

# Thomas Pogge and His Critics

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interest in maintaining them. But this is not the subject of my discussion here.

- 14 Not always or without qualification, of course, as the shift of injustice can also mean the shift of jobs.
- 15 As Pogge puts it, "The global poor, who labor all day for a few dollars a month, are unable to cause us the slightest inconvenience and unable even to alert us to their plight. Thanks to our military superiority, they fall outside what Rawls has called the circumstances of justice, or are recognized as belonging under them, every apparent improvement in moral norms elsewhere in the world is severely compromised."

## 5

# Non-Egalitarian Global Fairness

Erin I. Kelly and Lionel K. McPherson

## 1 Asymmetries of justice?

Few political philosophers have been as focused as Thomas Pogge on addressing global poverty. He now emphasizes the negative duty that members of affluent countries have not to harm members of other countries. Such a duty is widely accepted and uncontroversial compared to any positive duty which persons or countries might have to assist the global poor. We will not be concerned with the empirical grounds for Pogge's claims about causes of and solutions to global poverty, claims that have become a source of controversy. Our concern will be his philosophical views, which are an earlier source of controversy.

Presumably, anyone who recognizes such a thing as global justice would agree that there is a duty not to harm members of other countries, at least given a familiar conception of harming behavior. Pogge's influence as a political philosopher is due to stronger, more egalitarian commitments he continues to seem partial to – often in the course of aggressively criticizing liberal, non-egalitarian views of global justice. The impression that he is committed to principles of global justice that are demanding and controversial arises from the body of his work.

For example, Pogge used to characterize his proposed global tax on natural resources as "an egalitarian law of peoples."<sup>1</sup> He also claimed

that an "egalitarian" concern that the current world order "generates international social and economic inequalities that are not to the maximum benefit of the world's worst-off persons" is valid given "the significant political and economic interdependencies that exist today and will in all likelihood persist into the indefinite future."<sup>2</sup> More recently, in introducing the representative collection of his work to date, he continues to claim that all human beings should enjoy "a proportional share of the world's natural resources."<sup>3</sup>

Pogge has not repudiated such sensibilities, and there is reason to believe that his shift in focus is more tactical than substantively philosophical. He argues that "you *harm* others insofar as you make an uncompensated contribution to imposing on them an institutional order that foreseeably produces avoidable human rights deficits."<sup>4</sup> This could be construed as a minimalist position, if what counts as an imposition of human rights deficits is construed narrowly – which yields no philosophically distinctive or interesting position, since no thinker imagines that violating basic human rights might generally be permissible. However, the notion of human rights that Pogge relies on to identify harms is more expansive than commonly recognized prohibitions and bears a strong relation to his earlier, more explicit egalitarian commitments.<sup>5</sup> He is drawn to a Lockean account of economic justice, which begins from the idea that persons have equal moral claims on natural resources.<sup>6</sup> Pogge's view appears far from minimal in that an institutional order's willful failure to satisfy these claims would constitute human rights-violating harms.<sup>7</sup>

Egalitarian sensibilities are also evident in Pogge's criticisms of John Rawls. Pogge has persistently criticized Rawls's account of global justice set forth in *The Law of Peoples*. Rawls argues that a principle of distributive justice, which domestically would limit and regulate economic inequality, does not apply at the global level. The main point of contention is whether this type of asymmetry in the requirements of justice is objectionably inconsistent or, instead, plausibly represents differences in the requirements of economic justice globally as compared to domestically. Pogge maintains that proponents of an egalitarian conception of justice in the domestic case cannot in good faith recognize merely a humanitarian duty of assistance in the global case, especially since an emphasis on humanitarianism tends to obscure the causal story of how the global economic order harms members of poor countries.<sup>8</sup> Unless he harbors an egalitarian conception of global justice, along with an uncommon view of what counts as harm, it is not obvious why he should find asymmetries in the requirements of domestic and global justice so objectionable.

