 1989, Pogge applies Rawls's idea of choosing principles of justice under a 'veil of ignorance'. According to Pogge the integration of the global economy makes it necessary to assess the social institutions from a 'global point of view' and an institutional scheme ' [...] would be developed through a single unified original position global in scope.'¹² In agreement with Beitz, Pogge also includes both Rawls's principles of justice, the political and the economic, in his theory of global justice. He writes: 'The worst position that the existing global institutional scheme tends to produce affords a appropriate vantage point for assessing the justice of this order as a whole.'¹³

It took another ten years before Rawls himself intervened in the discussion of global justice. In *A Law of Peoples* (1999) Rawls sketches the contours of a peaceful world order, a 'Society of Peoples', based on a 'Law of Peoples'.¹⁴ To emphasise the moral nature of nations he uses the term 'people' as alternative. Representatives of peoples will under a veil of ignorance construct a law of peoples. Rawls still takes the nation states ('peoples') as his point of departure and he does not seem to have noticed that the world has changed as a consequence of globalisation. Furthermore, Rawls explains the different standards of living in different parts of the globe as caused by peoples' own decisions. He writes 'The first decides to industrialise [...] while the second does not. Being content with things as they are, and preferring a more pastoral and leisurely society, the second reaffirms its social values.'¹⁵ To apply a global difference principle would under these circumstances according to Rawls be unacceptable and unjust while the peoples have chosen their path of development themselves. As an alternative to Beitz' and Pogge's suggestions of a global difference principle, Rawls argues for a Duty of Assistance as the eight principle of a Law of Peoples.

Rawls's view rests on at least two problematic assumptions. First, that the poverty in developing nations is not at least partly caused by their previous historical experiences of suppression, exploitation and other circumstances beyond their control but by their own choices, and second, that peoples can be considered as agents making choices that they have to live with. Alternatively, if a people is seen as divided in social groups or classes with conflicting interests, it's less obvious that a people should have to cope with previous 'choices', i.e. in reality with choices made by a power elite which other social groups have had no opportunity to influence. There is also a huge difference between principles of global justice which question the given institutional structure and a duty of assistance which accepts the present condition and even makes the poor dependent on the good will of the wealthy.

¹¹ Beitz, *Political Theory*, p. 152.

¹² Thomas Pogge, *Realizing Rawls* (Ithaca and London: Cornell University Press, 1989), p. 256.

¹³ *Ibid.*, p. 274.

¹⁴ John Rawls, *The Law of Peoples* (Cambridge: Harvard University Press, 1999).

¹⁵ *Ibid.*, p. 117.

In contrast to Rawls, Thomas Pogge has developed an institutional global theory of justice. The huge gap between the global rich and the global poor is, according to Pogge, linked to what he calls a 'global institutional order'. This order is sustained by an alliance of powerful governments in the North, authoritarian rulers in developing countries and global business interests. The 'international resource privilege' makes it possible for corrupt and authoritarian leaders in developing nations to control and sell out their countries' resources to unscrupulous multinational corporations. In this way the global rich get access to crucial minerals and other resources without any benefits for the poor.

Pogge connects the global structural injustices to the moral responsibility of the global rich. In his book *World Poverty and Human Rights* (2002) he starts from a moral premise of each person's negative duty not to inflict suffering on others for his or her lesser benefit.¹⁶ This is a more basic and uncontroversial duty than a positive moral duty to help persons in distress. He then argues that we are integrated in the global economic order '[...] that is shaped by the better-off and imposed on the worst-off.'¹⁷ The global rich benefits from this order and the global poor are the losers. He further argues that we can easily imagine an alternative global economic order that would be better for the worst off. Hence, the global rich contribute to the global poor's suffering for a lesser benefit, i.e. they violate a very basic negative duty. In light of the millions of deaths due to poverty and curable diseases each year Pogge – somewhat provocative – writes:

My main claim is then 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.¹⁸

Cosmopolitanism vs Statism

But is it really feasible to apply the same principles of justice globally as to a nation? This is as we saw questioned by Rawls himself but also by other philosophers, both liberal and communitarian. One divide in the global justice discussion is between cosmopolitans like Beitz and Pogge and so called statists, like Thomas Nagel. Nagel argues that justice is closely linked to collective practices and institutions that can only exist under a sovereign government. What he calls 'associative obligations' are those following from common citizenship. He writes:

Justice, on the political conception, requires a collectively imposed social framework, enacted in the name of all those governed by it, and aspiring to command their acceptance of its authority even when they disagree with the substance of the decisions.¹⁹

Rawls's idea of the contract as ground for justice is one example of such a political conception.

¹⁶ Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002).

¹⁷ *Ibid.*, p. 199.

¹⁸ Thomas Pogge, 'Real World Justice', *The Journal of Ethics* 9 (2005), pp. 29-53, at p. 33.

¹⁹ Thomas Nagel, 'The Problem of Global Justice', *Philosophy & Public Affairs* 33:2 (2005), pp. 113-147, at p. 140.

While Nagel argues that global justice is not feasible because justice is conceptually linked to associative institutions, another statist, David Miller, argues that it is not desirable.²⁰ Global justice would imply an unwanted dissolution of national sovereignty. National self-determination means that people who inhabit a territory are entitled to collective autonomy and is according to Miller 'intrinsically valuable' because it is a mean for collective autonomy. The value of collective autonomy is similar to the value of individual autonomy, according to Miller. We, that is the nation we belong to, have the power to decide on issues that are of utmost importance for us. But – one may object – is not individual autonomy limited by the common good? And could then not also – similarly – national autonomy be limited by claims of global justice? No, not according to Miller because there are different national conceptions of justice; the concept of justice is embedded in specific cultural context, which makes the idea of global justice an oxymoron. Further, Miller also argues that shared nationality, like family relations, generates moral relationships which entail both special duties and special entitlements. In this sense, citizenship and nationality makes a difference and thus it is not feasible to apply national principles of justice globally.²¹

Cosmopolitans on the other hand take the individual as the basic unit of moral concern. In its egalitarian and liberal version its basic assumption is that every human person has equal claims on the requirements for a decent life. Nationality, culture, race and sex should not influence the possibility to live a good life. This conception of cosmopolitanism is moral cosmopolitanism with political implications, not political cosmopolitanism implying a world state.

But how does cosmopolitans respond to the statist argument that justice is bound to associative institutions? First they argue that in fact, as a consequence of globalisation, a global basic structure that influences peoples' lives worldwide has appeared, although in an embryonic form. Alan Buchanan writes:

There is a global basic structure [...] Among the elements of the global basic structure are the following: regional and international economic agreements [...] international financial regimes [...] an increasingly global system of property rights, including intellectual property rights [...]²²

Further, they argue that there is a need to reform the present global institutions like the World Bank, the International Monetary Fund and the World Trade Organisations to make them 'more responsive to the goals of global justice'.²³

But does the cosmopolitan view take affiliations and associations as basis for institutional justice seriously? Cosmopolitans counter this objection with a question: On what argumentative ground can statist and communitarians depart from the basic moral

²⁰ David Miller, *Citizenship and National Identity* (Cambridge: Polity Press, 2000).

²¹ David Miller, 'Immigration: The Case for Limits', in *Contemporary Debates in Applied Ethics*, edited by Andrew I. Cohen and Christopher Heath Wellman (Oxford: Blackwell Publishing, 2005), pp. 193-206.

²² Allen Buchanan, 'Rawls's Law of Peoples: Rules for a Vanished Westphalian World', *Ethics* 110 (2000), pp. 697-721.

²³ Gillian Brock, *Global Justice, A Cosmopolitan Account* (Oxford: Oxford University Press, 2009), p. 332.

premise that each human person is worthy the same respect and have equal claims to global resources? In order to accommodate to the objection that we have special duties, for example to our compatriots, cosmopolitans argue that special duties can only be legitimate if the basic needs of everyone is satisfied. Kok-Chor Tan writes:

Rather than ruling out the ideal of patriotism, impartial cosmopolitan justice serves to define and secure the global background conditions under which individuals may legitimately favour the demands of their compatriots as well as pursue other nationalist and partial projects.²⁴

Thus, from a moral point of view patriotic preferences are only justified if sufficient resources are distributed to those in dire need.

Migration

The conflict between cosmopolitans and statist leads to conflicting views on various practical issues. For example, cosmopolitans and statist have opposing views on international migration. Statist and communitarians tend to argue for restricted migration policies on behalf of the receiving nations in the North. The arguments are, first, that nations as political associations have a right to decide on who can enter their borders, or as Michael Walzer writes: 'like clubs, countries have admission committees'.²⁵ Second, as David Miller argues, there are cultural reasons for restrictions. Immigration can pose a threat to things people value and nations are entitled to close their borders to immigrants in order to protect their culture.²⁶

Cosmopolitans tend to favour generous immigration rules. Joseph Carens for example, makes an analogy between birth rights in the wealthy countries in Europe and the US and the birth rights of the nobility in the Middle Ages. These rights are not earned by merit but just a matter of coincidence; a result of the natural lottery. Why should these inherited rights justify the privilege to live in wealthy countries and to keep the refugees and migrants from poor countries out? So in principle, Carens argues, limitations of open borders cannot be justified from a moral point of view, but only for practical reasons.²⁷

Seila Benhabib argues for generous migration policies on the ground that each human being has a right to 'membership' which is more general and fundamental than specific political or citizen's rights. The right to membership needs to be anchored in global institutions with a strong mandate. The disaggregation of citizenship is 'an inescapable aspect of contemporary globalization', according to Benhabib (Benhabib 2004:173).

²⁴ Tan, *Justice Without Borders*, p. 158.

²⁵ Michael Walzer, *Spheres of Justice, A Defense of Pluralism and Equality* (New York: Basic Books, 1983), p. 40.

²⁶ Miller, 'Immigration'.

²⁷ Joseph H. Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2013).

Capabilities

One influential approach in the discussion on global justice focuses less on institutions and structures but on the ways humans live their lives. In neo-classical economic theory, the established measures to compare development has been GDP/capita and preference satisfaction, in some respects equivalent to the utility approach in utilitarian ethical theory. Amartya Sen and Martha Nussbaum have in various publications developed an alternative approach, arguing for a thicker theory of human welfare named the capabilities approach.²⁸

What characterises a good human life? Sen's and Nussbaum's answer is that a person lives a good life when she can have her capabilities realised. For Sen, capabilities means functioning and freedom; that is to have resources to realise what is good in life. Exactly what this means is a matter of public reasoning and the answers may differ in different cultures. Martha Nussbaum argues for a more substantial approach and proposes a list of capabilities like health, bodily integrity, feelings, practical reason, and community that – Nussbaum argues – provide a basis for universal human rights.

As we noticed above, at present hundreds of millions of people lack the most basic resources for living a decent life. Poverty makes them dependent and force them to take jobs in unsafe garment industries, to sell their body parts, to become surrogate mothers or to become prostitutes just to take some examples of desperate choices in despair. From a capability point of view, global injustice decreases when less people are doomed to be exploited and instead have freedom to realise their capabilities.

Dimensions of Global Justice

The academic discussions on global justice have for good reasons been focused on global *distributive* justice; that is, how benefits and burdens should be distributed between peoples and nations. As we saw, the present world order is characterised by huge gaps between rich and poor and one challenge for ethicists engaging in the discussions of global justice is to find criteria for fair - or at least fairer - sharing of resources.²⁹

But justice has as already Aristotle showed also other dimensions. For example in discussions on climate ethics, the history behind the present unequal disseminations that threatens the planet is of ethical relevance. Is it not reasonable to claim that the 'polluter should pay', that is that the nations that for centuries have disseminated greenhouse gases to a point when the future of humanity is at stake, also should rectify for the harm they have caused, and in particular for harming the poor and vulnerable nations in the South that have not contributed to the climate change but today are the primary victims?³⁰ This argument then introduces the idea of rectificatory justice to the discussion of global justice. In a broader sense, the discussion could also include questions of how the colonial powers shaped the present global order and the implications of injustices in the past for the present discussion on global justice.

²⁸ (Nussbaum 2000, Sen 2009), Martha. C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000); Amartya Sen, *The Idea of Justice* (Cambridge: Belknap Press, 2009).

²⁹ Chris Armstrong, *Global Distributive Justice. An Introduction* (Cambridge: Cambridge University Press, 2012).

³⁰ Peter Singer, *One World. The Ethics of Globalization*, 2 ed. (New Haven: Yale University Press, 2004).

The present global economic and political order is characterised by inequality: poverty in some parts and affluence in other parts, and unequal power relations visible not least in the structures of global institutions like the IMF, the World Bank and the WTO. This order is to a large extent the result of colonialism, and most of the former colonies are still, many decades after their independence, suppliers of raw materials or of basic industrial products for markets dominated by the global elite. Injustices in the past have reverberations in the present. As an example of claims for rectificatory justice, the governments of the Caribbean Community issued in 2013 a declaration demanding reparations for the genocide of indigenous populations at colonisation and for the slavery and slave trade in its aftermath.³¹

Concluding Remarks

The academic discussion on global justice is vibrant and expanding. There are numerous conferences devoted to issues of global justice, and global justice is discussed in the major ethics journals as well as specialised journals, like *Journal of Global Ethics*, *Ethics and Global Politics*, *Global Policy* and *Global Justice: Theory Practice Rhetoric*. Although the discussion involves more and more philosophers, political theorists, theologians and applied ethicists, it also in an unfortunate way suffers from the same disease it aims to cure; almost all of the academic contributions come from the global north and very few from the global south. As Aakash Singh writes:

[...] as the global justice debate amplifies unreflexively this increasingly discredited tendency of the wider social sciences to favour the epistemology and centrality of Anglo-American political theory/theorists, generally excluding non-western voices from participation. Here, the term 'global' seems to signify outward expansion from the center; *our* attempt to extend *our* conception/demands of justice to *them*. Many non-western scholars, therefore, see the global justice debate as a recapitulation of the characteristic practices and attitudes of colonial liberalism.³²

Hopefully this unbalance will change and voices from Latin America, Africa and Asia will be increasingly heard in the discussion.

How then will the discussion on global justice develop in the future? Persistent global poverty and increasing inequalities will certainly imply that the discussion on global justice endures. One can perhaps foresee that also questions of global warming and global sustainability will be in focus as these questions are intimately linked to questions of global justice. The so far positive results of the United Nations project the Millennium Development Goals and the new ambitious agenda of the Sustainable Development Goals give reasons for hope for the future. Another world is, after all, perhaps possible.

³¹ Göran Collste, *Global Rectificatory Justice* (Basingstoke: Palgrave, 2015).

³² Aakash Singh, 'Deparochializing the Global Justice Debate, Starting with Indian Political Theory', *Global Policy* 4:4 (2013), pp 418-419, at p. 418, emphasis in original.

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Does Global Justice Require More than Just Global Institutions?

Kok-Chor Tan

The 'institutional approach' to justice holds that persons' responsibility of justice is primarily to support, maintain, and comply with the rules of just institutions. Within the rules of just institutions, so long as their actions do not undermine these background institutions, individuals have no further responsibilities of justice. But what does the institutional approach say in the non-ideal context where just institutions are absent, such as in the global case? One reading of the institutional approach, in this case, is that our duties are primarily to create just institutions, and that when we are doing our part in this respect, we may legitimately pursue other personal or associational ends. This 'strong' reading of our institutional duty takes it to be both a necessary and sufficient duty of justice of individuals that they do their part to establish just arrangements. But how plausible is this? On the one hand this requirement seems overly inflexible; on the other it seems overly lax. I clarify the motivation and context of this reading of the institutional duty, and suggest that it need not be as implausible as it seems.

Introduction

Does global economic justice require individuals and their associations to do more than support and comply with the rules of just global institutions?¹ On what we may call the *institutional approach* to justice, when just institutions are in place, individuals' responsibility of justice is primarily to comply with and maintain these institutions. Within the rules of just institutions, persons may do as they wish so long as background institutions are preserved.²

If we extend the institutional approach to the global context, then global justice does not require more than *just* global institutions in this sense. Our collective

¹ I thank the audience at the Societas Ethica 2015 Conference in Linköping, Sweden, for their generous feedback, with very special thanks to Göran Collste and Marcus Agnafors and a reader of this journal. I am particularly grateful too to Nigel Dower for his helpful comments and criticisms at the conference.

² See John Rawls, *Justice as Fairness* (Cambridge, MA: Harvard University Press, 2001), p. 50.

responsibility of global justice is discharged and exhausted where just global institutions are established and supported in our society, and not upset by the cumulative effects of our actions.

I believe the institutional approach provides a plausible and defensible picture of justice in the global as well as domestic contexts. To be sure, this institutional picture of justice has its detractors. Some critics object that the demands of justice are not exhausted simply because individuals are playing by and sustaining the rules of just structures.³ Others could accept the institutional view in the domestic case, but reject it as an ideal of *global* justice on the ground that there aren't the relevant regulative institutions in the global plane.⁴

I will bracket these objections here, and start with a question that arises *even if* we accept the institutional view in its ideal form. What responsibility of justice do individuals have when just institutions *are absent*? So even if we assume the possibility of establishing just global institutions, the question can still be asked: what responsibility of justice do persons and associations have in the absence of just global arrangements? In other words, my discussion presupposes the institutional approach as an ideal. My question is whether this approach provides plausible guidance in the case where just institutions are absent.

One possible institutional response is as follows: in the absence of just arrangements, individuals have the responsibility of justice to do their part to help create just arrangements, and when they do their share in this regard, they adequately fulfill their responsibility of justice.

Let us call the duty to create just institutions an *institutional duty*, in contrast with an *interactional duty* which involves providing aid or assistance directly to needy others. The institutional duty that I am exploring has two prongs. One prong says that this duty is a *necessary* requirement of justice, such that an individual fails to do her part to promote justice if she neglects her institutional responsibility even if she is doing good interactionally. The other prong holds that the institutional duty *sufficiently* exhausts the requirements of justice, such that even if one can do more interactionally to promote the good, one's responsibility of justice is fulfilled when one does her institutional share.⁵ We can call this the strong reading of the institutional duty.

The institutional duty recalls Rawls's famous remark, that '[f]rom the standpoint of the theory of justice, the *most important* natural duty is that to support and to further just institutions.' The statement goes on to clarify the latter: 'we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves'.⁶ It is an interesting interpretative question as to what Rawls

³ See, e.g., G. A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008).

⁴ For one example, see Samuel Freeman, *Justice and the Social Contract* (New York: Oxford University Press, 2007), in particular chapters 4 and 8.

⁵ These contrasting terms and their cognates have been used by Thomas Pogge and Iris M. Young, among others. See Thomas Pogge, *World Poverty and Human Right* (Oxford: Polity Press, 2001), and Young, *Responsibility for Justice* (Oxford: Oxford University Press, 2011). Although deployed in the same spirit, I don't claim that I am using them in precisely the same sense.

⁶ John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), p. 334. My italics. In full, it reads: 'From the standpoint of the theory of justice, the *most important* natural duty is that to support and to further just institutions. This duty has two parts: first we are to comply

might mean by 'most important'. It is not obvious that he intends the strong reading of the institutional duty that takes it to be both necessary and sufficient. My aim, however, is not engage in Rawls exegesis, but to examine independently the plausibility of this strong reading.

It is obvious that the claim that the institutional approach provides guidance under non-ideal conditions is not itself a defense of the institutional approach. Anyone who is not convinced by the institutional approach from the outset will not be swayed by the thesis that it can have non-ideal application. Yet, on the other hand, some have objected to the institutional approach because they believe it cannot have application in non-ideal cases. It is against this specific concern that this paper is directed. To be sure, this amounts to only a partial of the institutional approach (if successful), but it is nonetheless necessary for any complete defense of the institutional approach. A complete defense of the institutional approach has to show both that it is defensible as an ideal and that it can have reasonable application in standard real world situations. This paper is concerned solely with the latter. Another way of situating the present discussion is as follows: suppose you endorse the institutional approach as an ideal. What does that approach tell you when just institutions are absent? This is hardly an obvious question. Thus presuming the institutional approach as an ideal, and then asking what follows from that in situations where just institutions are lacking, is hardly trivial or question-begging.

A qualification before proceeding. My claim regarding the significance of institutions is limited to the special case of *economic* or *distributive* justice. How far and with what qualifications the institutional thesis can be extended to justice more generally is something I leave aside. Thus 'Justice' here refers specifically to 'economic [or distributive] justice' unless otherwise qualified or contextualized, and by 'institutions' or 'social structures' I include the wide array of social institutions, rules, policies, and the like that affect economic distribution in a social order.

The Institutional Approach

It will be useful to start by recounting some of the relevant assumptions behind the institutional approach as an ideal. Recollecting these assumptions, of course, does not amount to a reply to critics who reject these very assumptions in the first place. But keeping these underlying motivations in mind will provide a clearer understanding of the institutional duty (in the non-ideal case), and why it is not as straightforwardly implausible as some commentators think.⁷

The first and oft cited motivation for the institutional view derives from the fact of the 'profound and pervasive' impact of background social institutions on individuals' lives. The central political, economic and social institutions of a society determine

with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves.'

⁷ Here I draw on my *Justice, Institutions and Luck* (Oxford University Press, 2012), part I. The main critics I have in mind are Liam Murphy and G.A. Cohen. Murphy, 'Institutions and the Demands of Justice', *Philosophy and Public Affairs* 27 (1999): 251-91; and Cohen, *Rescuing Justice*.

individuals' fundamental rights, entitlements and responsibilities. Given this impact of institutions on people's life prospects, institutions must be subject to the regulation of justice (e.g. Rawls).

The second relevant motivation for the institutional approach invokes the idea of background justice. In the absence of background justice, individuals on their own cannot know with adequate determinateness how to respond to injustice or the needs of justice. One reason is that distributive justice, as a matter of *social* justice, will require certain coordination among individuals in a social order regarding how each is to best discharge her respective responsibility of justice. Without the coordinating function that institutions provide, interpersonal efforts risk inefficiency as well as the danger of cancelling another out.

The second reason is more significant. Institutions do more than coordinate individual activity for the cause of justice. More fundamentally, they have the function of determining individuals' rights and entitlements and duties. The institutional view stands in contrast with the Lockean picture that economic justice (e.g., individuals' rights of ownership and transaction) is pre-institutional, and that the role of social institutions is basically to secure and enforce the economic rights that individuals can have in nature. The institutionalist (following the tradition of Hume, Rousseau, and Kant) holds, to the contrary, that economic rights and the terms of economic justice are provided institutionally. For instance, there has to be a 'public system of rules'⁸ in place before we can together determine each of our economic rights and duties, including our property rights, the rights of transfers and the like.

This view of justice does not implausibly say: 'whatever existing institutions say goes'. Institutions can fulfill their purpose of determining economic entitlements only if they are appropriately organized, and hence the necessity of regulating institutions against principles of justice. What the institutionalist holds is that in the absence of an adequately structured institutional order, it remains under-determined what it is that individuals are entitled to and what it is that they owe to each other as a matter of distributive justice.

The institutional view also affirms that justice is a social and public ideal and enterprise. A just distributive order is not something we can each personally pursue in isolation from each other. It is something we must collectively and publicly aim to affect.

While the above two motivating assumptions are largely familiar, the third relevant assumption is perhaps less discussed. This is that the institutional approach provides an interpretation of the demands of justice that preserves moral room for individual (personal or associational) pursuits and commitments. By locating and confining the site of distributive justice to institutions, it makes room within the parameters of just institutional rules for individual pursuits and relational commitments.

The underlying idea here is that while justice is a regulative ideal, it is not a dominant good in the sense that all valuable human pursuit must be for the cause of justice. To the contrary, the aim of justice is to provide the maximal space for individuals to each pursue *freely but fairly* their own ends in life. Justice sets the limits for the kinds of ends we may have and the means by which we may pursue them. With background justice in place, we can try to realize our conceptions of the good fervently, confident that we are doing so rightly. Indeed, the institutional approach recognizes the importance of

⁸ Rawls, *Theory*, p. 55.

institutional vigilance in that the cumulative effects of actions that are just or permissible taken on their own, can overtime, when compounded with other just actions, lead to unjust outcomes. Hence there is the need to keep an eye on the institutional framework within which different persons pursue their ends, and be ready to make institutional adjustments to counteract the effects of combined just actions.⁹

This assumption of pluralism combined with the requirement that we pursue our competing ends on terms that are right by others explain why justice has a certain primacy over other values but is nonetheless not a dominant end in itself. The institutional focus supports an account of justice that affirms its regulative primacy without subsuming all other values under it.

These three motivating reasons are interdependent in the following ways. Since institutions profoundly and pervasively impact the lives of individuals, they ought to be regulated by some ideal of justice. Since it is justly regulated institutions that correctly determine individuals' rights and duties, there must be some appropriate institutional arrangements in the background to define these rights and duties. And since institutions frame individual responsibilities in this way, limiting the site of justice to institutions provides a way for demarcating the demands of justice from the demands and prerogatives of individual personal or associational lives. These assumptions together clarify why it is that the basic structure is 'the primary subject of justice' (Rawls).

The Necessity of an Institutional Response

With these assumptions in place, I turn to the claim that an institutional response is *necessary* for justice. Rather than a case of confusing means for ends, as some critics have alleged, the necessity claim holds that just institutions are constitutive of a just state of affairs and is not merely instrumental in this regard.

The first reason for the necessity of an institutional duty (again meaning here *the duty to create just institutions*) concerns the profound and pervasive effects of institutions on individuals. Institutions assign to persons their fundamental entitlements and responsibilities. Thus, when existing arrangements are unjust, responding to the effects of these arrangements seem at best to be palliative rather than corrective of the injustice. It is akin to addressing the symptoms of injustice without also attending to its (institutional) cause.

This is not to dismiss the importance of palliative responses in certain moral situations. But it has to be acknowledged that nonetheless justice is not being realized so long as we are only attending to the effects of injustice and not addressing the inherently institutional source of the injustice.

The ideal of background justice behind the institutional view is another reason for the necessity of an institutional duty. In the absence of institutional rules coordinating the diversity of individual efforts towards a shared just end, there is the obvious problem of efficiency as well as the bigger danger of one response canceling another out.

But, as mentioned above, more significant than the coordinating role of shared institutions is the role of institutions in determining and specifying individual rights and

⁹ Young, *Responsibility for Justice*, chapter 1; also John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 266-267.

duties. Without adequate background institutions, individuals not only are unable to coordinate their joint objective of promoting justice. They will be left in the dark as to what it is that they owe to one another. What is rightly mine that I may rightly redistribute in the name of economic justice? Which of the many needy individuals should I redistribute resources to? And to which particular problem of social injustice – abject poverty; inequality in education; or lack of access to healthcare – do I devote my attention?

These three questions – *what* is rightly mine, *to whom* I owe, and *to which* injustice I should be committed – highlight the necessity of social institutions. Without social arrangements in the background, individuals cannot know precisely what they rightly own and what they owe to others. Without just distributive institutions that are publicly affirmed, there is the danger of partiality regarding the recipients of redistribution, as when a philanthropist decides on her own which subset of individuals to assist. And social programs and causes that are identified and pursued privately rather than publicly through shared institutions are prone to a certain arbitrariness and the lack of accountability.

Institutions, in specifying the conditions of background justice, not only identify the aspiration of justice. They also set the parameters within which we may permissibly realize these aspirations. Even when we are certain what justice requires at minimal, it is not obvious that we may do whatever it takes to realize this in the name of promoting justice.

As a clear illustration, consider a flawed criminal justice system that disproportionately sentences members of a minority group to lengthy prison terms. We may be confident that this system is unjust, but it does not follow that we are entitled to act unilaterally to repair the effects of this unjust arrangement. It is not obvious, for example, that private persons may attempt to break out prisons those they believe to be wrongly sentenced. This is an institutional institution, the resolution of which requires an institutional response.

Consider now an example within distributive justice: Suppose you know that the economic institutions in your society are unjust, and that whatever the institutional details of your duties, you know with confidence that the top 1% say is not entitled to the entirety of their holdings, and that the least advantaged in your society are in fact entitled to some of these. Still it would not be permitted for you to assume the role of a Robin Hood, and rob from the 1% to give to the poor.

I think we would reject the above interactional responses to these injustices for the same reason we reject *vigilante* justice in general. The vigilante sets goals that ought to be publicly identified; and she relies on means (e.g., the use of force) whose appropriateness are matters of public decision. Acting on her own discretion on a problem that is a social one, her actions lack publicity and therefore also accountability. Acting through institutions help ensure that just steps are taken in the cause of justice.

Furthermore, to reiterate an earlier point, even if some good is achieved through vigilantism (e.g., an innocent person is freed, the undeserving rich is forced to redistribute) such responses are *ad hoc*, they affect only an arbitrary number of individuals, and they target only the symptoms of injustice and not its source. Even if we are prepared to say that the vigilante is doing some good, we can still say that she is not helping to realize social justice. And in some cases, as in some forms of vigilantism, she is moreover acting unjustly.

As an aside, vigilantism is distinct from civil disobedience, and the above remarks do not apply to the latter. Civil disobedience is a public rather than unilateral activity and is aimed, I will stress, at correcting an unjust arrangement.¹⁰ Civil disobedience thus falls under that class of institutional responses. The acts of vigilantism I oppose above – unilateral, uncoordinated, non-public and not aimed at reforming institutions – do not share the form or the goal of civil disobedience.¹¹

Finally, institutions secure a state of affairs that is not contingent on the happenstance good will of private individuals. Imagine a society whose economic institutions are unjust, but whose advantaged members happen to have an enlarged sense of ‘noblesse oblige’. So they privately redistribute their (unjust) gains to their least advantaged compatriots, and in doing so achieve a distributional state of affairs not different from that which a just set of institutions would obtain (assuming that this is possible without public institutions to impartially affect the redistribution, a problem as discussed above). So we have an end state that would be preferable to that of a similar society with the same kind of unjust institutions but whose inhabitants lack the same degree of generosity. Still we wouldn’t say that justice is realized in that society. The unjust effects of its institutions are offset by the good will of its inhabitants, to be sure, but this is hardly a stable situation or one that the disadvantaged can confidently count on and build expectations around. The happy distributional outcome is wholly contingent on the whim and fancy of the privileged. Just arrangements, on the other hand, ensure that a just distributional outcome does not hinge on the ‘arbitrary will’ of others (adapting here from Philip Pettit).¹² While interpersonally the inhabitants might appear to be on equal terms, the background institutions in fact betray a hierarchical society, in which domination of some by others remain in place.

Indeed we would prefer a society where persons grudgingly (but out of a sense of justice) comply with the requirements of just institutions, then one with unjust institutions but very nice people. There is a certain stability, reliability and legitimacy in the first that is absent in the latter.

My argument is not that in all cases, an institutional duty has to be performed. I only claim that the performance of this duty is necessary *if the realization of distributive justice is our goal*. It is entirely possible under some cases of moral trade-offs that we may, or even ought to, pursue ends other than that of distributive justice. We can easily imagine scenarios where it seems preferable to act interactionally than institutionally if

¹⁰ Civil disobedience, to cite Rawls, ‘is a mode of address taking place *in the public forum*’ (Rawls, *Theory*, p. 376; my emphasis).

¹¹ I should also note that the above is not meant to condemn vigilantism in all cases. In extreme cases of injustice, we can allow that certain forms of vigilantism are permissible if not even required. It would be absurd to say, for example, that using force unilaterally as a private individual to free slaves in a slave society is a violation of justice, or that it does not in some ways at least serve the cause of social justice. (For example, consider the actions of the abolitionist John Brown). But this is because, in cases of extreme injustices, especially (but not limited to) injustices that violate very basic civil and political rights, the very social order fails to meet the basic conditions of legitimacy, and unilateral acts against such a system should be seen as an attempt in the first instance to dismantle the thoroughly corrupt order with the ultimate goal of establishing an alternate *just* order in its place. Vigilantism in some extreme cases can be seen as revolutionary acts, and a revolution is an institutional response to extreme injustice.

¹² Philip Pettit, *Republicanism* (Oxford: Oxford University Press, 1997).

we are forced to choose. The main point is that we have to concede in these unfortunate cases that justice is neglected.

One way of accepting the possibility of such trade-offs without surrendering the primacy of justice is to invoke the argument that the circumstances of justice need not obtain under certain severe moral situations. For example, following Hume, we can accept that in extreme desert island situations (where there is abject and absolute scarcity), concerns of distributive justice cannot arise. Hence other moral responses, in particular interactional ones, will be more appropriate. The key point here is that even though an interactional response in such cases does more good, and is perhaps even the morally preferred course of action, this is compatible with the institutional thesis that justice is not being realized.

To expose and examine an implication of my necessity claim, consider the following example. Suppose person *A* campaigns to further international trade law, furthering the creation of just global institutions in this way. In contrast, person *B* contributes time and money to a charity that is improving water access in a poor village, her reasoning being that people have a right to subsistence and that she can do something to improve their condition in this direct way.¹³ To accentuate the contrast, let's take it to be the case that *B*'s response has no direct institutional implications. It simply improves the lives of people in the village without correcting the structure injustice in the background. My account takes it that person *A* is realizing justice but not person *B*. But does this not sound counter-intuitive, a critic might ask?

So my thesis takes what seems counter-intuitive to some to be a feature of the institutional account. Thus let me assuage this concern by reiterating some of the above points. First of all, person *B* is responding to an injustice, that is true. But her action does not have the affect of realizing justice because if the background institutional rules remain as they are, then the problem that *B*'s contribution is remedying will remain in effect. As noted, this will be a band-aid response rather than an attempt at realizing justice. Second, and more importantly, there is the problem of partiality and lack of accountability in *B*'s personal action. Why *that* particular charity and *this* village, and not some others? Why *access to water*, and not access to education, or availability of roads and basic health care? And to whom is *B* and her charity accountable for their selection of cause and beneficiary, and the level of success of their efforts? If justice is ideally to be impartial, public in design and execution and accountable, person *B*'s efforts, commendable as it is, is partial, personal and non-accountable. This worry is compounded by the fact that personal charitable contributions are tax-deducted. So shouldn't there be public accountability for these charitable activities, contributions and their targets? Finally, the villagers benefitting from *B*'s personal acts are benefitting contingent on *B*'s and the supported charity's largesse. Unlike an institutional change that *A*'s actions try to affect, a certainly unreliability and arbitrariness remain in situations like person *B*'s.

Again, the point is not that person *B* is not doing any good; in fact she is performing admirably on the front. The question is whether she is also discharging her obligation of justice. The institutional account says 'no' and the reason for holding this is hardly counter-intuitive, for it turns on a plausible account of what justice is. Person *B* is

¹³ These examples, and the question that follows, are drawn from Nigel Dower's comments at the *Societas Ethica* conference in Linköping, 2015.

not acting on her duty of justice even though she is acting permissibly and in fact is serving some moral end. This distinction is not merely semantic, since it tracks the difference in forms and substance of an institutional action versus and interpersonal one. The point is not to then cast blame on *B* as a moral failure, but to clarify what is it that justice requires. To say that justice necessarily requires an institutional focus is not a trivial point but rather elucidates what it is that ideal justice must strive for. It makes the significant substantive, and not counter-intuitive, point that person *B*'s actions are not sufficient for realizing global justice.

The Sufficiency of Institutional Responses

I now turn to the other prong of the strong reading of the institutional duty. This, to recall, is that the institutional duty sufficiently exhausts individuals' responsibility of justice. I'd suggest that this sufficiency claim is not as problematic as it might seem at first glance.

First, the institutional duty provides a target and a cut-off for one's duty of justice. Defining our responsibility institutionally thus allows a way of balancing both the demands of justice and our individual pursuits. An alternative view that says we ought to do all we personally can to promote justice in society will require that we give up personal and associational pursuits that are part of any rich moral life. Even if the alternative does not say that we have to do *all we can* in our personal actions, that it requires personal actions beyond working together with others towards better institutions seems to eliminate a practicable way of marking the limits of the duty of justice. If the ends of justice have to be balanced against reasonable personal permissions (to pursue ends other than that of justice), an institutional focus provides an account of the site of justice that allows for this balance.

But even though the institutional duty offers a way of reasonably limiting our responsibility of justice, it can hardly be faulted for trivializing or downplaying this responsibility. The duty to do one's part to create just shared arrangements can be, to the contrary, quite demanding on individuals. And the more extreme the absence of just institutions, the more demanding this institutional requirement of justice is.

Where just arrangements are in place, the institutional approach provides a means of demarcating the demands of justice and the demands and concerns of personal life. The institutional approach thus preserves room for individual pursuits consistent with the needs of justice. But where just institutional rules are absent, the institutional view does not insist that individuals may do whatever it is they could do were just arrangements counterfactually present. Rather, since the space for individual pursuits is defined against the requirements of justice, the division between the needs of justice and personal life space for individual pursuits has been recalibrated under non-ideal conditions.