Cosmopolitan egalitarians such as Peter Singer and Kok-Chor Tan obviously will take issue with Rawls's account of global justice: Rawls rejects the egalitarianism they take to be fundamental to a reasonable conception of justice, domestically and globally. By contrast, Pogge's work lacks a developed commitment to principles of global economic justice that go beyond a duty to eradicate global poverty. He tries to distance himself from controversial moral considerations of a kind to which cosmopolitan egalitarians might appeal, for example, the notion that accidents of birth should not be permitted to have a substantial effect on the life prospects of persons individually or collectively.<sup>9</sup> Pogge claims that a "universal criterion [of justice] ought to be modest,"<sup>10</sup> shaping the global economic order "to produce an economic distribution such that its participants can meet their most basic standard needs."<sup>11</sup> Achieving this goal, he believes, would require only moderate alterations in the current rules comprising the global order.

Emphasizing a duty to eradicate global poverty is not enough, however, to substantiate the inconsistency line of argument that Pogge runs against Rawls (and most members of affluent countries<sup>12</sup>). The political and economic interdependencies Pogge cites might be viewed as grounds to support a humanitarian duty of assistance rather than a global egalitarian principle. In fact, there are reasons to favor asymmetries in the requirements of domestic and global justice that could be countered, it seems, only by a strong form of egalitarianism. We resist the suggestion that an egalitarian conception of domestic justice implies cosmopolitan egalitarianism and will argue that egalitarianism writ globally risks conflicting with autonomy, toleration, and respect across societies.

We are sympathetic to Pogge's sense of moral priorities. Eliminating global poverty is morally urgent. Moreover, we agree that principles of global justice are not plausibly rooted in egalitarian foundations but, rather, are better elaborated with appropriate notions of cooperation and reciprocity. Thus we will argue forthrightly that commitments to eradicating global poverty and to global fair trade, which are targets of modest principles of global justice, do not imply a commitment to egalitarianism. We also argue that concerns about global poverty can be addressed by what we will call *cosmopolitan cooperationism*. This account of global justice goes beyond Rawls's, yet stops well short of cosmopolitan egalitarianism. Perhaps the Pogge of today would accept our conclusions. Still, the impression persists that he is drawn to cosmopolitan egalitarian commitments.

## 2 Reckoning with economic inequality

Cosmopolitan egalitarians have criticized Rawls's account of global justice for permitting substantial economic inequality among societies. Rawls almost invites this criticism when reflecting on the fact of inequality within and among societies:

In itself, it doesn't matter how great the gap between rich and poor may be. What matters are the consequences. In a liberal domestic society that gap cannot be wider than the criterion of reciprocity allows, so that the least advantaged . . . have sufficient all-purpose means . . . to lead reasonable and worthwhile lives. When that situation exists, there is no further need to narrow the gap. Similarly, in the basic structure of the Society of Peoples, once the duty of assistance is satisfied and all peoples have a working liberal or decent government, there is again no reason to narrow the gap between the average wealth of different peoples.<sup>13</sup>

Here the requirements of justice look significantly different than Rawls's presentation in *A Theory of Justice* would lead one to expect. He appears to have backed away from promoting the most striking, egalitarian feature of justice as fairness, namely, the difference principle's requirement that domestic economic and social inequalities be of greatest advantage to persons who are least well off.

Maybe the difference principle is after all not part of a conception of justice that free, equal, and rational persons deliberating behind a veil of ignorance could all be expected to choose.<sup>14</sup> This would resolve the appearance of a stark inconsistency about the requirements of justice domestically as compared to globally. Indeed, given the views Rawls expresses in his later work, characterizing him as a proper egalitarian might be mistaken. Economic inequality, according to the passage above, would be objectionable when it has a substantial negative impact on the lives of truly disadvantaged persons. Such a position is not committed to a requirement of economic equality among persons or societies. In short, an emphasis on the practical consequences of inequality leaves considerable room for economic inequality that would not necessarily be judged unjust or unfair.

Rawls is explicit that members of liberal and decent nonliberal societies, which are presumed to be relatively affluent, have a duty to assist "societies burdened by unfavorable conditions."<sup>15</sup> So the real complaint of cosmopolitan egalitarians like Singer cannot be Rawls's "lack of focus on obligations toward individuals who are currently destitute in other countries."<sup>16</sup> Rawls does deny that a duty

of assistance derives from a principle of distributive justice regulating economic inequality among societies, and this is what really bothers cosmopolitan egalitarians. The cosmopolitan egalitarian objection is that departures from economic equality are unfair in that they express a lack of equal regard for persons, wherever they happen to live.

Underlying the cosmopolitan egalitarian commitment to global economic equality is the view that substantial economic inequality among societies is presumptively unjust or unfair to their individual members. To help clarify this view, Tan draws a distinction between justice and humanitarianism. "Justice is concerned with structural equality of some form," he asserts, while "humanitarianism is concerned primarily with the meeting of basic needs."<sup>17</sup> There is no doubt that his focus is economic equality. "What is lacking in Rawls's account of global justice," Tan observes, "is the commitment to *distributive* justice. That is, there are no ongoing distributive principles regulating the inequalities between the rich and the poor of the world beyond the duty of the better-off to ensure that the badly-off are able to meet a certain threshold level of basic needs."<sup>18</sup> The issue is whether humanitarianism, expressed through a duty of assistance to persons as such, falls short of the requirements of a reasonable conception of global justice.

Pogge seems sympathetic to two strategies for advancing the cosmopolitan egalitarian mode of criticism, despite his disavowal of controversial moral foundations. The first strategy is to argue that societies should have a fair opportunity for economic growth, where the criteria for fair opportunity should be decided by an agreement that representatives of all persons would reach when situated behind a global veil of ignorance.<sup>19</sup> This would be to extend to questions of global justice the move that Rawls makes in *A Theory of Justice* to arrive at his domestic difference principle. Although Pogge is reluctant to endorse a global difference principle, he utilizes this strategy to charge Rawls with inconsistency.

The second strategy is to argue that humanitarianism deflects attention away from the sources of economic inequality among societies – sources that often are not morally innocent. Burdened societies might be victimized externally, for instance, by colonialism or neocolonialism and its legacy, or by coercive international trade arrangements that greatly favor economically powerful countries. In addition, disadvantaged persons in burdened societies might be victimized internally, for instance, by kleptocratic or tyrannical regimes. Rawls hardly mentions these various circumstances that can figure into an explanation of global inequality. When he does, his discussion of the sources of global

inequality places much of the responsibility for economic inequality among societies on burdened societies themselves:

I believe that the causes of the wealth of a people and the forms it takes lie in their political culture and in the religious, philosophical, and moral traditions that support the basic structure of their political and social institutions, as well as in the industriousness and cooperative talent of its members, all supported by their political virtues. I would further conjecture that there is no society anywhere in the world – except for marginal cases – with resources so scarce that it could not, were it reasonably and rationally organized and governed, become well-ordered.<sup>20</sup>

This strong conjecture about the causes of domestic wealth seems, as Pogge has argued, empirically implausible.<sup>21</sup>

Nevertheless, and we stress, the wealth conjecture is tangential with respect to Rawls's account of global justice. Critics have failed to see through his defensive and misleading presentation. Rawls introduces the conjecture as a rationale for rejecting a principle of distributive justice that would regulate economic inequality among societies. But his rejection of a principle of global distributive justice does not depend on the conjecture: his fundamental view is that *whatever* the (morally unobjectionable) causes of domestic wealth, justice does not inherently exert pressure to promote global economic equality. The aim of the duty of assistance, Rawls believes, is "to realize and preserve just (or decent) institutions, and not simply to increase, much less to maximize indefinitely, the average level of wealth, or the wealth of any society or any particular class of society."<sup>22</sup> The evidence could lead him to accept, without material compromise, Pogge's point that "even if country-specific factors fully explain the observed variations in the economic performance of the poor countries, global factors may still play a major role in explaining why they did not on the whole do much better or worse than they did in fact."<sup>23</sup> Furthermore, as we will argue later, Rawls could acknowledge a duty of just engagement and a duty of reparations – duties that would address corresponding, morally objectionable sources of global economic inequality. There is no deep dispute between Rawls and his cosmopolitan egalitarian critics on this front. The wealth conjecture is a distraction in the presentation of his account of global justice.