Where there is injustice to be responded to institutionally, instead of simply complying with and supporting just institutional rules as in the ideal case, individuals are now required to take more active and additional steps of helping to establish just institutions. We can expect this additional demand of justice to be more exacting than the injunction to support and comply with existing just rules. Accordingly, since the duties of justice set the parameters for personal pursuits, we can expect that the space for personal pursuits will be reduced in the context of injustice. For a crude example, time that could

be given over to personal pursuits when there are just institutions will now have to be devoted to the cause of furthering just institutions.

Thus the institutional duty, even though it provides a method by means of which to preserve space for personal pursuits alongside the pursuit of justice, it cannot be faulted for trivializing the responsibility for justice. Institutional duties can be demanding, and institutional duties in the context where just institutions are absent can be even more demanding.

In addition to the institutional duty not being objectionably under-demanding, it should be pointed out that this duty does not exhaust all *moral* duties persons can have. Even in an ideally just society, there will be plenty of occasions for interpersonal acts of beneficence. A fellow citizen can suffer misfortunes like a sudden illness, unforeseen economic difficulties and so on, even where just institutions are in place. The institutional approach does not deny then that beyond our duties of justice (to comply with just institutional rules in this case) that there will also be other moral duties we owe to others interactionally. *A fortiori*, there is no reason to think that the space and need for interactional duties of beneficence shrinks or disappears where just arrangements are absent. (One might even make the stronger claim that demands of beneficence will likely increase in context of injustice, but I will leave aside this complicated point here).

Thus the sufficiency claim, that doing our part institutionally sufficiently discharges our responsibility of justice, is not as morally parochial as it might sound if we recognize that there are other moral demands on us beyond the demands of justice.

Now this might sound like another semantic move – an attempt to rescue the institutional thesis by calling other moral duties another name. But, in reply, the distinction between duties of beneficence and duties of justice is more than semantic. Call these classes of duties what we want, there are nonetheless important substantive differences between them.

A key one is that duties of beneficence are imperfect and subject to agential discretion. An imperfect duty is still a duty, but, to cite Kant, it gives ‘permission to limit one’s maxim of duty by another (e.g., love of one’s neighbor in general by love of one’s parents)’.¹⁴ But an institutional duty, as a duty of justice, does not permit the limiting of the maxim of this duty by another.

That duties of justice are perfect and duties of beneficence are imperfect supports a second important substantive difference between the two. This is that justice has a certain primacy over beneficence. The institutional view notes two ways in which justice has primacy over beneficence. It has *normative primacy* in that acts of beneficence that are contrary to the requirements of justice are in general prohibited. That is, I have a *pro tanto* obligation not to steal that which is rightly Jane’s to give to needy John. Second, justice has what we can call *ontological primacy* in that it is justice that determines the possibility and scope of beneficence. Beneficence is the redistribution of something that is mine to another who needs it. But this means that we need first of all an account of what is rightly mine, and this requires some account of distributive justice.

Finally, an institutional response can also incorporate duties of reparations for past or prevailing injustice. The sufficiency claim does not deny this. What it will say is that reparative duties, in so far as they are in response to the results of unjust

¹⁴ Kant, *The Metaphysics of Morals*, translated by Mary Gregor (Cambridge: Cambridge University Press, 1991), p. 194.

arrangements, must themselves be institutional in form. The effects of unjust economic institutions are diverse – it can result in the lack of access to decent education, adequate nutrition, good health care, fair equality of opportunity and so on. And it will affect many individuals in different ways. So which social cause (i.e., which injustice) do we take up and try to readdress, and for which particular set of individuals? To take reparative duties for *institutional* injustices into our own private hands risks violating the impartiality and publicity conditions of justice. The sufficiency claim affirms that unjust arrangements can generate reparative obligations on us. What it maintains is that to be properly reparative duties of *justice* in response to structural injustice, they have to be directed at, and enacted via, institutions. Thus reparative duties are to be counted as part of our overall institutional duty, and when all dimensions of our institutional duty are discharged, we have sufficiently realized our responsibility for justice.¹⁵

In sum, the claim that an institutional response exhausts an individual's responsibility of justice sounds less objectionable if we note that (i) this duty is hardly minor or trivial, (ii) that it does not exhaust all moral commitments that we can owe to each other, and (iii) that it does not deny the importance of reparative justice. (What it holds, with regard to the last, to reiterate, is that reparations for structural injustice should also be institutional in form, not interactional).

The advantage of the institutional view is that it maintains that even when just arrangements are absent, individuals are still entitled to realize their ends so long as they are doing their share to create just arrangements. It does not require individuals to morally impoverish their personal and associational lives in the furtherance of economic justice in their society.

To close this section, let me try to gather some of the underlying intuitions behind the institutional view by considering this objection. What if there is a pre-institutional wrong being committed? Don't persons have some morality responsibility, as a matter of the morality of what we owe to each other, to address this wrong non-institutionally? For instance, isn't slavery a wrong quite independently of institutions, and so accordingly, don't we have a non-institutional duty to address the wrong of slavery whenever we come upon it?¹⁶

In reply, the institutional view does not deny that there are non-institutional moral duties based on rightness and wrongness, but the morality of right and wrong is not co-extensive with the domain of justice. For the institutionalist, justice is concerned with what we owe to each other, so in that sense it is related to the morality of right and wrong. But it is concerned with right and wrong as these are mediated and informed by institutional relations. So, the institutionalist does not say that the institutional duty exhausts all moral duties of right and wrong; there can be moral duties owed to others as a matter of right. One might again insist that this is merely definitional, but again this will be a mistake. For the duties we owe to others as a matter of right non-institutionally and the duties we owe to them as a matter of right via institutions are very different forms of duties. Indeed, to turn the tables on the critic, to ignore this difference is to render the right and justice interchangeable, rendering one or the other concept (right or

¹⁵ The discussion focuses on reparations due to unjust arrangements. The case of reparations due to an agent's failure to comply with existing just rules can of course take the form of an interactional response.

¹⁶ This objection is prompted by Nigel Dower's comments.

justice) redundant. But to the extent we think the concept of justice has significance beyond that of the concept of right, it is the institutionalist that has the upper hand.

Moreover, the institutionalist draws attention to certain human relations that are fundamentally institutional in character. Take slavery as economic system of extreme injustice. For the institutionalist, slavery is obviously a moral wrong against individuals. But it is not merely or most importantly a wrong committed directly by some person against another. Slavery is an institutionally governed and sanctioned economic practice. It is a practice supported and reinforced by entrenched political and economic structures. Individuals are wronged by other individuals, under this arrangement, but the wrong has an institutional character. It is in this sense not just a severe wrong against individuals but an injustice against them.

The thrust of this section is to unpack one of the reasons for rejecting the sufficiency thesis. If the reason is that it seems insufficiently demanding of individual moral agents, then, as I have tried to suggest, this concern is unfounded. But if the institutional view becomes demanding, does it not collapse into some non-institutional approach, some might ask? The answer is no. What distinguishes the institutional approach from non-institutional approaches is not the issue of demandingness per se. What makes the view institutional is its emphasizes on institutions, and the division of principles it provides between the institutional and the personal. That individuals can have more demanding responsibilities in the absence of just institutions (since they now have to take steps to create just institutions) does not obviate the institution/personal divide that is basic to the approach. The duty of individuals is institutionally specified in terms of its target.

The above raises the question of what the limit of one's duty in this regard is. So, how does the institutional approach help in this case, one might ask? But the problem of determining individual's fair share in a collective moral task is not a problem unique to the institutional approach, and it is not the case that should the institutional approach specify some notion of fair share of persons' duty to create just institutions that it becomes indistinguishable from non-institutional approaches. The following remains quintessentially an institutional principle: in the case of unjust arrangements, one discharges one's duty of justice so long as one does one's fair share in helping to create just institutions. What makes it a quintessential institutional view is the idea of creating just institutions. The specification of 'one's fair share' is incidental to the approach.

Global Beneficence v. Global Justice

I have been speaking abstractly about economic justice and institutions. But the implications of my remarks for global justice more specifically can be easily inferred. The paper presumes two things: that the institutional approach is the right way to think about justice and global justice can indeed take an institutional form. Our question, then, is what duties do individuals have where just global institutions are lacking?

The obvious one is that in the absence of just global arrangements, our individual responsibility of global justice is to do our part (personally but more realistically in association as citizens of states) to help bring about just arrangements. Interactional responses on their own cannot secure global justice, and stand in risk of violating the ideals of publicity, accountability and impartiality. Thus, global philanthropy, by this I refer to programs and actions taken by private associations to promote certain causes of

their own choosing, can present certain moral challenges. An implication of this is that any theory of global beneficence or ethics has to presuppose some account of global justice.

The more controversial point is that when we are doing our share to create just institutions, global justice requires no more of us. (That is global justice does not require more than just global institutions). The appeal of this claim is that it allows personal and associational life to proceed even when economic justice is not fully realized. To hold the converse, that no personal or associational pursuits can be morally legitimate while unjust institutions remain the case seems implausible. The immediate worry with this claim however is that it seems too glib, especially in the face of the gross global injustice we face. To temper this concern, I reiterate that doing our share to create just institutions is hardly insignificant and under-demanding. It can require a lot from us, and in the current global order, it will require a significant recalibration of our understanding of personal and national pursuits. It should also be reiterated that global justice does not exhaust the whole of our global moral responsibility to each other. Duties of global beneficence remain at play whether we live in a just global order or not.

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Global Responsibility and the Enhancement of Life

William Schweiker

This article advances a conception of global ethics in terms of the centrality of responsibility to the moral life and also the moral good of the enhancement of life. In contrast to some forms of global ethics, the article also seeks to warrant the use of religious sources in developing such an ethics. Specifically, the article seeks to demonstrate the greater adequacy of a global ethics of responsibility for the enhancement of life against rival conceptions developed in terms of Human Rights discourse or the so-called Capabilities Approach. The article ends with a conception of 'conscience' as the mode of human moral being and the experience of religious transcendence within the domains of human social and historical life. From this idea, conscience is specified a human right and capacity to determine the humane use of religious resources and also the norm for the rejection of inhumane expressions of religion within global ethics.

Introduction

There are many different understandings of globalization ranging from economic ones to those that emphasize cultural patterns, global media forces, and the emergence of the so-called post-secular age. These different descriptions of our time highlight diverse challenges facing people around the world. It is obvious that forms of consumption, production, banking, and travel have global impacts that challenge traditional and contemporary forms of economic ethics. The same is true of climate change, the global spread of disease, and religiously motivated terrorism, issues now confronting those who work on environmental and religious ethics. In a more general sense, we live 'in the time of many worlds', that is, we live in a globalized, shared time in which people live at the intersections of many determinate domains of meaning and value or 'worlds'.¹ Since the forms of globalization affect how power is globally distributed, it has become indispensable that we develop principles of global justice.

These factors of our age indicate in the starkest of terms the need for a 'global ethics'. Yet the very same forces seem to indicate the impossibility of developing that kind of ethics due to the wild diversity of normative outlooks around the global. Not

¹ William Schweiker, *Theological Ethics and Global Dynamics: In The Time of Many Worlds* (Oxford: Blackwell, 2004).

surprisingly, in this situation there are also theologians and philosophers who advocate, contrary to universalist ethics, some form of communal or particularistic ethics. For them, the meaning and validity of moral norms and values are internal to the form of life found in some specific community. Membership is the key to moral understanding. Yet even those positions must show—and usually do show—how the moral outlook of a community, say the Christian churches, can and must respond in responsible ways to other communities. In sum, both universalist and particularistic forms of ethics seek to meet the challenges of the global age. It is also the case, as the philosopher Hans Jonas noted some years ago, that we are hampered by forms of ethics unable to address the challenges posed by the radical increase of human power in our time, and the ways in which that power threatens future generations.² How then are we to carry on the work of ethics, and, especially, reflection on global justice?

My reflections here enter this thicket of ethical problems at a basic level of reflection, specifically, the connection between conceptions of human well-being and the normative principles consistent with those conceptions. To that end, I want to contrast my position on these interlocking topics with two other dominant forms of global ethics, namely, Human Rights discourse and also the so-called Capabilities Approach developed by Amartya Sen and Martha Nussbaum.³ I realize that engaging my topic in this way might seem far afield of the pressing challenges now bearing down on peoples around the world. I hope to show that is not the case. Likewise, due to the constraints of space, I will have to leave aside the insights and oversights of particularistic forms of ethics. Here, I want to keep the focus on global, cosmopolitan or universalist ethics.

Now, whatever the final judgment might be about the adequacy of my argument, it rests on two assumptions that I want to state at the outset since I cannot in this paper use the space to justify them. They are assumptions that are also shared by Human Rights discourse and the so-called Capabilities Approach. The first assumption is that human beings are embedded within wider systems of life and therefore the concern for social justice and human well-being cannot work against worries about climate change and ecological sustainability. Global justice must include ecological justice and commitments to sustainable development. Sen and Nussbaum are explicit about this connection; Human Rights discourse has developed throughout the years in ways to account for cultural, ecological, and social rights. Put otherwise, the days of unreflective anthropocentrism are surely now past at least among sensitive religious and non-religious thinkers. What would it benefit human beings to gain the whole world and to lose the earth? The connection between human well-being and a sustainable future is indicated in my concern for the enhancement of life, and that means not only human life. Yet while that is the case, I do share with the Capabilities Approach and Human Rights discourse a focus of the distinctly human ability to take responsibility for one's own and other forms of life, including future generations. There is, we might say, an anthropocentrism of responsibility rather than an anthropocentrism of value.

² Hans Jonas, *The Imperative of Responsibility: In Search of an Ethics for the Technological Age* (Chicago: University of Chicago Press, 1985).

³ The UN Declaration on Human Rights is available in many forms. For succinct statements of Sen's and Nussbaum's position, see Amartya Sen's, *Development as Freedom* (New York, NY: Knopf, 2000) and *Identity and Violence: The Illusion of Destiny* (New York, NY: W & W Norton, 2007), and Martha Nussbaum, *Creating Capabilities: The Human Development Approach* (Cambridge, MA: Belknap, 2013).

The second and closely related operative assumption in this article seems to be under-theorized by Human Rights discourse and the Capabilities Approach. The assumption is that human beings make distinctive claims on us and that they thereby are the subjects of rights, exercise forms of freedom, and can live by the demands of responsibility in ways distinct if not separate from other living beings. While human beings are not utterly unique as living beings insofar as we participate in wider systems of life, we are, nonetheless, a distinctive form of living beings. It is human distinctiveness that is the real focus of my comparative argument in this paper and what that distinctiveness means for global justice. Why are claims about the distinctive moral standing of human beings eschewed by Human Rights advocates and also by the Capabilities Approach? Obviously, in one sense they are not. The concern, after all, is about 'human rights' and the focus for Sen and Nussbaum is on 'human capabilities'. Yet while that is no doubt true, it is also the case that both of these forms of thought avoid any connection to a comprehensive doctrine, as John Rawls dubbed it, about human nature and the good advanced on philosophical or religious grounds.⁴ That is to say, the connection between human rights and capabilities, on the one hand, and, on the other hand, some idea of the good is intentionally under-theorized by these other approaches to global justice. The fact that these approaches eschew any strong or comprehensive claims about the human good thereby indicates the thesis I want to advance in the remainder of this paper. I hope to show how a theological perspective can and must contribute to reflection on global justice. Come what may, we need to make some claims about the moral meaning of our shared existence as human beings. However, part of my point is that Human Rights discourse and the Capabilities Approach should be seen as fellow travelers in this reflective journey in ethics rather than opposing moral stances that ought to be rejected wholesale. Put otherwise, like the Capabilities Approach and Human Rights, I aim to advance a global or cosmopolitan ethics, and I see these other forms of ethics as allies in the struggle for justice on the global scale.

Finally, I should also note at the outset that my tactic of reflection is a rather classical one. As the philosopher Susan Wolf has noted,

Aristotle is well known for his use of the endoxic method in defending moral and conceptual claims. That is, he takes the *endoxa*, 'the things which are accepted by everyone, or by most people, or the wise' as a starting point in his inquiries.⁵

St. Augustine, in texts like 'On the Morals of the Christian Church' and *The City of God*, adopts this method but gives it a crucial theological twist. That is, he begins by bracketing distinctly Christian claims and examines *endoxa* about the human good and justice, but as the argument proceeds he removes the brackets and shows the indispensable contribution Christian convictions make to the shared topic of inquiry. Human Rights discourse and the Capabilities Approach are, for the purpose of this paper, expressions of the *endoxa*, the widely accepted beliefs, about global justice with respect to which I want to make a theological contribution. In this way, this article is

⁴ John Rawls, *Political Liberalism*, 2nd ed. (New York, NY: Columbia University Press, [1993] 2005).

⁵ Susan Wolf, *Meaning in Life and Why It Matters* (Princeton, NJ: Princeton University Press, 2010), p. 10.

meant not only to be about global justice and enhancing life, but also to enact a method for theological reflection on the topic.

Preliminary matters in hand, I want to turn next to give a brief account of beliefs about global justice emblematically expressed in Human Rights and the Capabilities Approach. That account will allow me in a second step of reflection to outline a conception of responsibility for the integrity of life. I conclude, at the end of the paper, with a response to the critics of any form of religious ethics. Again, we start with the *endoxa* about global justice.

Rights and Capabilities

We are all aware of the basic outlines of the UN Declaration of Human Rights. Originally crafted after World War II and its various atrocities, the idea was to clarify those claims inherent in human dignity that demand protection from State coercion and also claims to those things or goods consistent with human dignity. But as Lynn Hunt has argued in her book *Inventing Human Rights: A History*, Human Rights articulate not only the ideals of the great Declarations of the 18th Century, like the American 'Declaration of Independence' and the French 'Declaration of the Rights of Man', but also the spread of the sense of individuality in the 19th Century and also empathy for persons expressed in the literature of the time. Repulsion over torture was a driving factor in the development of rights talk.⁶ One has, then, a widening of the scope of moral standing to include all people but also a deepening of empathy for the victims of atrocities. While Hunt's case is persuasive, at least to me, we also know that there is little agreement in Human Rights discourse on basic philosophical or religious claims, including the nature and grounds of dignity.

Furthermore, Human Rights discourse has long been criticized as a vehicle of Western values, religious and secular. Especially worrisome for some traditions and societies has been the 'individualism' of Human Rights that could clash with a more communal or communitarian outlook found in many societies. It is also probably correct to see some form of political liberalism embedded in the 1948 Declaration, given its concerns to protect people from State power under something like John Stuart Mills' 'harm principle'. That is, freedom extends only so far as neither an individual nor a State inflicts unjustified harm on persons.⁷ Not surprisingly, as rights thought developed, other forms of 'rights' have been promulgated that are seen as more consistent with indigenous cultures and communal outlooks even while carrying on some loose form of political liberalism.

Additionally there have been longstanding criticisms of the very idea of human or natural rights ranging from Jeremy Bentham, who famously said that such rights were 'nonsense on stilts', to contemporary theorists and critics of liberalism like Alasdair

⁶ Lynn Hunt, *Inventing Human Rights: A History* (New York, NY: W&W Norton, 2008).

⁷ John Stuart Mill, *On Liberty and Other Essays* (Oxford: Oxford University Press, [1859] 1991). Article 29 of the UN Declaration puts it like this: 'In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.'

MacIntyre and Stanley Hauerwas, just to name a few.⁸ The critics of Human Rights often charge it with a 'possessive individualism', which elides concern for the common good and devolves too easily into protracted conflicts over peoples' different and competing rights. More pointed for our deliberations is Hannah Arendt's insight that for rights to matter at all, they must be enforced, and, yet, it is hard to imagine who or what could enforce all rights. Because of this political lacuna in rights talk, Arendt concluded that a human being is a creature with the 'right to have rights' but that the actual institution of those rights was a political question.⁹

My task here is not to engage in an analysis of specific human rights, the development of human rights regimes, or even to address the many criticisms of human rights made by philosophers and theologians. Those topics have been explored in detail by many thinkers. My point is simply that Human Rights discourse has advanced the work of global justice by specifying the specific claims or rights persons possess in virtue of their humanity against the powers that be and therefore protects the domain of freedom from untold and unwarranted intrusion. As the Preamble to the UN Universal Declaration of Human Rights (1948) puts it: 'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.' The burden of argument thereby shifts to those who want to exclude some human beings from moral standing—a tactic we find in religious and state sponsored terrorism, the systematic rape of women and girls by ISIS, on-going regional conflicts, and the torture of political prisoners by countries, including the USA.

Of course, I have already noted that as rights talk has developed there has been the concern to expand ideas found in the UN Declaration to include communal and indigenous rights. This inclusion, it seems to me, can be rooted in Article 29 of the Declaration, which reads: 'Everyone has duties to the community in which alone the free and full development of his personality is possible.' Human Rights discourse articulates the complex relation between dignity, rights, and social life, on the one hand, with, on the other hand, freedom, justice, and peace as the expression of human dignity and with it social responsibility. In this respect, Human Rights discourse provides what Michael Walzer would call a 'thin' account of the requirements of global justice.¹⁰ That 'thinness' is consistent with the form of political liberalism implicit in the Declaration. Yet in this respect, it has been admitted even by the critics of Human Rights discourse, that it has become the ethical *lingua franca* of the global age. It is a factor in the assessment of nations, the plight of failed states and internally displaced persons, terrorism and rape as well as instances of genocide. While often affirmed only in the breach, it is no doubt the case that human rights talk provides a necessary conceptual vehicle for expressing and backing struggles for justice and recognition around the world. This discourse expresses

⁸ Alasdair MacIntyre, *Three Rival Versions of Moral Enquiry: Encyclopedia, Genealogy, and Tradition* (Notre Dame, IN: University of Notre Dame Press, 1990) and Stanley Hauerwas, *Christian Existence Today: Essays on Church, World, and Living in Between* (Durham, NC: Labyrinth Press, 1989).

⁹ Hannah Arendt, *The Origins of Totalitarianism* (New York, NY: Harcourt, 1968). Also see *Universalism vs Relativism: Making Moral Judgments in a Changing, Pluralistic, and Threatening World*, edited by Don S. Browning (New York, NY: Rowman and Littlefield, 2006) and Nicholas Wolterstorff, *Justice* (Princeton, NJ: Princeton University Press, 2008).

¹⁰ Michael Walzer, *Thick and Thin: Moral Argument at Home and Abroad* (Notre Dame: University of Notre Dame Press, 1994).

and also reflexively reaffirms an ethical outlook inclusive of all human beings and therefore is a necessary instrument in conceiving of global justice. That is why I noted before that Human Rights discourse is a fellow traveler on the road to a truly global theological ethics.

It is also at this juncture, it seems to me, that the Capabilities Approach intervenes in the discussion of global ethics. It does so, if I understand correctly, for two reasons. The first reason for an intervention is internal to the UN Declaration itself. Recall that Article 29 of the Declaration notes that only in the community is 'the free and full development of his personality ... possible.' That is to say, not only are rights and duties socially embedded, but so too is the aim of personal development. Insofar as that is the case, then, in order properly to conceive and enact human rights, one needs some conception of human development. In this respect, one can specify the necessary link between Human Rights and the Capabilities Approach, since the task of the latter is precisely to examine and articulate what is entailed in human development. And here too are implied liberal values. Recall that Mill in his *On Liberty* argued that liberty or freedom is, in his words, 'to live one's own life in one's own way'. And, further, he conceived of human beings as 'progressive beings', creatures who can and ought to struggle to form and enhance their lives through the exercise of distinctive capacities. While the Capabilities Approach differs at points from Mill's liberalism, it is still the case that human development is understood in relation to capabilities necessary for a person to be an agent in her or his own life and the life of a community.

While the UN Declaration opens within its own lines of thought reflection on human development, advocates of the Capabilities Approach argue that their tactic is not simply a matter of filling out Human Rights discourse. There is, in a word, a second reason to intervene in the discussion of global justice. One difficulty with Human Rights discourse is its relative lack of suitable measurement of the exercise of human rights. That is to say, how is one to show that in a specific social, political, or economic situation, human rights have in fact supported the 'free and full development' of persons? Often, the respecting of rights are measured economically in terms of Gross Domestic Product (GDP). An increase in a nation's GDP means that people can claim and assert their rights to a greater extent. Yet how are we sure that if GDP increases so too will peoples' rights to education, self-determination, opportunities for social participation and recognition, and also health care? Put differently, if political instruments are necessary to insure respect for basic rights, as Arendt noted, then it is clear that economic growth in terms of GDP does not in itself find political expression. Conventional economic means of measuring progress in human rights too easily ignore basic human needs required for the kinds of freedom and dignity that ground human rights and are also the aim of human development.

It is here, on my understanding, that the Capabilities Approach is linked to a larger debate among philosophers and theologians about basic goods and a naturalistic theory of ethics.¹¹ The idea is that whatever we mean by 'goodness' or 'flourishing' must be keyed to the fundamental needs or functions for a creature's well-being given the kind of creature it is. Thinkers differ on a list of basic goods, but most draw a distinction

¹¹ For other thinkers who advance some form of naturalism in ethics see, for instance, Philippa Foot, Mary Midgely, James M. Gustafson, Lisa Cahill, Germain Grisez, Don Browning, John Finnis, and Jean Porter.

between *pre-moral basic goods*, that is, those goods which are not dependent on human choice, like having a body, and *moral basic goods* that do depend on choice, say, what we do with our bodies. The Capabilities Approach understands human development in terms of those goods needed for people to exercise their capabilities and therefore measures development not simply in terms of GDP, but, rather, in terms of access to resources needed to exercise capabilities. While Nussbaum and Sen differ in their lists of 'capabilities', just as 'basic goods' theorists differ on their lists of such goods, all sides of the argument agree that human freedom and development or flourishing require goods or capabilities human beings must fulfill in order to live a recognizably good human life. And that idea, so the argument goes, is also essential to any robust conception of social justice.

However, at this juncture a question arises about whether or not the Capabilities Approach and arguments about basic goods cross the line drawn by Rawls and thereby step into offering some 'comprehensive doctrine'. And if not, is the idea of a 'liberal naturalism', if I can name it such, a coherent idea or are liberalism and naturalism necessarily opposed because of political liberalism's restriction on comprehensive doctrines? Despite philosophical and religious differences, Nussbaum and others, including myself, think not; what I am calling 'liberal naturalism' is a coherent, if so far unnamed, moral and political outlook that is important, maybe crucial, for global justice. And that is because claims about capabilities or basic goods, as well as and before, are rooted in a humanistic commitment that in principle any liberal ought to endorse. Nussbaum, for instance, writes this in the preface to *Sex and Social Justice*:

The view developed here seeks justice for human beings as such, believing all human beings to be fundamentally equal in worth. It also holds that human beings have common resources and common problems wherever they live, and that their special dilemmas can best be seen as growing out of special circumstances, rather than out of nature or identity that is altogether unlike that of other humans.¹²

Now, if I am right that the Capabilities Approach is linked to but also advances Human Rights discourse by providing a robust conception of human development, then I can partially lift my self-imposed methodological brackets and step beyond the Capabilities Approach. And I do so not in terms of rights or capabilities, but with regard to a shared humanistic commitment that demands further reflection.

Admittedly, this next step in my argument might seem counter-intuitive to many people, including Nussbaum, given the strident sectarianism and anti-humanism of so much contemporary religious practice. Accordingly, I must turn to make sense of this claim about humanistic commitments and thereby also to clarify the theological contribution to an ethics of global responsibility.

Responsibility and the Enhancement of Life

It has long been noted that fundamental patterns of moral and religious thought about life, often expressed metaphorically, connect reflection about human existence, social life,

¹² Martha C. Nussbaum, *Sex and Social Justice* (Oxford: Oxford University Press, 1999), p. 7.

and even claims about the universe. These patterns are usually deeply embedded in a culture and society; they constitute what has been called 'the social imaginary'.¹³ However, it makes a difference, as W. Clark Gilpin has noted, whether a thinker begins with human existence or social life or metaphysics and the universe.¹⁴ The critics of Human Rights—charging it with 'individualism'—often begin their reflection on the 'pattern of life' within the social life of some community whereas, as we have seen, Human Rights discourse and also the Capabilities Approach articulate a fundamental pattern by beginning with the human person and her or his rights and capabilities. Not surprisingly, some theologians and philosophers have sought to articulate the 'pattern of life' from a metaphysical beginning point.¹⁵ The metaphysical gambit is cut off, so it would seem, if John Rawls' restriction on comprehensive doctrines within 'political liberalism' is accepted root and branch, as both Human Rights discourse and the Capabilities Approach seem to do.

Is that all that can be said for a humanistic viewpoint developed through what I have called 'liberal naturalism' in moral theory? In other words, is it the case that conceptions of the interrelations between self and society so important for the Capabilities Approach and Human Rights discourse can be sustained without any account, metaphorically articulated of course, of the moral space, the encompassing environment, of social and individual life?

Despite beginning with what human beings share and the development of capabilities along with rights needed for the development of individual's life in community, it is the case that some conception of the scope of the environment of life is to be found in both Human Rights discourse and the Capabilities Approach. What is at stake, we can say, is the extent of our relations that constitute the moral space, the background pattern, for our lives and the struggle for global justice. Nussbaum is especially clear on this point. In several works, she has insisted that human transcendence, that is, our distinctive ability or freedom to go beyond oneself and our needs in order to connect with others and their needs, is strictly and solely a 'lateral transcendence'. The only object or end of human transcendence is other human beings. These acts of lateral transcendence, she further argues, are suffused with emotion, imagination, freedom, and also our rational capabilities. The religions, on this account, misrepresent the object or term of transcendence identifying it, wrongly for her, with gods, heavenly beings, and the like. This religious misrepresentation is a dangerous threat to social justice because it means, Nussbaum contends, that religious people use other people as a mere means to a religious end. In other words, a religious conception of transcendence necessarily denies human dignity and persons as 'ends in themselves'. Given this fact, it is important to clip the wings of human transcendence, one might say,

¹³ See Charles Taylor, *Modern Social Imaginaries* (Durham, NC: Duke University Press, 2004) and David E. Klemm and William Schweiker, *Religion and the Human Future: An Essay on Theological Humanism* (Oxford: Wiley-Blackwell, 2008).

¹⁴ W. Clark Gilpin, *Religion Around Emily Dickinson* (University Park, PA: Pennsylvania State University Press, 2015). The attempt to specify heuristic patterns of thought is found among many American theologians ranging from the work of Jonathan Edwards in the 18th Century to, in our time, H. Richard Niebuhr, James Gustafson, Sallie McFague, and, most recently, Kristine Culp.

¹⁵ See Iris Murdoch, *Metaphysics as a Guide to Morals* (London: Allen Lane, 1992) and Franklin I. Gamwell, *The Divine Good: Modern Moral Theory and the Necessity of God* (San Francisco, CA: Harper, 1990).

and restrict transcendence to our lateral relations to others, or what Charles Taylor has nicely called 'the immanent frame'.¹⁶

Now, I do not deny that too often religious people have demeaned the lives of others in both violent and non-violent ways. That religious people have so acted is a simple empirical fact. The danger that fact poses to social justice is also why I want to reclaim some form of religious humanism, what I have called, for a variety of reasons, 'theological humanism' as the standpoint from which to examine and articulate a 'pattern of life'. But precisely by insisting on the human as the beginning point for reflection on self-society-and-universe, that is, on a 'pattern of life', the question becomes whether human transcendence is always and only 'lateral transcendence'. The background assumption of claims about lateral transcendence would seem to be a form of naïve realism, that is, that what we sense and know empirically demarcates the scope and depth of reality. Obviously, that is not the case for the religions which, as the sociologist of religion Robert Bellah has argued, create other worlds that interact and shape and are shaped by the everyday world.¹⁷ These 'other worlds', are, importantly, crucial to human evolution and human aspiration.¹⁸ And Bellah goes so far as to claim that human beings can only endure certain periods of 'dreadful immanence' marked by loss and death. In order to meet the reality of death and to forge a future, human beings must move in, between, and among worlds. On a religious account, human beings have the ability to move in, between, and among multiple worlds through ritual, play, imagination, emotions, social encounters and the like. This is one reason why I have called our global age 'the time of many worlds'; we live among competing worlds. The point to note, then, is that religion is one form of cross-worldly movement and thereby is crucial to human evolution.

In order to answer Nussbaum's quite justified worry about the moral danger of 'religious transcendence' one must, I contend, develop a way to think about the relation between rights and capabilities as markers of human dignity where that dignity backs rights and funds human development. That is to say, if the idea of free human development opened discourse on Human Rights to revision in terms of the Capabilities Approach, then the question of human transcendence and its scope begs for theological reflection. Accordingly, I can now lift completely the methodological brackets on our inquiry and enter into theological reflection, but I do so, mindful of my fellow travelers, from a humanistic perspective.

At issue, I believe, is how one makes sense of the human ability to move between worlds, between determinate domains of meaning, however created – by God, through the human imagination, in metaphysical speculation, by play and ritual, through revelation, or in moods, sensibilities, and emotions (say, love, care, or concern) – and the moral claims enumerated in Human Rights discourse and also the Capabilities Approach. If time allowed, I would at this step in the argument provide an account of five different

¹⁶ Charles Taylor, *A Secular Age* (Cambridge, MA: Harvard University Press, 2007).

¹⁷ See Robert N. Bellah, *Religion in Human Evolution: From the Paleolithic to the Axial Age* (Cambridge, MA: Harvard University Press, 2011). In the John Templeton Foundation funded *The Enhancing Life Project* of which I am a Principle Investigator, we call these 'counter-worlds' and to live rightly among them requires following various 'spiritual laws'. On this see www.enhancinglife.uchicago.edu.

¹⁸ See *Theological Reflection and the Pursuit of Ideals: Theology, Human Flourishing, and Freedom*, edited by David Jasper and Dale Wright (Farnham, UK: Ashgate, 2013).

'types', including 'sub-types', of basic goods (pre-moral and moral) that must be integrated in order for a recognizably human personal and social life to endure. I could also show that a distinctive form of freedom or liberty is implied in the work of 'integration', meaning that the diversity of ways people can and do integrate their lives is itself a fundamental good and correlate right. That argument, just hinted at here, would fill out my version of 'liberal naturalism', as I have called it. But the more immediate challenge now is how the integrity of one's own life and the lives of others makes a claim on a person and how, if at all, that claim expands the range of human transcendence beyond its constriction to the 'immanent frame'. In order to do so, I want to examine briefly the idea of 'conscience' and the moral claim put on us by others, ourselves, and the divine. Conscience is a mode of being a moral creature and therefore freedom of conscience is a human right.¹⁹

Conscience, from the Latin *conscientia*, has meant many things in philosophical and theological thought—too many meanings to examine here. However, one feature is that it demarcates a 'doubleness' in the self. That is, self-knowledge is always with knowledge of another and the claim of that other on the self. Kant spoke of its terms of a person in the person; Martin Heidegger talked about the call of conscience as the call of the authentic self to the fallen self; the Stoics spoke of a divine spark in the self; St. Paul thought it was knowledge of the Law written on the heart, as did John Calvin; and Paul also worried about offending the conscience of others, even while Luther spoke of the terrified conscience. My point is not to rehearse names, but, rather, to note that 'conscience' usefully articulates a conception of humanity in which we know ourself in and with the claim of another on us as itself a movement between domains of meaning, between worlds. Conscience is a term for the scope of human transcendence operative within and beyond the 'immanent frame' or 'dreadful immanence' in which the claims of the 'integrity' of life, one's own and that of others, is constitutive of the self. In the religions, this means that 'conscience' is a communication among and between worlds, including the divine world. And this is why, on my account, the right to freedom of conscience finds many of its historical roots in the freedom of religion, that is, the freedom to follow or to reject the claims of a religious community.

In other words, the claims of conscience provide a humanistic beginning point for a 'pattern of life' linking self, society, and the ultimate environment of life, whether divine or not, in a way that makes responsibility the condition for peoples' specific identities, rather than their specific identities constituting the conditions for and limits of responsibility. And that is a point, as far as I can see, that Human Rights discourse and the Capabilities Approach must endorse as two humanistic but also global outlooks on social justice. Lifting the brackets on our inquiry thereby lets us see the constitutive contribution theological reflection on conscience makes to the shared effort to fashion a global ethics. In this light, I think we can rightly speak of the cosmopolitan conscience important for our global age.

¹⁹ For a further discussion see William Schweiker, *Dust That Breathes: Christian Faith and the New Humanisms* (Oxford: Wiley-Blackwell, 2010).