The deep dispute between Pogge and Rawls must lie not in their causal accounts of global inequality but, rather, in their philosophical conceptions of global justice. For Pogge, the judgment that affluent societies harm the global poor is made relative to a baseline of entitle-

ments.<sup>24</sup> Insofar as these entitlements might extend beyond the threshold that a duty of assistance would ensure, the question is what justifies them. Pogge believes that they derive from an account of global justice that includes fair rules for economic engagement.<sup>25</sup> Specifically, the entitlements presuppose that each society is to have a fair opportunity for economic growth.<sup>26</sup> If fair opportunity can be illuminated from the perspective of representatives of all societies behind a global veil of ignorance, the consistency argument and the harm argument converge.<sup>27</sup>

Much of the rhetorical force of Pogge's work can be tied to a certain conception of fairness. When leveraging the charge of inconsistency against Rawls, Pogge relies on a premise of "moral universalism," which maintains that the same, basic moral principles apply to all persons.<sup>28</sup> He thus presents moral universalism as a formal requirement. In fact, however, his moral universalism appears to express a substantive conception of fairness. Moral universalism, as Pogge presents it, requires equality in the distribution of benefits and burdens: "equality remains the default – the burden of proof weighs on those favoring specific departures."<sup>29</sup> So fairness would require an equal distribution of social and economic benefits, except when there is a morally compelling rationale for departures from equality. This represents what we refer to as "the default view of fairness." In its spirit, Pogge implies that permitting substantial global inequality is unfair to persons who are relatively worse off.

Instead of presuming the default view of fairness, we begin from a minimalist concept of fairness that goes back to Plato: fairness consists in persons getting what they are due. This minimalist concept draws attention to the fact that determining what it is that persons are due in a particular domain almost always calls for substantial argument. The default view of fairness, which may seem self-evidently true, requires the support of background views about morality or justice. We will argue that in the domain of global justice, appeals to fairness fall short of supporting an egalitarian principle of distributive justice. At the same time, we argue that a humanitarian duty of assistance should be supplemented with a duty of just engagement and a duty of reparations. We sketch this account of global justice in the final section.

### 3 Fairness via asymmetries of justice

In games, fairness generally requires that players play within the rules, though expectations can vary depending on the game. Some games,

such as American football, largely leave it to officials to decide when play violates the rules. Technical violations of the rules are not considered unfair when officials do not call them. Other games, such as golf, largely place a duty to abide by the rules on the players themselves. Outside the self-contained realm of games, the requirements of fairness become more difficult to determine. No freestanding appeal to fairness serves as common ground since fairness is more or less a placeholder concept: it does not have much content of its own but instead must point to specific values that ground some conception of fairness.<sup>30</sup>

We do not deny, of course, that philosophers recognize there can be different conceptions of fairness. Yet some philosophers, particularly those who are egalitarian-minded, would appear to reject our view that fairness is virtually a placeholder concept: they may believe that quite a lot of content, while the subject of dispute, is built into the concept.<sup>31</sup> Specifically, egalitarian-minded political philosophers often appeal directly to fairness to make the point that departures from equality naturally require special justification. With apologies to readers who need no convincing, we feel compelled to elaborate why recognizing that fairness is better construed as a placeholder concept is important in thinking about domestic vis-à-vis global justice.

The extent to which fairness is a placeholder concept is obscured by the default view of fairness. According to the default view, fairness generally requires an equal distribution of benefits. Children are said to have a natural sense of fairness that expresses this view. They know, for instance, that all the kids in a classroom should get an equal piece of cake; or, if they do not get equal pieces, a bigger piece might go to a birthday child to signify her special day. But surely, the story goes, the size of pieces should not be determined by factors that are morally arbitrary or irrelevant. Similarly, a recent study purports to show that “a sense of fairness is deeply ingrained in human evolutionary history rather than the idea that it’s a more cultural response.”<sup>32</sup> The basis for this finding: capuchin monkeys throw a fit when their peers get more desirable treats (in the study, grapes rather than cucumber). The scientists conducting the study take for granted that fairness consists in an equal distribution of benefits.