Conclusion

I want to conclude these reflections with a brief response to an obvious objection to my argument, especially insofar as it is developed theologically around the ideas of multiple worlds and also a religious conception of conscience. The critic of my position might state that the symbolic, ritual, and narrative resources of the religions that are used to imagine and conceive of their 'pattern of life' are too awash in blood and authoritarianism ever to be of any use in forging a humane global ethics. For example, ISIS, or the Islamic State, claims, as reported in *The New York Times*, to find warrant in the Qur'an to allow, and even to demand, the rape of non-Muslim women and girls and to use that teaching to recruit young men to their cause.²⁰ Such violent and authoritarian interpretations of Islam seem, the critic holds, endemic to Islam and therefore that religion cannot serve the purpose of global justice. And the critic would further argue that such atrocities are not only in Islam; they are found, if truth be told, in virtually all of the world's religions. The conclusion to draw, then, is that it is best to reject religious resources in developing a global ethics.

I admit that this is indeed an incredible problem facing anyone daring enough to use religious resources in ethical reflection. But the critic, it seems to me, has missed a crucial point of my argument. Conscience, I have argued, is a concept for the movement between worlds as the human mode of moral being and that mode of being communicates the claim of the integrity of life, one's own and that of other living beings, as constitutive of self. From this idea, I have specified a human right and capacity to determine the humane use of religious resources and also the norm for the rejection of inhumane expressions of religion. Religions—Islam, Christianity, Buddhism, and others—are not self-interpreting. They are interpreted and lived by human beings. The claims of the cosmopolitan conscience, I am arguing, provide the norm for the interpretation of a religion's resources and orientation for how to live in our global times. I suspect that even non-religious traditions face some version of the critic's challenge. I have merely tried to suggest how an ethics funded by religious resources might meet the criticism for the sake of enhancing life in the global age.

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²⁰ Rukmini Callimachi, 'Enslaving Young Girls, The Islamic State Builds a Vast System of Rape', *The New York Times*, CLXIV:56, 958, pp, A1, A12-13.

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Global Justice in Lutheran Political Theology

Carl-Henric Grenholm

The purpose of this article is to examine the contributions that might be given by Lutheran political theology to the discourse on global justice. The article offers a critical examination of three different theories of global justice within political philosophy. Contractarian theories are criticized, and a thesis is that it is plausible to argue that justice can be understood as liberation from oppression. From this perspective the article gives an analysis of an influential theory of justice within Lutheran ethics. According to this theory justice is not an equal distribution but an arrangement where the subordinate respect the authority of those in power. This theory is related to a sharp distinction between law and gospel. The main thesis of the article is that Lutheran political theology should take a different approach if it aims to give a constructive contribution to theories of justice. This means that Lutheran ethics should not be based on Creation and reason alone – it should also be based on Christology and Eschatology.

Different theories of global justice have been elaborated both within political philosophy and theological ethics. Several of these theories take their starting point within the social contract tradition, and often justice is understood to mean an equal distribution of liberty, power and welfare. In this article the purpose is to examine the contributions that might be given by Lutheran political theology to this discourse on global justice. Is there any particular perspective on global justice that can be derived from Lutheran political ethics?

The first part of the article will critically examine three different theories of global justice within political philosophy. Thomas Pogge and Charles Beitz have elaborated such a theory from a contractarian perspective. An important critique of this contractarian theory is given by Martha Nussbaum who argues that we need an alternative approach to global justice. This is the capabilities approach. My thesis is that an even more plausible alternative is proposed by Iris Marion Young. She argues that global justice can be understood as liberation from oppression and domination.

What then might be a Lutheran contribution to this ongoing philosophical discourse on global justice? The second part of the article will give a critical examination of previous theories of justice within Lutheran ethics. Political ethics in Lutheran tradition has mainly been characterized by a patriarchal principle, according to which those who are subordinate should respect the authority of those in power. A conception of justice which is in accordance with this hierarchical view of society is developed by Helmut Thielicke. He argues that justice is not an equal distribution but a social

arrangement where the differences between superiors and subordinates are respected. This is a patriarchal interpretation of justice that is related to a sharp distinction between law and gospel, which means that the gospel does not give any contribution to political ethics.

If Lutheran political theology aims to give a reasonable contribution to theories of global justice it is necessary to take a different approach. The third part of the article will give a proposal for such an alternative interpretation of Lutheran ethics. My main thesis is that Lutheran ethics cannot be based upon Creation and reason alone, in order to avoid a legitimizing position. It should also be based upon Christology and Eschatology. This means that we should abandon the sharp difference between law and gospel within ethics. From a Christological perspective it would be possible to develop a plausible perspective on global justice. God's sacrificial love in Christ can inspire a political practice that supports those who are marginalized and suffer from poverty. From this perspective it is possible to argue that global justice means liberation from oppression.

Theories of Global Justice

The discourse on global justice within political philosophy often takes as its starting point an awareness of a widespread poverty and a global inequality. This inequality makes it necessary to develop a theory of justice that is relevant for human relations across national borders.¹ Most efforts to elaborate such a theory have been based on a social contractarian approach. This is the approach elaborated by John Rawls in his important work *A Theory of Justice*, where he argues that principles of justice are justified if they are accepted by free and rational persons in an original position of equality. According to this approach the principles of justice are chosen behind a 'veil of ignorance', where no one knows his place in society.²

In his book *The Law of Peoples*, John Rawls proposed some principles of rights and justice that can be applied to the global world order. They include that peoples are free and independent, that the peoples should respect human rights, and that the peoples should assist other peoples who are suffering from bad conditions. However, they do not include the 'difference principle', according to which a just distribution of welfare should be to the greatest benefit of the least advantaged.³

More promising efforts to elaborate a theory of global justice from a contractarian perspective have been made by Thomas Pogge and Charles Beitz. They think of the original position as applied directly to the world as a whole and argue in favor of a distributive principle applicable to the global economic system. According to them the difference principle is important within a theory of global justice and there are strong

¹ Thomas W. Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002), pp. 144, 172, and 176. See also Göran Collste, *Global Rectificatory Justice* (Hampshire: Palgrave Macmillan, 2015), pp. 17f. and 23f.

² John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1976), pp. 11f.

³ John Rawls, *The Law of Peoples* (Cambridge: Harvard University Press, 1999), p. 37.

reasons in favor of social equality. We need a global redistributive system with transfers from the wealthy part of the world to those suffering from poverty.⁴

These proposals for a theory of global justice are based upon a contractarian theory, according to which a principle of justice is justified if it would be chosen by rational persons behind a veil of ignorance. In a global approach to justice the hypothetical device of a social contract should be transferred from a nation to the world as a whole. Representatives of the world's population should deliberate upon principles of justice behind a veil of ignorance. They would then agree upon principles of justice which are relevant not only to national governments but also to international institutions.⁵

However, this contractarian theory is controversial. It presupposes a liberal view of human beings, according to which we could reach a universal agreement upon what justice means by making ourselves free from our social position and making a choice as individuals behind the veil of ignorance. The problem is that we can never make such rational and independent choices. We are always formed by the particular social and cultural contexts to which we belong, and dependent on our social position we will have different perspectives upon what justice means. This is particularly true if we are regarded to be representatives of a people or a cultural tradition in a global deliberation.

A sharp critique of theories of global justice within the social contract tradition is given by Martha Nussbaum in her book *Frontiers of Justice*. She finds grave difficulties both with John Rawls's approach and the global contractarian theories of Thomas Pogge and Charles Beitz. One difficulty with this proposal is according to Nussbaum its vague and speculative nature. Pogge and Beitz do not give us clear information about the design of the global original position and about the circumstances under which the social contract is made. If the point of the contract should be mutual advantages among rough equals, this seems difficult to reconcile with the fact that there are vast inequalities in basic life chances among individuals in a global perspective.⁶

The conclusion of Nussbaum is that we need an alternative approach to global justice than the ones elaborated within the social contract tradition. This is the capabilities approach. According to Nussbaum this is an account of core human entitlements that should be respected and implemented by all nations, as a minimum of what respect for human dignity requires. She proposes a list of central human capabilities and argues that each of them is implicit in the idea of a life worthy of human dignity. The principle of human dignity means that we should always treat every human person as an end in herself and never treat her as only a means to another end. An implication of this principle is that there is a threshold level of capabilities, beneath which it is held that truly human functioning is not available to citizens.⁷

⁴ Thomas W. Pogge (ed), *Global Justice* (Oxford: Blackwell Publishing, 2007), pp. 15ff. and 106ff. For a critical discussion of these theories of Rawls, Pogge and Beitz, see Göran Collste, *Globalisering och global rättvisa* (Lund: Studentlitteratur, 2004), pp. 119ff. and 151ff.

⁵ Göran Collste, 'Economic Globalisation and Global Justice', in Carl-Henric Grenholm and Normunds Kamergrauzis (eds), *Sustainable Development and Global Ethics* (Uppsala: Acta Universitatis Upsaliensis, 2007), pp. 122f.

⁶ Martha Nussbaum, *Frontiers of Justice. Disability, Nationality, Species Membership* (Cambridge, Mass: The Belknap Press of Harvard University Press, 2007), pp. 265f., 266f. and 268ff.

⁷ *Ibid.*, pp. 70f.

According to Nussbaum, there are some central capabilities which should be secured to each and every person. They include being able to live to the end of a human life of normal length, being able to have a good health, and being able to move freely from place to place. They also include being able to participate in political choices. It is possible to achieve an agreement upon these universal values by cross-cultural discussions. The central human capabilities can be the object of an overlapping consensus, among people with different comprehensive ethical or religious conceptions.⁸

The capabilities approach, as interpreted by Martha Nussbaum, is in many ways similar to the international human rights approach. She describes it as one species of such a theory of human rights. One similarity is its universalism, which means that a cross-national agreement on capabilities is assumed. Another similarity is its starting point in the idea of human dignity. According to Nussbaum this idea means that all human should have the capability for central functionings in human life, and therefore the capabilities should be sought for each and every person. At the same time this is not an egalitarian theory of justice. She argues that individuals vary greatly in their need for resources.⁹

The capabilities approach gives an interpretation of global justice that is fruitful in many respects. Its starting point is not a contractarian theory but a principle of human dignity. However, there are at least two shortcomings with Nussbaum's theory. One is that it does not challenge the basic power structure in the global and political order. She argues that economic redistributions, in the form of international aid, are called for in order to reduce some of the global inequalities. However, a reasonable theory of global justice should also deal with those political and economic power structures that make these inequalities possible.

Another shortcoming is that her theory of human dignity is non-egalitarian. In her interpretation human dignity is respected if all humans have capabilities to realize a good human life, but this does not mean that we should strive for an equal distribution of resources and welfare. However, a more reasonable interpretation of the principle of human dignity is that it includes a principle of equality. The idea of human dignity means that all humans should always be treated as ends in themselves, but it also means that all humans are entitled to the same concern and respect. We should treat every human being as an equal, and this means that justice is an equal distribution of freedom, power and welfare. It is not enough that all humans attain a minimum of the good life.¹⁰

A more plausible theory of global justice is proposed by Iris Marion Young. In her book *Justice and the Politics of Difference* she argues that justice refers not only to a distribution of social goods but also to the institutional conditions necessary for the development of individual capacities and collective cooperation. According to Young, it is a mistake to reduce social justice to a distribution of wealth, income, and other material goods. Thereby we tend to ignore the social structure and institutional context which often determine distributive patterns. However, justice concerns the degree to which a

⁸ Martha Nussbaum, *Women and Human Development. The Capabilities Approach* (Cambridge: Cambridge University Press, 2001), pp. 41ff. and 76ff.

⁹ Nussbaum, *Frontiers of Justice*, pp. 78 and 292; Nussbaum, *Women and Human Development*, pp. 70ff. and 86. A clarifying analysis of Nussbaum's theory is given in Jenny Ehnberg, *Globalization, Justice, and Communication* (Uppsala: Acta Universitatis Upsaliensis, 2015), pp. 94ff.

¹⁰ A similar critique of Nussbaum's theory is given in Ehnberg, *Globalization, Justice and Communication*, pp. 122ff.

society contains the institutional conditions necessary for the realization of a good human life.¹¹

According to Young, there are two values that constitute the good life. One is self-development, which means developing and exercising one's capacities and expressing one's experience. The other one is self-determination, which means participating in determining one's action and the conditions of one's action. Justice is the institutional conditions necessary for the realization of these two values. To these values correspond two social conditions that define injustice, namely oppression and domination. They are the institutional constraints on self-development and self-determination.¹²

From this perspective justice can be understood as liberation from oppression and domination. According to Young, domination consists in institutional conditions which inhibit or prevent people from self-determination and participation in decision-making. There are five faces of oppression; that is, systematic processes which prevent people from developing their capacities. They include exploitation, marginalization and powerlessness, which means a lack of authority, status and respectability. They also include cultural imperialism and violence.¹³

This is a conception of justice that seems to be a fruitful alternative to contractarian theories and the capabilities approach. It takes seriously the idea that justice is not only an equal distribution of social goods but also a revision of existing power structures in the global political and economic order. Liberation from domination and oppression seems to be an adequate interpretation of what global justice would mean. This theory gives a relevant perspective for a critical evaluation of the global market economy and the global institutional order. The globalization processes today seem to be associated not only with economic inequalities but also with exploitation, powerlessness, marginalization, cultural imperialism and violence. To promote global justice we should not only strive for an equal distribution of welfare and freedom but also for liberation from oppression and domination.

Justice in Lutheran Political Ethics

What then might be a Lutheran contribution to this ongoing philosophical discourse on global justice? Is there any particular perspective on global justice that can be derived from Lutheran political ethics? If we accept the analysis of Martha Nussbaum and Iris Marion Young we can argue that a reasonable theory of global justice should fulfill three conditions. First, it should give a plausible alternative to contractarian theories, and at the same time it should give a tenable justification of an egalitarian conception of justice. Secondly, it should be related to a theory of human dignity that includes a principle of equality. Thirdly, it should give a relevant perspective for a critical evaluation of existing political and economic power structures.

¹¹ Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990), pp. 15ff. and 39.

¹² *Ibid.*, p. 37.

¹³ *Ibid.*, pp 48f., 53f., 56f., 58f. and 61f.

Would it be possible to elaborate such a theory of global justice within the framework of Lutheran ethics? One main problem is that the conception of justice in Lutheran ethics often has been non-egalitarian, and that Lutheran theology seldom has given resources for a critique of prevailing social structures. Instead, Lutheran political theology has often defended an interpretation of justice that is hierarchical and patriarchal. Justice has often been interpreted to mean that the subordinate should respect the authority of those in power.

Political ethics in Lutheran tradition has often been related to the doctrine of God's two kingdoms. This doctrine, with its sharp distinction between law and gospel, has often been interpreted in such a way that it has legitimized existing social structures. According to the doctrine, God is acting in the secular realm through the law and the sword in order to promote political justice. The state should be governed by reason and the natural law, which anyone can understand independent of God's revelation in Christ. This means that the gospel does not inform the content of political ethics.¹⁴

The distinction between the two kingdoms is closely related to three characteristic ideas in Luther's political ethics. First, it is based upon reason and the natural law, as it is expressed in the Decalogue. The gospel does not give any contribution to the content of ethics. Secondly, Luther defends an ethical dualism according to which the content of political ethics is different from the Christian ideal of love, which is relevant only within private morality. It is necessary that political authorities use violence and coercion in order to protect humans from evil, and this means that sacrificial love is not an ideal in political ethics. Thirdly, his view of society is patriarchal, which means that it is our duty to obey superiors. There is equality between humans before God, but this is of no relevance for the meaning of social justice.¹⁵

Luther's patriarchal interpretation of Christian ethics is obvious in his treatise *Von den guten Werken*. Here he argues that good works are in accordance with the commandments in the Decalogue. These commandments are interpreted in such a way that they clarify the virtues we should try to develop, such as faith, obedience, purity and generosity. To love one's neighbor means above all to respect the Fourth Commandment, which prescribes that we should obey all those who are our superiors. Children should obey their parents, women should obey their husbands, and citizens should obey their political authorities. The father who cares for his children and expects obedience from them is a model for those in political and economic authority.¹⁶

The analysis of political ethics in Lutheran tradition that is given by Ernst Troeltsch in his classical study *The Social Teaching of the Christian Churches* is clarifying in at least two respects. First, he argues that Lutheran ethics is of dual origin. On the one hand, there is an ideal of self-sacrificing love, but this is relevant only within individual ethics. On the other hand, natural law as summarized in the Decalogue is the norm which is guiding the state, economics and the family. Secondly, Troeltsch demonstrates that the law of nature is interpreted in such a way that it demands an unconditional respect for

¹⁴ An analysis of Luther's ethics and political ethics in Lutheran tradition is given in Carl-Henric Grenholm, *Tro, moral och uddlös politik. Om luthersk etik* (Stockholm: Verbum, 2014), pp. 41ff. and 71ff.

¹⁵ These three ideas are expressed quite clearly in Martin Luther, *Von weltlicher Oberkeit, wie weit man ihr gehorsam schuldig sei* (1523). WA 11, 251:1-31; WA 11, 253:17-32; WA 11, 254:27-255:21.

¹⁶ Martin Luther, *Von den guten Werken* (1520). WA 6, 204:13-24; WA 6, 250:22-28; WA 6, 263:5-28.

authority as such. Lutheran social ethics is characterized by a patriarchal principle, according to which the authorities should care for the subordinate and those who are subordinate should respect the authority of those in power.¹⁷

From this perspective it is easy to understand that justice in Lutheran tradition has seldom been interpreted to mean an equal distribution of welfare and power. Instead it has often been regarded to be a respect for the differences between the subordinate and the authorities in society. The doctrine of justification by grace alone means that there is equality between humans before God, independent of our merits and social position. However, this equality has not been regarded to have any relevance for the meaning of social justice. The reason is that we should make a sharp distinction between law and gospel.

There are different interpretations of political ethics within Lutheran tradition. However, one of the most influential forms of Lutheran political theology was elaborated in Germany in the beginning of the twentieth century. This was the 'theology of orders', developed by such leading Lutheran theologians as Friedrich Gogarten and Paul Althaus. They were influenced by the Luther renaissance and had an ambition to clarify an ethical position that was in accordance with Luther's own theology. Their ambition was also to elaborate political ethics and a theory of the state in dialogue with the surrounding society.¹⁸

This theology of orders had a great impact on Lutheran ethics also after the Second World War. One of the most influential Lutheran ethicists in the middle of the twentieth century was Helmut Thielicke, who was professor in Hamburg during 1954-1978. In his impressive work *Theologische Ethik*, published in four volumes, he argues that God has given us orders that are frameworks for human life. Marriage is given by God in Creation and state, economy, law and culture are given by God after the fall, in order to protect human beings from the evil that is a result of sin. In this theology of orders ethics is based on the doctrine of Creation and the gospel does not give any substantial contribution to political ethics.¹⁹

Helmut Thielicke emphasizes the sharp distinction between law and gospel. According to him, the capacity to understand this distinction is the criterion of a good theologian. A consequence of this distinction is that ethics is not based upon Christology. He is criticizing the ideal of *imitatio Christi*, which means that we should try to follow Christ and regard his life as an ethical ideal. To believe that Christology can give a contribution to ethics is to transform the gospel into law.²⁰

In his political ethics Thielicke instead develops the doctrine of the two kingdoms. He argues that the main idea in this doctrine is that social ethics should be based upon reason and human experience. In the secular realm there is no particular Christian ethic. Here Christians should cooperate with persons without a Christian faith,

¹⁷ Ernst Troeltsch, *The Social Teaching of the Christian Churches. Volume II* (Louisville, Kentucky: Westminster/John Knox Press, 1992), pp. 523ff., 526f., 529ff., 532ff., and 540ff.

¹⁸ A critical analysis of Gogarten's and Althaus's political theology is given in Grenholm, *Tro, moral och uddlös politik*, pp. 81ff. and 87ff.

¹⁹ Helmut Thielicke, *Theologische Ethik*, I. Band (Tübingen: JCB Mohr (Paul Siebeck), 1951), pp. 693f., 701 and 709; Helmut Thielicke, *Theologische Ethik*, II. Band, 2 Teil (Tübingen: JCB Mohr (Paul Siebeck), 1966), pp. 21ff., 135ff. and 173f.

²⁰ Thielicke, *Theologische Ethik*, I. Band, pp. 189f., 203f. and 307f.; Thielicke, *Theologische Ethik*, II. Band, 2 Teil, pp. 710ff.

and they have to argue in such a way that their reasons can be understood by all humans.²¹

Three ideas are important within the political ethics of Helmut Thielicke. First, he argues that the power of the state should be limited in order to avoid the risk for a totalitarian state.²² Secondly, he argues that the state should be regarded as an authority (*Obrigkeit*) – even in a democratic society. This idea, that the state has a particular authority, is an important part of the doctrine of the two kingdoms. As an order, given by God after the fall, the state has got the task to preserve human life against the evil, and therefore it should be respected as an authority.²³

Thirdly, Thielicke has a conception of justice which is in accordance with the patriarchal principle. He argues that justice should take into consideration the equal worth of human beings and the similarities before God. At the same time justice should also consider the actual differences between humans in society. Justice as *suum cuique* means according to Thielicke that everyone gets her due considering that all humans are different.²⁴

Thielicke makes a distinction between ‘arithmetical justice’ and ‘geometrical justice’. The arithmetical justice means absolute equality, that is an equal distribution of goods. This kind of justice treats all humans equally and does not consider their individual differences. However, geometrical justice takes these differences regarding qualities and position into consideration. Therefore justice is not an equal distribution but a social arrangement where the differences between superiors and subordinates are respected. According to Thielicke we should promote this kind of geometrical justice.²⁵

Thus, it is obvious that Helmut Thielicke defends a hierarchical view of society, according to which the state should be regarded as an authority and equality should not be promoted. This patriarchal ideal is justified by an ethical theory which takes its starting point in a theology of orders. A sharp distinction is made between law and gospel, which means that ethics is based on the doctrine of Creation and not on Christology. Political ethics is a matter of reason, and the gospel does not give any substantial contribution to ethics. This kind of Lutheran ethics does not give resources for a critique of existing power structures.

It is also obvious that this kind of Lutheran political theology does not give any fruitful contribution to the current philosophical discourse on global justice. I have argued that a reasonable theory of global justice should fulfill three criteria. It should give a plausible alternative to contractarian theories, it should include an egalitarian conception of justice, and it should give a relevant perspective for a critique of political and economic power structures. However, the conception of justice elaborated by Helmut Thielicke is quite different from that. This is a non-egalitarian interpretation of justice related to a hierarchical view of society. Here justice does not mean liberation from oppression but that the subordinates should respect the privileges of the superiors.

²¹ Helmut Thielicke, *Theologische Ethik*, II. Band, 1 Teil (Tübingen: JCB Mohr (Paul Siebeck), 1959), pp. 371ff.

²² Thielicke, *Theologische Ethik*, II. Band, 2 Teil, pp. 173f., 216ff., 228ff., 302ff., 308f. and 314.

²³ *Ibid.*, pp. 5ff., 8ff., 20ff., 27ff., 31ff. and 68ff.

²⁴ Thielicke, *Theologische Ethik*, III. Band. (Tübingen: JCB Mohr (Paul Siebeck), 1964), pp. 330ff. and 333ff.

²⁵ *Ibid.*, pp. 340ff. and 342f.

A Christological Perspective on Global Justice

Does this mean that there is no plausible Lutheran contribution to the ongoing discourse on global justice? Would it not be possible to elaborate an understanding of Lutheran political ethics that can give a more reasonable perspective on what justice means? As we have seen a patriarchal interpretation of justice is related to the idea that ethics is based upon reason alone and the doctrine of creation. Today there is a sharp critique of the theology of orders, even among Lutheran theologians. However, several Lutheran ethicists argue that there is a sharp distinction between law and gospel, which means that the gospel does not give any contribution to political ethics.²⁶ If Lutheran political theology aims to give a constructive perspective on the meaning of global justice it is necessary to take a different approach.

My thesis is that Lutheran ethics cannot be based upon Creation and reason alone, if it would like to avoid an uncritical support of existing power structures. A more reasonable ethical theory should also be based upon Christology and Eschatology. Ethics is related to Creation, which means that all humans have a capacity to get at least a partial moral insight through rational considerations. But ethics is also related to Christology and Eschatology, which means that we need the guidance of God's revelation in Christ to get a comprehensive moral insight. Ethics is based upon both reason and revelation. We have moral insights that are based on reason, but Christology and Eschatology can give new perspectives on morality.²⁷

Christology can contribute to ethical reflection in several ways. The message about God's love in Christ is related to an idea of equality, according to which all humans have an equal worth before God independent of their merits. Justification by grace alone means that all humans are loved by God independent of their race, gender, social position and moral value. This trust in God's love implies a principle of human dignity that includes an ideal of equal concern and respect. It is an idea of equality that also should be applied in political ethics.

The gospel includes an image of God's sacrificial love in Christ, which gives a new perspective upon what love between human beings means. In its care for others it is prepared to give up its own good if that is necessary. It is even prepared to suffer and die upon a cross in order to promote what is good for others. This sacrificial love, as it is expressed in the life of Jesus, means that he is on the side of those who are marginalized and oppressed in society. Thereby it is relevant not only within individual ethics but also within political ethics. The ideal of sacrificial love is often combined with a sharp critique of the established authorities in society, as we can learn from the stories about Jesus Christ.²⁸

In his book on *The Scandalous God* Vitor Westhelle gives a constructive interpretation of the theology of the cross that has had an important position in Lutheran tradition. He argues that the cross gives an image not only of God's suffering but also of the conditions of all humans who are oppressed. It is necessary to get a deep

²⁶ This is the position of the influential Swedish ethicist Gustaf Wingren. See my analysis in Grenholm, *Tro, moral och uddlös politik*, pp. 137-174.

²⁷ Carl-Henric Grenholm, *Bortom humanismen. En studie i kristen etik* (Stockholm: Verbum, 2003), pp. 257ff.

²⁸ Duncan Forrester, *Theology and Politics* (Oxford: Basil Blackwell, 1988), pp. 117ff. and 121ff.

understanding of these conditions in order to make possible a hope for liberation. The cross gives us knowledge about the meaning of suffering and why Jesus and human beings have to suffer. It also gives us the hope that it is possible to overcome the cause of suffering.²⁹

What implications would Christology then have for our reflection on global justice? From a Christological perspective it would be important to support those who are social outcasts and marginalized. Our aim should be a justice that is characterized by equality, with an equal concern and respect of all human beings. It would also be liberation from different forms of oppression, like marginalization, exploitation and powerlessness. The doctrine of justification by grace alone can thus be a resource also for a critique of ideologies and political practices that support hierarchical and unequal structures. In our relationship to other human beings we should strive for a social justice that is similar to justification before God by grace alone. It means to treat all human equally independent of their merits or social positions.

This is a different approach to Lutheran political ethics than the one proposed by Svend Andersen in his study *Macht aus Liebe*. He is also critical towards Luther's patriarchal principle, his hierarchical view of society, and his lack of an egalitarian theory in social ethics. At the same time he argues that three ideas in Luther's political theology still are reasonable. One is that the love commandment is important also in political ethics. Another one is that there is a difference between God's two kingdoms. A third one is that there is a natural law and a common morality for humans with different worldviews.³⁰

From this perspective Andersen argues that there is a resemblance between Lutheran ethics and John Rawls's political liberalism. The two principles of justice that are proposed by John Rawls can be interpreted as a political application of the love commandment. The content of natural law is also similar to the normative basis of political liberalism. The theory of overlapping consensus can be understood as an important reconstruction of the Lutheran doctrine of the two kingdoms. This means that we can agree upon some basic principles of justice even if we have different comprehensive doctrines.³¹

This proposal for a reconstruction of Lutheran political ethics is not quite convincing. The reason is that Svend Andersen does not admit that there are serious problems with the Lutheran doctrine of the two kingdoms. An implication of the difference between the spiritual and the secular realm is that Christology does not give any contributions to political ethics. Andersen agrees that there is a particular Christian contribution to ethics, but he argues that this radical ideal of love is not relevant within the political sphere. This is a serious reduction of the content of Christian ethics. The idea of God's sacrificial love in Christ is an important argument in favor of an egalitarian interpretation of justice.

Another problem with the Lutheran doctrine of the two kingdoms is that it seldom has inspired a critique of prevailing social structures. Lutheran theologians have

²⁹ Vítor Westhelle, *The Scandalous God. The Use and the Abuse of the Cross* (Minneapolis: Fortress Press, 2006), pp. 74f., 81ff. and 90f.

³⁰ Svend Andersen, *Macht aus Liebe. Zur Rekonstruktion einer lutherischen politischen Ethik* (Berlin: Walter de Gruyter GmbH & Co, 2010), pp. 298ff.

³¹ *Ibid.*, pp. 301f. and 304ff.

often been too uncritical to prevalent social morality and political ideologies. Today it is obvious that political liberalism is the main ideology in Western societies, and Andersen does not deliver any critique of this political theory. This means that he does not admit that the Christian ideal of love can inspire an understanding of justice that is a critical alternative to mainstream liberal theories.

My proposal is a different one. I argue that Lutheran political theology should develop a Christological perspective on global justice. From this perspective it would be possible to challenge John Rawls's political liberalism and contractarian theories of justice. The idea of God's sacrificial love in Christ gives strong arguments in favor of a principle of equal human dignity. This principle is not only justified by enlightenment philosophy and a liberal view of humans. At the same time the theology of the cross gives arguments in favor of an understanding of justice as liberation from oppression. Global justice is not only an equal distribution of welfare and liberty, it is also a radical change of existing power structures.³²

In my proposal not only Christology but also Eschatology should be the basis for ethical reflection. Eschatology is also an obvious resource for a critique of prevailing political and economic structures. Its primary focus is the image of an ideal human community in the future Kingdom of God. This is an ethical ideal, where the needs of the poor are satisfied, there is no oppression and all humans are living in a community shaped by peace and justice. The relationships between humans are the ones characterized by Jesus in his Sermon on the Mount. This ideal can never be realized in this temporal society, but from this perspective every prevailing social structure is regarded to be imperfect. Thus Eschatology is an inspiration to continuous social critique.³³

Christian ethics should thus be developed within a Trinitarian framework. Ethics should be based upon not only the doctrine of Creation but also Christology and Eschatology. As a consequence the sharp distinction between law and gospel should be challenged within Lutheran ethical reflection. This distinction can be accepted as a way of clarifying the doctrine of justification by grace alone. According to this doctrine, humans cannot deserve justification before God by acting in accordance with the law. The only thing required from humans is faith and trust in Christ.

However, the distinction between law and gospel should be abandoned as a starting point for ethical reflection, if it means that the gospel about God's love by grace alone does not have any implications for the content of ethics. The consequence of this separation between law and gospel has been a political theology that has failed to criticize social injustice and a hierarchical society. Self-sacrificial love has not been regarded to be relevant in political ethics and the equality between humans before God

³² This Christological perspective on political ethics is further elaborated in Grenholm, *Tro, moral och uddlös politik*, pp. 252-286. On the role of Christology in political ethics, see also Elena Namli, *Human Rights as Ethics, Politics and Law* (Uppsala: Acta Universitatis Upsaliensis, 2014), pp. 147ff., 159ff. and 164ff.

³³ On the role of Eschatology in ethics, see Enrique Dussel, *Ethics and Community* (Maryknoll, New York: Orbis Books, 1988), pp. 13ff., 27ff., 47ff. and 51ff.

has not been applied to the secular realm. Thereby Lutheran ethics has taken a legitimizing position in its relationship to hierarchical societies and existing authorities.³⁴

Today it is necessary to challenge this sharp distinction between law and gospel in Lutheran ethics. This also implies that we should question the doctrine of the two kingdoms. As Dietrich Bonhoeffer argued in his *Ethics*, it is important to question the division of reality into a sacred and a profane sphere, a Christian and a secular sphere. This means that there is no secular existence which can claim autonomy for itself, independent of the spiritual existence. It is necessary to avoid thinking in terms of two spheres, since there is only one reality, and that is the reality of God. There are not two spheres, but only one sphere in which the reality of God and the reality of the world are united.³⁵

An important idea in Lutheran theology is that God acts through the Word and not through the law in order to promote justification before God. Human deeds are not relevant when it comes to our salvation, since we are justified by grace alone. However, it would be reasonable to admit that God is using not only law and the sword in the political life. The gospel about God's love in Christ is relevant also within political ethics. It will inform us about the meaning of equality and the importance of sacrificial love. This means that our understanding of justification before God informs our interpretation of political and economic justice.

From this perspective the justice we should strive for is not a patriarchal relationship between authorities and subordinates. Instead our aim should be a justice that is characterized by equality, with an equal concern and respect of all human beings, independent of their merits or social positions. Our aim should also be a justice that means liberation from different forms of oppression and domination. Sharing the perspectives of those who are marginalized and suffering from poverty we should also challenge prevailing political and economic power structures. This would be an important contribution to the discourse on global justice from a Christological perspective.

Conclusion

In this article my purpose has been to examine the contributions that might be given by Lutheran political theology to the philosophical discourse on global justice. In the first part of the article I have critically examined three different theories of global justice within political philosophy. I have criticized contractarian theories like the ones proposed by Thomas Pogge and Charles Beitz. I have also argued that the capabilities approach of Martha Nussbaum has some serious shortcomings. A more plausible alternative is proposed by Iris Marion Young, who argues that justice can be understood as liberation from oppression.

In the second part of the article I have given a critical examination of previous theories of justice within Lutheran ethics. Political theology in Lutheran tradition has

³⁴ This is also my argument in Carl-Henric Grenholm, 'Law and Gospel in Lutheran Ethics', in Carl-Henric Grenholm and Göran Gunner (eds), *Justification in a Post-Christian Society* (Eugene, Oregon: Pickwick Publications, 2014), pp. 91-106.

³⁵ Dietrich Bonhoeffer, *Ethics* (London: SCM Press, 1978), pp. 169f.

mainly been characterized by a patriarchal principle, according to which the subordinate should respect the authority in power. A conception of justice which is in accordance with this hierarchical view of society is developed by Helmut Thielicke. He argues that justice is not an equal distribution but a social arrangement where the differences between superiors and subordinates are respected. This interpretation of justice is related to a sharp distinction between law and gospel, which means that the gospel does not give any contribution to political ethics.

In the third part of the article I have argued that Lutheran political theology should take a different approach. My thesis is that Lutheran ethics should not be based on Creation and reason alone – it should also be based on Christology and Eschatology. This means that we should abandon the sharp difference between law and gospel within ethics. From a Christological perspective it is possible to argue that all humans have an equal dignity before God, and this equality should also be applied within political ethics. God's sacrificial love in Christ would also inspire a political practice that supports those who are marginalized and suffers from poverty. From this perspective global justice would mean both an equal distribution of welfare and liberation from oppression.

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Talents in the Service of Justice: Responding to Unequal Ownership beyond Compliance

Ville Päivänsalo

Over the past few decades, economic inequalities have continued to grow in most countries and the world is still lacking effective global tax schemes or corresponding structures of global distributive justice. Thus, for the world's top-owners, simply complying with the existing rules hardly suffices as a virtue of justice. In the current article, G. A. Cohen's nation-centered account of individual virtues in the service of distributive justice is elaborated further in a broader perspective. First, Cohen's basic insights into the virtues of the talented rich are reconsidered under the conditions of highly unequal Western democracies in the global age as recently depicted by Thomas Piketty. Second, it is asked with reference to the Bill and Melinda Gates Foundation, if the exceptional generosity of some superrich people can serve as a proper response to the assumed deficit of justice. Third, an ethic of generous compliance is outlined as a possible mediating approach in the discussion of the responsibilities of the talented rich in an age of high economic, health, and capability inequalities as well as public sector austerity.

Introduction

Economic inequality has reached long-term heights in most countries across the globe. The distribution of wealth has indeed accumulated in the narrow top: the richest centile of people owns about half of the global wealth today.¹ Simultaneously, virtually all states even in the global North are struggling under heavy debt burdens and thereby are at risk of losing their positions as the primary responsible agents of justice.² In this situation it is

¹ Thomas Piketty, *Capital in the 21st Century* (Cambridge, MA: Belknap Press of Harvard University Press, 2014), pp. 438. Oxfam, *Even It Up: Time to End Extreme Inequality* (2014), p. 8 (Available online at https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/cr-even-it-up-extreme-inequality-291014-en.pdf (accessed 2016-02-28)), in turn, calculated that at the start of 2014 'the richest 85 people on the planet owned as much as the poorest half of humanity' and reported that the rich have continued to grow richer.

² About the idea of primary, secondary, and perhaps also tertiary responsible agents of justice, see Ivar Kolstad, 'Human Rights and Assigned Duties: Implications for Corporations', *Human Rights*

a necessity of justice to reconsider the responsibilities of the affluent class to promote human development. What kind of virtues among the wealthy and the capable could legitimately strengthen and complement states as the primary responsible agents for social rights—or might justice be sufficed if some of the superrich donated very generously to adequate social purposes?