Actually, the default view of fairness often functions as a placeholder concept. This describes the sense in which the default view can be shared across the political spectrum in a democratic society. Where progressives and conservatives typically disagree is over the factors that permit departures from equality – for instance, talent, hard work, inherited wealth, and social group disadvantage. Apart from establishing some form of equality or other as the default position, appeals to

fairness hardly advance such debates. In the absence of shared background views about morality or justice, appealing to fairness does not do much to establish what persons are due.

Whether the default view represents a substantive egalitarian conception of justice or a mere placeholder concept depends on: (1) the basis of a default presumption of equal division; and (2) the nature and strength of considerations required to override it. This brings us back to Pogge. He employs a burden-shifting argument that charges Rawls with offering woefully inadequate justification for treating questions of global economic justice with different principles than Rawls advocates in his liberal account of domestic justice. Without an adequate justification for treating the two cases differently, Pogge argues, Rawls’s conception of global justice is unfair to the global poor.<sup>33</sup> After all, they would have no objection to policies that would benefit them economically. Yet Pogge has a serious criticism of Rawls only if the default view represents more than a placeholder concept of fairness – and Pogge has not shown this. He has not shown why a substantive egalitarian conception of fairness must be accepted as a principle of global justice.

Rawls did not always make clear that his account of justice and its two principles are subject to qualifications about scope and content.<sup>34</sup> At the outset of *A Theory of Justice* he declares, “Justice is the first virtue of social institutions, as truth is of systems of thought.”<sup>35</sup> Such statements have contributed to the misimpression that he understands his theory of justice to hold universally; consequently, his theory of justice could seem to provide a universal benchmark of what is substantively fair. But in later works Rawls corrects this misimpression. He acknowledges that there might be reasonable disagreement about the scope and content of his two principles of justice – and that this disagreement is bound to widen once it is not bounded by the elements of a liberal political culture. In *Political Liberalism*, he claims that the content of

a political conception of justice . . . is expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society. This public culture comprises the political institutions of a constitutional regime and the public traditions of their interpretation . . . as well as historic texts and documents that are common knowledge.<sup>36</sup>

Simply put, what justice as fairness substantively requires will reflect a standing commitment to the core political ideals and practices of a democratic society.



*The Law of Peoples*, in contrast, elaborates the possibility of a just global society not restricted to liberal societies. A nonliberal society does not conceive of its members as free and equal citizens. Nevertheless, such societies may count as decent.<sup>37</sup> Rawls argues that insofar as decent peoples honor “the law of peoples” that holds among liberal societies, denying their inclusion in a just global society would be unwarranted. Their exclusion would run contrary to the purposes of this global society, which seeks to promote peace and political equality among societies, and human rights and a “well-ordered” basic structure within societies. Thus Rawls finds that toleration and mutual respect would be due decent societies by recognizing their full, participatory membership in a just global society. Further, he believes that their inclusion would encourage them to adopt politically liberal reforms.

Pogge remains dissatisfied with these aims of Rawls’s conception of global justice. In addition, as we have indicated, Pogge argues that all societies must have a fair opportunity for economic growth. Fair rules for a global economy, Pogge suggests, are those that would be chosen behind a veil of ignorance in a global original position. To reiterate, his argument for this criterion of substantive fairness relies on his moral universalism, which affirms that any discrepancy in the requirements of domestic and global justice must be justified. But this moral universalism, we have argued, is insufficient to support the notion of fair economic arrangements that Pogge favors. A more substantial argument is required – and it should not be at odds with social autonomy, reasonable toleration, and respectful cooperation. We have been unable to find such an argument, though he does offer promissory notes such as this:

I lack the space . . . to develop and defend a complete criterion of global justice and to show what specific institutional arrangements would be favored by this criterion. I will therefore employ a little shortcut. I will make an institutional proposal [his “global resources tax”] that virtually any plausible egalitarian conception of global justice would judge to be at least a step in the right direction.<sup>38</sup>