In *Rescuing Justice and Equality* (2008), Oxford philosopher G. A. Cohen presented one of the most elaborated philosophical attempts to integrate individual responsibilities into the discussion of reasonably egalitarian social justice. He importantly clarified the logics of voluntary compliance of the talented affluent in support of justice.³ Whereas Cohen assumed mainly the context of Western liberal democracies, Kevin W. Gray has started to elaborate a global Cohenian approach.⁴ Also, for example, the representatives of the human capabilities approach to development, centrally including Amartya Sen and Martha Nussbaum, have made interesting openings about responsibilities for development across the globe.⁵ Onora O'Neill, Thomas Pogge, and Peter Singer are among those who have also put the discussion forward.⁶ A lot, however, is still open about human capabilities or talents when it comes to the responsibilities for global justice. In particular, if we have no stable structures of global distributive justice in place, should we then merely flag for philanthropy?

In the present paper, *the talents of the wealthy are conceptualized as a possible resource for just development under the conditions of public sector austerity beyond a national scope*. I will particularly argue for the reasonable responsibility of the affluent class to support democratic states as the primary responsible agents of just development. I call my own approach an emerging *ethic of generous compliance*. This approach allows for a reasonable growth of inequalities e.g. through liberty and merits. However, the basic problem with the current inequalities—of wealth and also of some capabilities—is that they are too

Review 10:4 (2009), pp. 569-582; about the need of the viable third sector especially when indebted states have difficulties in implementing social rights as intended, see Niall Ferguson, *The Great Degeneration: How Institutions Decay and Economies Die* (London: Penguin Books, 2012). From 2008 to 2015, the total debt for OECD countries rose from nearly 80 percent of gross domestic product (GDP) to around 111 percent (Valentine Pasquali, 'Percentage of Public Debt in GDP Around the World', *Global Finance* 31 October (2015), p. 1. Available online at <https://www.gfmag.com/global-data/economic-data/public-debt-percentage-gdp?page=2> (accessed 2016-02-28)).

³ G. A. Cohen, *Rescuing Justice and Equality* (Cambridge: Cambridge University Press, 2008).

⁴ Kevin W. Gray, 'The Scope of the Global Institutional Order: Can Pogge Survive Cohen's Critique of Rawls?', *De Ethica* 2:2 (2015), pp. 23-38.

⁵ Nussbaum's main concern has been to secure a threshold of central human capabilities around the globe but not really the realization of distributive justice, see e.g. Martha Nussbaum, *Creating Capabilities: The Human Development Approach* (Cambridge, MA: Belknap Press of Harvard University Press, 2011). Sen has discussed responsibilities of justice flexibly across the division of the public and the private sphere and across regions, but not with such a systematic focus on the responsibilities of the talented wealthy as Cohen has done. See e.g. Amartya Sen, *The Idea of Justice* (Cambridge, MA: Belknap Press of Harvard University Press, 2009). About individual responsibilities for global poverty, see also Abigail Gosselin, 'Global Poverty and Responsibility: Identifying Duty-Bearers of Human Rights', *Human Rights Review* 8:1 (2006), pp. 35-52.

⁶ Onora O'Neill, *Bounds of Justice* (Cambridge: Cambridge University Press, 2000); Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Reforms and Responsibilities* (Cambridge: Polity, 2002); Peter Singer, *The Most Good You Can Do: How Effective Altruism Is Changing Ideas about Living Ethically* (New Haven, CT: Yale University Press, 2015).

huge to be explained sufficiently through such legitimizing notions. And although much of the present inequalities can be explained through outright criminal activities (which would be another story), the question of the responsibilities of the top-owners is bound to be of extreme importance in the endeavors of global distributive justice.

An ethic of generous compliance encourages philanthropy, especially when democratic states are unable to manage their responsibilities on their own. This defense of philanthropy does not stem from Utilitarian or particularly altruistic premises. Whereas e.g. Peter Singer's idea of effective altruism is rooted in Utilitarianism and recommends us to do 'the most good we can',⁷ I am mainly taking part in the discussion on fair baseline justice. I hereby assume, like John Rawls, that usually it is not a matter of justice to request people to do as much good as they can but rather to comply with fairly designed institutions. Beyond Rawls, however, I call attention to circumstances in which the prevailing institutions are far from fair and defend generousness under such non-ideal conditions—especially in the case of the talented rich. My position thus is in this respect closer to that of Rawls than Singer when it comes to its starting point, albeit at the practical level the generousness it promotes may resemble effective altruism as put forward by Singer.

In many cases generousness can be a matter of justice for the following reason which Pogge has underlined: those who have benefited from unfair global structures have the duty of justice to compensate for this.⁸ In particular, the talented rich might adopt this kind of duty until the relevant institutions have essentially become fairer. But this article, as said, is mainly about Cohen's view, which explicitly addresses the case of the talented rich as a matter of justice. I will thereby defend (1) Cohen's basic assumption that capable people must internalize the idea of social justice and thus contribute to the maintenance of a reasonably egalitarian society and (2) my own approach of generous compliance that supports both tax compliance and philanthropy as important aspects of such an internalized idea of justice in times of public sector austerity.

I will refer to the Bill and Melinda Gates Foundation as an example of a response among the superrich to the call for generosity. But to reiterate, I will argue that grand-scale philanthropy is best conceived as a virtue of justice only as a temporary or suitably limited project, for it lacks the kind of democratic accountability characteristic of democratic states. The approach of generous compliance thus urges the talented rich to voluntarily comply with effective reforms for a more egalitarian state-centered global distributive justice. Moreover, when the role of philanthropy eventually diminishes, then also the challenge of implementing basic social rights, such as the entitlements of central human capabilities in a democratically accountable manner, could become easier.

The case of Bill Gates is intriguing here for instance because, as Piketty has pointed out, he belongs to those superrich who have, to a significant degree, deserved to be affluent. In addition, the Gates Foundation is an illuminating case from the perspective of Amartya Sen's insistence that any approach to distributive justice that

⁷ Singer, *The Most Good You Can Do*, p. 1. As Singer repeatedly says, the lifestyles of effective altruists do not tend to be particularly burdensome. In this sense – not being extremely demanding – Singer's approach appears to be reasonable.

⁸ Pogge, *World Poverty and Human Rights*, pp. 12-13. I would add here that even if the current global structures benefited the poor in some respects, the unfairness of these structures can nevertheless be clear enough to legitimize the Poggean argument for the negative duty of the globally affluent to help the globally poor.

merely looks at economic measures is peculiarly narrow. Gates's contributions have clearly brought about a lot of progress, for example in terms of health-related capabilities. But the impressive results of the Gates Foundation do not refute the aforementioned suggestion that private foundations, being free from direct democratic accountability, do not suit the role of primary responsible agencies of democratic social justice as properly as democratic states themselves.

Talents and Inequality in a Free Society

The natural lottery, to use Rawls's term from *A Theory of Justice* (1971), endows people with various types and levels of endowments. It is also usual in a free society that the better endowed end up with better social positions over their course of life, becoming wealthier, healthier, and more capable than the less talented. Rawls thought that this is basically satisfactory insofar as the efforts of the more talented also benefit the least advantaged in terms of so-called primary goods.⁹ At the level of its starting points, Rawls's theory is highly egalitarian—it even appears to include a kind of common ownership of capabilities.¹⁰ But when applied to practice, could the Rawlsian approach nevertheless provide too much to the naturally talented? This is what Cohen has indeed suggested.

The narrowly structural focus of Rawls's account is at the heart of Cohen's criticism. Does Rawls's theory disregard the virtues of individuals and thereby allow any self-interested talented person to utilize the markets quite blatantly? Cohen remarks that Rawls did assign duties to individuals in terms of so called natural duties. But this is not really relevant, Cohen continues, in Rawls's account of distributive justice, which centrally relies on the idea of the moral division of labor between the state and a law-abiding citizen. It is precisely this division that allows Rawls to defend both the freedom of a citizen to do as he pleases in the domain of distributive justice and a substantial account of distributive justice.¹¹ Cohen thus interprets Rawls to essentially say that (1) '*distributive justice is a task for the state alone*' (italics mine) and to deny that (2) *also an individual must show some regard to distributive justice* and (3) *both the state and the individual must clearly show this regard* (Cohen's own view).¹² My view accords basically with (2), though I would reiterate that the amount of such a regard could vary greatly depending on the successfulness of the state in the field of distributive justice.

Cohen does not seem to take into account Rawls's concept of reasonableness in full,¹³ but be this as it may, let us now focus on Cohen's own position. Cohen illuminates

⁹ John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press of Harvard University Press, 1971), pp. 65-83.

¹⁰ Rawls pointed out that the principle of equal liberty and the difference principle (which supports maximizing the position of the least advantaged in a society) are equivalent 'to an undertaking to regard the distribution of natural abilities as a collective asset so that the more fortunate are to benefit only in ways that help those who have lost out' (*A Theory of Justice*, p. 179).

¹¹ Cohen, *Rescuing Justice and Equality*, pp. 8-9.

¹² *Ibid.*, p. 10.

¹³ In its various development stages, Rawls's theory always included the idea of reasonable persons as basically ethical persons, not as self-interested users of the system. See e.g. Ville Päävänsalo,

his assumption about individuals' responsibilities for distributive justice through a hypothetical example of a talented medical doctor who could benefit many people simply by exercising her profession. She is, however, fond of gardening, from which she could earn £20,000 a year. She would actually prefer gardening to doctoring unless she were paid £50,000 a year for doctoring. Now the problem for those who want to defend *equality, freedom, and the benefits of the talented doctor's services* basically takes the form of the following trilemma. If the benefits of service and the freedom (of occupation) of the doctor-gardener are to be rescued, then she must be paid £50,000—and equality is gone. If the benefits of service and equality are rescued, then this doctor-gardener must be compelled to work—and freedom is lost. Finally, if both freedom and equality are rescued, then we miss out on the benefits of her skillful service.¹⁴ When in need of the services of talented doctors, society may thus need to provide them with high economic incentives to serve the people and to allow inequalities to grow. Cohen emphasizes that these kinds of developments have indeed occurred in for instance the United Kingdom and the United States.¹⁵

Cohen himself ultimately resolves the trilemma by assuming that an ethical doctor-gardener is freely willing to serve society to a degree.¹⁶ I basically endorse this solution, integrating it into my own view in the following form: freely internalized responsibility for distributive justice is needed to complement the state-centered approach to distributive justice. This responsibility or virtue then needs to be substantial enough so that it enables the implementation of the kinds of equality, freedom, and social services that are constitutive of a just democratic society.

This Cohenian approach allows some degree of inequality to emerge merely as a matter of liberty—it requests the talented neither to accept complete equality nor to simply maximize social benefits. Also when Cohen reconstructs Rawls's main argument about distributive justice, he takes it for granted that the talented have better opportunities than the untalented to achieve income and wealth as well as other social goods.¹⁷ In any Cohenian approach, however, the talented are to use their liberty in a way that takes into account the demands of equality and desert (or merit).¹⁸

Taking Desert into Account

Whereas some talented individuals become affluent simply through the free market, others may legitimately *deserve* to be paid well. Cohen is in this respect critical of the

Balancing Reasonable Justice: John Rawls and Crucial Steps Beyond (Aldershot, UK: Ashgate, 2007) pp. 36-37, 84-85, 128-140.

¹⁴ Cohen, *Rescuing Justice and Equality*, pp. 184-186.

¹⁵ Cohen's focus is on the tax cut introduced by Chancellor Nigel Lawson in the UK in 1988, namely, dropping the top tax from 60 to 40 percent. This was publicly legitimized through the alleged intention to make the worst off people materially better off.

¹⁶ Cohen, *Rescuing Justice and Equality*, p. 215.

¹⁷ *Ibid.*, pp. 96-97.

¹⁸ I use 'desert' and 'merit' interchangeably in this article. Broadly speaking, these concepts refer both to the idea that a person has deserved or earned his or her affluence and to the idea that it brings about further merit if a person's effort benefits the society—I have tried to express clearly enough in each case, which type of desert or merit I am focusing on.

Rawlsian approach, which would assign the talented further benefits because their labor is also supposed to improve the position of the less fortunate. Cohen challenges precisely these further benefits: why should society favor those who are in any case likely to succeed better than others?¹⁹ In cases where the labor of the talented is particularly toilsome, though, then Cohen maintains that the talented can be entitled to further benefits for their socially useful efforts.²⁰

Like Cohen, Robin Hahnel has also argued that talents as such are not something that should automatically be rewarded. Hahnel assumes first, suggesting that this is a relevant simplification in the context of distributive justice, that the social value of a labor contribution is a combination of talent and effort. He then compares the merits of a brain surgeon, who operates at a high level of both talent and effort, to those of a garbage collector, whose talents are at a basic level but whose efforts are equal to those of the brain surgeon. Hahnel points out that here effort really is the only factor that both these persons have control over. Focusing on it would strictly speaking equalize the rewards in question. Seen more broadly, 'effort' could mean for instance longer working hours, unhealthier or more dangerous working conditions, or less pleasant work or a less gratifying education.²¹ It is difficult to say just how radical his account of economic justice eventually is, but at least it clarifies the radically egalitarian potential in any approach that questions an individual's entitlement to merits based on his or her talents.

Neither Cohen nor I represent that radical egalitarianism. Recall that in a free society, as pointed out above, at least some degree of economic differences can legitimately emerge when the services of the talented are valued higher than those of the less talented. But Cohen's position can be said to accord with that of Hahnel here: Cohen rejects any extra compensation for the talented while accepting an extra compensation on the basis of extra effort. My position, in turn, is more Rawlsian in this issue. Even though person X has not deserved his or her talents to begin with, person Y has not deserved, *prima facie*, the entitlement to the benefits from X's talents either. Thus we can legitimately and fairly agree, as a matter of social contract, that those who use their talents to benefit others will be rewarded.²² Only a peculiarly strong notion of the collective ownership of talents could refute such a position. In my view, hence, although we have not originally deserved our talents, we can deserve compensation if we have used our talents in a socially beneficial way. Sometimes this takes a lot of effort and sometimes less—further compensation for a particularly burdensome personal effort involved would usually be adequate. If, in turn, our talents have developed largely due to the efforts of others, such as our parents and teachers, we will need to share with them the merit resulting from socially beneficial labor.

In the so-called standard case, Cohen depicts the work of the talented as actually 'more congenial' than that of others.²³ Thus, the talented could not usually argue for extra

¹⁹ Cohen, *Rescuing Justice and Equality*, p. 97.

²⁰ *Ibid.*, pp. 98-107.

²¹ Robin Hahnel, *Economic Justice and Democracy: From Competition to Cooperation* (New York: Routledge, 2005), pp. 26-31. Subsequently he also takes into account responding to human needs as a relevant criterion of justice.

²² As Rawls puts it, '[t]he naturally advantaged are not to gain merely because they are more gifted, but only to cover the costs of training and education and for using their endowments in ways which help the less fortunate as well.' (*A Theory of Justice*, pp. 101-102)

²³ Cohen, *Rescuing Justice and Equality*, p. 103.

rewards on the basis of the burdensomeness of their jobs. Yet we must ask if Cohen's very general empirical assumption is really warranted. People in both leading and low-waged positions can be highly stressful. Whereas Bill Gates once warned an applicant that the responsibility of being a chief executive officer (CEO) can be 'more burdensome than he had expected' and even 'an inhuman job',²⁴ clearly many badly paid jobs are also demanding in something like inhuman ways. In an ethic of generous compliance there is no need for overarching empirical generalizations about the burdensomeness of jobs. Such issues could be considered case-by-case when needed.

I do not seek any grand generalizations on the burdensomeness of virtue either. The efficient altruists that Singer depicts tend to be highly talented, in leading positions, and donating generously—and are happy as well.²⁵ In my approach, in turn, it brings about merit if one is involved in a socially beneficial labor that is evidently burdensome. It is even better if people manage to be happy despite assuming challenging altruistic responsibilities, but I do not regard such a mentality—or the gift of happiness—as a baseline assumption in an ethics of generous compliance.

To sum up, beyond the original freedom of the talented to reasonably benefit from their talents, should they be entitled, *as a matter of justice*, to any extra compensation for their socially beneficial efforts? Unlike Cohen, I would answer affirmatively here when there are evident social benefits particularly to the least advantaged. Yet the talented, guided by their internalized sense of reasonably egalitarian justice, would not expect any splendid compensations or rewards. Accordingly, it would seem adequate and fair to give the talented *some extra benefits because of their useful service* beyond what they might have already earned in a free and reasonably egalitarian society.

In addition, as recognized in Cohen's account as well as in mine, particular diligence in one's good work or involvement in evidently burdensome tasks could add the merit to be taken into account in the considerations of distributive justice. But again, rewards that are conducive to huge socio-economic inequalities, ones that appear as unreasonable to almost anyone who seriously reflects upon them, can no longer be justified in this manner, not at least within the framework of generous compliance.

Locating Responsibilities among Economic Classes

In Piketty's groundbreaking treatise on economic history, most figures concerning the distribution of both income and ownership in Western countries since around 1900 follow a rather uniform pattern. The beginning of the twentieth century was a time of marked inequalities, which were subsequently leveled down mainly due to the two World Wars. There followed a period of moderate inequalities lasting up to the 1970s or so. Thereafter, the inequalities of both income and assets have grown again, developing towards extreme patterns, albeit with variation across countries and with different

²⁴ Bill Gates, *Impatient Optimist: Bill Gates in His Own Words*, edited by Lisa Rogak (Richmond, Australia: Hardie Grant Books, 2012), p. 12.

²⁵ '[W]e should not think of effective altruism as requiring self-sacrifice, in the sense of something necessarily contrary to one's own interests.' (Singer, *The Most Good You Can Do*, p. 4)

measures.²⁶ In the United Kingdom, the overall income inequalities have even reduced a bit since 2007. In the United States, on the other hand, the share of income going to the top one percent has continued to rise.²⁷

When it comes to ownership in particular, a cluster of intriguing questions concerns the amount of public wealth and its ratio to private wealth. In Germany, public wealth has always exceeded public debt, from 1870 all the way through to 2010. But in 2010 their amount was almost the same, thereby indicating that the '[n]et public wealth was almost exactly zero'.²⁸ In Britain and France, the amount of public capital (or wealth) was similarly almost nothing in 2010 according to Piketty. From the 1970s onwards, however, private capital has accumulated rather rapidly in all of these three countries, between 1990 and 2010 most rapidly in France.²⁹ In the United States, public wealth continued to exceed public debt significantly in 2010—despite the rising level of the public debt since about 1970. Yet in the big picture, akin to the aforementioned European countries, almost all the national capital of the United States consists of private capital.³⁰

Piketty provides some useful terminology to define inequality in private capital ownership.³¹ Allowing the concept of *low inequality* to remain hypothetical, he depicts the Scandinavian countries from the 1970s to the 1980s as examples of *medium inequality*: there the top one percent (dominant class) owned about 20 percent of the capital, the top 10 percent (upper class) owned 50 percent, and the bottom 50 percent (lower class) owned 10 percent of wealth.

The corresponding inequalities in countries of *medium-high inequality*, representing most European countries in 2010, are somewhat steeper. In societies of *high inequality* (\approx the United States in 2012), in turn, the dominant class owns some 35 percent of wealth, the upper class some 70 percent, and the lower class five percent. Finally, European societies in 1910 were even more unequal, i.e., societies of *very high inequality*.

Which agencies, then, should be identified as the primary responsible agencies for social rights under conditions of, say, medium-high inequality? Perhaps—as the traditional Nordic intuitions would suggest—public sector agencies? The amount of public wealth in all of the above-mentioned countries, however, was very low in 2010, and public sector austerity has become a commonplace almost throughout Europe thereafter. Even if we thus argue on the basis of ideal principles for the strong public

²⁶ See e.g. income inequalities in the United States, Britain, Canada, and Australia (Piketty, *Capital in the 21st Century*, p. 316). Also the overall amount of national capital follows a similar pattern for instance in Germany, France, and Britain (p. 147).

²⁷ Atkinson, *Inequality: What Can Be Done?* (Cambridge, MA: Harvard University Press, 2015), pp. 18-19. In the OECD countries on average, the gap between the incomes of the richest and the poorest deciles grew quickly from the mid-1980s to the mid-1990s and has continued to rise moderately since then (Brian Keeley, *Income Inequality: The Gap between the Rich and Poor* (Paris: OECD Publishing, 2015), p. 11. Available online at <http://www.oecd.org/social/income-inequality-9789264246010-en.htm> (accessed 2016-03-1)). In Latin America, inequalities have reduced since around 2000 (Atkinson, *Inequality*, p. 79).

²⁸ Piketty, *Capital in the 21st Century*, p. 143.

²⁹ *Ibid.*, p. 145. Atkinson's (*Inequality*, p. 173) representation of the actual public sector net worth (assets minus liabilities) in the UK reveals a major decline around 1990 and another since 2007, and by 2013 this figure was about minus 20 percent of the GDP.

³⁰ Piketty, *Capital in the 21st Century*, p. 154.

³¹ *Ibid.*, p. 248.

responsibility model, its sustainable implementation could be either impossible or very difficult without major changes in the background conditions.

But what about private owners then? In countries of high inequality, the lower class (50 percent of the people) owns merely five percent of wealth. It would indeed sound unreasonable to expect this large group of people to be the prime bearer of responsibility for social rights. They are rather the ones who unavoidably need support from others to manage their affairs. The middle-class (the 40 percent of people above the lower class) will be involved anyway. Yet if distributive justice implies any substantial equalizing policies, *prima facie*, then *the major increase in the overall social responsibility would fall onto the upper class*, and particularly onto the dominant class within the upper class. After all, in Piketty's scheme, the upper class (the top 10 percent of people), has command over about 60 percent of wealth in medium-high-income countries and even 70 percent in high-income countries. According to Atkinson's account of personal wealth (including real estate) in the United Kingdom, the top one percent owned some £700 billion while the remaining 99 percent owned about £2,400.³²

While the generous compliance model provides several possible reasons to legitimize some inequalities, *the steepness of inequalities* is of quintessential significance. Under the conditions of high economic inequality, it accordingly locates a substantial part of social responsibilities to private owners in the upper and dominant classes. But what kind of responsibilities should people of this class assume? For one thing, many of the better off have *deserved* good economic positions, and are thus entitled to them. And for another, does it not suffice for the rich to comply with the tax schemes that are democratically imposed upon them?

Supermanagers and Inheritors

In order to test our intuitions, let us consider a couple of real-life cases. One of the intriguing groups of people highlighted by Piketty are the 'supermanagers' in the English-speaking world. They have been the core group among the top earners in these countries particularly since 1980. These highly talented people have been able to utilize the opportunities of the technological development splendidly: their earnings from labor have often surpassed the capital gains from inherited wealth.³³ On the very top, however, the difference disappears. Bill Gates, who first earned his fortune due to his great talent and a great deal of effort, has later on continued to increase his fortune mainly through capital gains at a roughly similar rate as Lilliane Bettencourt, the heiress of L'Oréal cosmetics.³⁴

A part of the vast fortunes of Gates, the richest man in the world, could even be justified under the Cohenian *egalitarian* approach. If we assume that Gates has not requested any extra compensation for his work beyond his earnings in software development, he has had the freedom to benefit from his talent. In Cohen's egalitarian view, however, he should also have expressed a willingness to comply with a somewhat egalitarian tax system. In fact, he has instead expressed satisfaction with the United States

³² Atkinson, *Inequality*, p. 156.

³³ Piketty, *Capital in the 21st Century*, pp. 315-316.

³⁴ *Ibid.*, p. 440.

system as it has been.³⁵ Hypothetically spirited by Cohenian virtues, Gates and the other billionaires on the *Forbes Magazine's* top-owners list could have enabled the United States to collect from them much more taxes than what it has done. Although there are many aspects to Gates's position here, he has in fact affirmed directly to Piketty: 'I don't want to pay more tax.'³⁶

At least in the eyes of Gates's competitors such as Mitch Kapor, the billionaire co-founder of Lotus Software, Gates has also applied an unfair monopoly strategy in scaling up the success of Microsoft.³⁷ As a business leader, Gates has hardly been an altruist towards either state or his competitors. Whether he has created his success by unfair means would require further study, but at least we can safely say that a good part of his wealth cannot be justified in any Cohenian terms.

In an ethic of generous compliance, on the other hand, social merits count as one legitimizing reason for obtaining a position in the upper or dominant class. It is, of course, extremely difficult to assess the 'real social value' of Gates's effort, but it makes sense to assume that it has been great. The software initiated by his effort has clearly brought about progress. Part of the merit, however, also goes to the society that made Gates's success possible. To paraphrase President Barack Obama about the progress in high tech fields more generally: the rule of law, great teachers, roads and bridges, and the originally government-created Internet have all helped the successful to create their businesses.³⁸ Hence, it is quite reasonable to expect the winners in this field to pay back substantially to others, at least within their home countries. And to a degree, referring e.g. to the government's education and justice system, Gates has agreed.³⁹ On these grounds, 'supermanagers' share the kind of moral ownership of their fortunes with society. Sincere recognition of this condition could function for them as an important reason to comply with rather extensive tax schemes.

Inheritors, in turn, have characteristically done much less, if anything, to gain their fortunes. Given that e.g. Lilliane Bettencourt's fortune has grown from \$2 billion in 1990 to \$25 billion in 2010, she has hugely benefited from the existing system without any (correspondingly) substantial individual or social merit, not at least as indicated by Piketty.⁴⁰ Thereby the ethical framework as developed so far would not grant her any particular reason to oppose taxing her riches quite robustly. Likewise, although Bill Gates originally became rich largely through his own efforts, after recognizing how much the existing system has supported him on his way towards his splendid success, he might well express a degree of Cohenian willingness to comply with some quite substantial tax reforms, both domestic and international.

But before moving on to a philanthropic type of social responsibility, let me here summarize the key insights in the emerging ethics of generous compliance so far.

³⁵ In the United States, says Gates (*Impatient Optimist*, p. 101), thinking about the rise of Microsoft, '[y]ou could build a company with great success without involvement in political activities of any kind.'

³⁶ Quoted in Linsey McGoey, *No Such Thing as a Free Gift: The Gates Foundation and the Price of Philanthropy* (London: Verso, 2015), p. 24. McGoey does recognize Gates's support for the global tax on currency speculation (p. 22).

³⁷ *Ibid.*, p. 9.

³⁸ See the quote in Ferguson, *The Great Degeneration*, p. 151.

³⁹ Gates, *Impatient Optimist*, p. 120.

⁴⁰ Piketty, *Capital in the 21st Century*, p. 440.

Essentials in an Ethic of Generous Compliance

After the preliminary assumption that criminal or clearly unfair ways of acquiring fortunes are illegitimate anyway, I have called attention particularly to the following insights:

- (1) *More than mere compliance to the existing global rules* must be requested by the rich and the talented as a matter of justice assuming that the existing rules allow too much inequality to be soundly justified as rules of justice;
- (2) Particularly in times of public sector austerity, the upper and the dominant class private owners are to willingly *comply with such tax reforms* that would allow democratic states to function as primary responsible agents in the implementation of social rights;
- (3) Those among the rich *who have not deserved their increased fortunes through socially beneficial means could be expected to contribute more* than those rich whose efforts have clearly benefited society;
- (4) In delineating a fair tax scheme, it should be taken into account that many effort-based wealthy people including 'supermanagers' *have typically benefited from society* during their careers and are thus not the sole creators of their private wealth;
- (5) Before reasonably just taxing schemes are in place and in democratic control, which could take a very long time in many contexts, there also is *a need for philanthropy funded by the upper class* in addition to the less resourceful classes.

Insight (4) above actually implies that it is reasonable to expect the dominant class to comply with proper taxes to be collected to secure social rights at least in their own societies. But given the global nature of the current economic system, which has benefited the dominant class a great deal, the desired kind of willingness to comply must also be clearly extended to global-level reforms.

Including Health: Primarily through Democracy

As Amartya Sen and other representatives of the so-called capabilities approach to human development have emphasized time and again, theorists of social justice need conceptual frameworks that are flexibly sensitive to a number of measures of human development beyond income and wealth. One of the most broadly used is good health, a recognizably salient human good, for example, in the views of Pogge and Singer as well as of Norman Daniels, Jonathan Wolff, Jeffrey Sachs, and almost any major author on global justice. Focusing now on the affluent class as saliently responsible for global health and health-related capabilities, it is worth pointing out that hardly any individual has done more in this respect than Bill Gates.

Gates has transformed billions of dollars into health among the lower class people worldwide through the Bill and Melinda Gates Foundation. From 1994 to 2006, Bill and Melinda Gates donated more than \$26 billion to their foundation⁴¹ and altogether more than US\$30 billion.⁴² Beyond doubt, through dozens of development programs, these donations have brought about huge social benefits across the globe. Hence, this appears to be a very promising real-life case of generous compliance.

It is also worth comparing, however, the above-mentioned donations to Bill Gates's fortune as a whole, which has been reported to have grown from \$4 billion in 1990 to \$50 billion in 2010⁴³ and even to \$78.5 billion by November 2015.⁴⁴ Concerning annual donations, in 2015 Bill Gates headed the list of philanthropists in the United States with a sum of \$1.9 billion.⁴⁵ If channeled to single countries, this level of financing could cover the expenses of entire social sectors. For example, the United Republic of Tanzania, as of 2010, spent US\$1.4 billion on health care and Rwanda no more than US\$590 million.⁴⁶ By doubling or tripling his donations, Gates alone could easily cover half of the health spending of many poor countries—and still become richer, assuming that his fortune continued to grow at a similar pace as previously. But hypothetical cases aside, the Gates Foundation actually finances about 10 percent of the World Health Organization's budget and, as of 2013, donated to the UN Health Agency more than the United States.⁴⁷

Gates has thereby paid a great deal back to the global society through donations, in addition to taxes. Yet his generous contributions may not suffice to compensate for his unwillingness to comply with such tax reforms that could arguably be fairer than the current system. Certainly, most people in the dominant class do not contribute to social progress even remotely as much as Gates. However, without internalized support by the dominant class the democratic states in Europe, North America, and elsewhere may not be able to establish reasonably fair tax schemes. Hence, it remains inherently problematic whether dominant and upper-class people bear their responsibilities disproportionately through philanthropy.

In addition, if the share of donations and aid grew really substantially in a particular country, this can no longer be the ideal situation from the standpoint of democracy. Grand scale philanthropy risks transforming the entire service system in a

⁴¹ The Bill and Melinda Gates Foundation, 'Who We Are' (2015), Foundation FAQ. Available online at <http://www.gatesfoundation.org/Who-We-Are/General-Information/Foundation-FAQ> (accessed 2015-11-15).

⁴² *Forbes*, 'Bill Gates on Forbes Lists #6: Powerful People (2015)'. Available online at <http://www.forbes.com/profile/bill-gates> (accessed 2015-11-15). This figure is not directly comparable to the previous one; the sources begin to count the donations from different years onwards.

⁴³ Piketty, *Capital in the 21st Century*, p. 440.

⁴⁴ Real Time Net Worth as of 11/15/15: \$78.5 Billion (*Forbes*, 'Bill Gates on Forbes Lists #6').

⁴⁵ *The Chronicle of Philanthropy*, 'Special Report February 08, 2015: The 2015 Philanthropy 50', updated 2 March 2015. Available online at <https://philanthropy.com/specialreport/the-2015-philanthropy-50/3> (accessed 2015-11-15).

⁴⁶ The World Health Organization (WHO), *WHO Global Health Expenditure Atlas* (Geneva: The WHO, 2012). Available online at <http://apps.who.int/nha/atlasfinal.pdf> (accessed 2015-11-15), pp. 46, 55.

⁴⁷ McGoey, *No Such Thing as a Free Gift*, pp. 8-9.

non-democratic direction. Certainly, the talented rich are free to do a lot of good. Nevertheless, as McGoey has pointed out about ‘philanthrocapitalists’, when using their own properties as they like, they do not necessarily have any democratic accountability beyond democratic side constraints.⁴⁸

Returning to the case of Tanzania, its health sector has become increasingly dependent on foreign aid. According to a report supported by the Gates Foundation, the share of foreign resources in the country’s health sector budget increased ‘from 31 percent in 2004/5 to 37 percent of the total expenditures in 2008/9’.⁴⁹ And the WHO figure for ‘Funding from abroad’ to health care in Tanzania, as of 2010, was as high as 49 percent.⁵⁰ While this figure includes all foreign aid, it is clear that with such a high degree of dependency on aid from abroad the local government could not have a firm democratic control in the field. Part of the problem is the sheer diversity of agencies in the health sector of the country.⁵¹ Add to this the fact that giving to charities tends to be emotionally based – as Singer has also admitted.⁵²

In a reasonably egalitarian welfare democracy, in turn, the internal compliance of the talented would enable states to be strong and wealthy enough to take care of social justice. Hence, there would usually be no need for huge philanthropic initiatives. Admittedly, such ideal societies have historically speaking been rare. Therefore, great philanthropists are also needed, not least nowadays as the public economies of most high-income countries struggle under heavy burdens of debt. But this condition should not make us forget the deficiency of democracy in grand-scale philanthropy. When using the term generous compliance, I am in this spirit referring to the willingness of the talented wealthy to support the possibilities of the states to strengthen their public sectors as well as to become involved in complementary philanthropic activities.

The democratic control of philanthropy includes the idea of a viable civil society discussion. Peter Singer has even called attention to *metacharities* as salient agencies in this discussion, i.e., altruistic agencies that control other altruistic agencies.⁵³ This kind of control may usefully complement what democratic states and the corresponding international agencies can do. But at which point should we then begin to talk about some kind of charitocracy instead of democracy? Or, if the people in the control of large-scale charities actually come from the dominant class, is the question essentially about plutocracy (the rule of the wealthy) as a form of oligarchy? Moreover, the fewer affluent altruists involved, the more likely it is that this approach will remain democratic. Yet the presence of a really broad diversity of minor charity agencies runs the risk of a kind of anarchy in this field.

⁴⁸ McGoey, *No Such Thing as a Free Gift*, pp. 8-9.

⁴⁹ Action for Global Health and German Foundation for World Population (GWP), *Health Spending in Tanzania: The Impact of Current Aid Structures and Aid Effectiveness* (October 2010), p. 10. Available online at http://www.dsw.org/uploads/tx_aedswpublication/2010_10_PolicyBriefing2_Final1_LoRes_Tanzania.pdf (accessed 2015-11-15).

⁵⁰ WHO, *WHO Global Health Expenditure Atlas*, p. 55.

⁵¹ See e.g. the figure on ‘key diplomatic spaces for participating in health policy processes’ in South Africa, Tanzania, and Zambia (Amy Barnes, Garrett Wallace Brown and Sophia Harman, *Global Health Reforms in Africa: Performance, Participation and Policy* (Houndmills, UK: Palgrave, 2015), pp. 13-14).

⁵² Singer, *The Most Good You Can Do*, p. 149.

⁵³ *Ibid.*, pp. 149-164.

It is indeed a great challenge to the analysis that philanthropists akin to Gates are not mainly distributing money to the poor but are often investing in initiatives designed to enhance their health and other capabilities. This makes it even more difficult to assess the types of social benefits promoted by the approach and also to evaluate the use of power through these contributions. The Gates Foundation has actually disbursed funds to a broad range of development objectives since its beginning. In *Our Big Bet for the Future: 2015 Gates Annual Letter*, Bill and Melinda Gates depict the original idea of their agency as follows: 'We started our foundation in 2000 with the idea that by backing innovative work in health and education, we could help dramatically reduce inequity'.⁵⁴ This insight is clearly far from the idea of simply giving money to the poor. The approach of the world's richest and perhaps the world's sixth most powerful person⁵⁵ is far more about cultivating capabilities/talents at various levels of expertise in the service of human development.

But much depends on the kind of egalitarian focus in the approach. The philanthropy of upper-class people cannot really be egalitarian in any strict sense. Nevertheless, it can reduce at least some inequalities through helping the poor to defeat illnesses and to achieve a threshold of human capabilities as well as through redistributing financial assets.

Concluding Remark about an Ethic of Generous Compliance

In an ethic of generous compliance it is assumed that democratic states are still best positioned to serve as the key responsible agents of social justice—and the talented wealthy do well to support them in this role. Although privately funded humanitarian and development initiatives do a lot of good, with their limited accountability they are better suited to the roles of secondary responsible agents of just development. However, before democratic states e.g. in Europe recover from their severe public sector austerity and many other states become properly democratic in the first place, there is also a pressing need for the philanthropy of the talented wealthy in the service of justice.

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⁵⁴ Bill and Melinda Gates, *Our Big Bet for the Future: 2015 Gates Annual Letter* (Seattle, WA: Bill and Melinda Gates Foundation), p. 1. Available Online at <http://www.gatesnotes.com/2015-annual-letter#0> (accessed 2016-03-1).

⁵⁵ *Forbes*, 'Bill Gates on Forbes Lists #6: Powerful People (2015)'.

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