Perhaps Pogge believes that Rawls starts from a fundamental commitment to egalitarianism and is bound, on pain of inconsistency, to extend that commitment from the liberal domestic case to the global case. This reading of Rawls would be mistaken: his egalitarianism derives from a conjecture about what members of a liberal domestic society, conceived of as free and equal citizens, would accept under

ideal conditions. The global “society of peoples,” by contrast, is one whose member peoples have fundamental interests that overlap but are not equivalent to those of persons in a liberal domestic society.<sup>39</sup> This difference grounds, as we characterize it, asymmetries in the requirements of domestic as compared to global justice. We will now outline and defend a substantive conception of global justice that, while reflecting this type of asymmetry, is more robust than Rawls’s and would seem to address some of Pogge’s major concerns.

#### 4 Cosmopolitan cooperation

We propose a *cosmopolitan cooperationist* account of global economic justice that includes a duty of assistance while introducing a duty of just engagement and a duty of reparations. This account holds that global trade practices (1) should benefit partner societies so as to leave them stably better off than burdened, and (2) should be consistent with (reasonable) policies they have agreed upon or affirmed. Furthermore, societies that have helped to cause or have proximately benefited from the poverty of other societies may have a corrective duty, along with a globally applicable duty of assistance, to help lift those burdened societies out of poverty.

It is helpful to compare the duty of just engagement with Rawls’s duty to assist burdened societies and Pogge’s requirement of a fair opportunity for economic growth. The duty of assistance that Rawls endorses is in one respect stronger than Pogge’s fair opportunity requirement. Unlike Pogge’s requirement, Rawls’s duty applies even in the absence of economic relations between particular societies: any society with adequate means would be required to assist burdened societies, whether or not the burdened societies participate or aspire to participate in the global economy. In another respect, Rawls’s duty to assist burdened societies might be weaker. Unlike a principle of distributive justice, Rawls claims, a duty of assistance has a “defined goal, or cut-off point, beyond which all aid may cease.”<sup>40</sup> The threshold set by this duty of assistance might seem to represent a bare minimum that would fall short of what would ensure over time a fair opportunity for economic growth. Our cooperationist account supplements a duty of assistance with a duty of just engagement. Economic relations introduce reciprocal duties to ensure that the global economy protects fair opportunity for economic growth. Still, fair opportunity does not presume cosmopolitan egalitarian distributive justice as the default.



Although Rawls does not describe a duty of assistance as being humanitarian, conceptualizing it this way highlights its independence from established cooperative relationships among societies. A humanitarian duty of assistance recognizes the moral arbitrariness, on some level, of national boundaries with regard to the basic needs of persons. Active concern for basic needs would seem to represent a moral minimum in the domestic and global spheres of justice. Discounting the moral significance of national boundaries – that is, regarding basic needs – emphasizes that a humanitarian duty of assistance is directly responsive to persons, not to states and not to the instrumental aim of promoting a just global society of liberal and decent nonliberal states.<sup>41</sup> This discounting also expresses a standard of moral urgency that does not depend on a luck egalitarian conception of justice.<sup>42</sup> For luck egalitarians, justice requires that persons be compensated, when feasible, for any disadvantages beyond their control – including disadvantages (e.g., lack of talent) that may register well above any humanitarian threshold of basic needs.

Less contentious than luck egalitarianism, our cosmopolitan cooperationist account of global economic justice supplements a straightforward, humanitarian duty of assistance with a duty of just engagement. This duty of just engagement rests on a requirement of reciprocity in trade relationships. We take this reciprocity requirement to be both realistic and fair, as we will now explain. The reciprocity requirement on which the duty of just engagement rests is realistic in that the aim of trade is construed primarily as societies commonly profess it: in terms of mutual, collective self-interest. Each partner society is in the first place motivated to pursue global trade, in a competitive environment, in order to advance the economic interests of its own members. That substantial benefits accrue at the macro level, society-to-society, is not necessarily a mark of just engagement. Indeed, when the benefits are greatly concentrated among power elites, the justice-based, collective self-interest rationale for global trade is undermined. Hence the benefits are to be widely distributed among the members of a partner society. This rules out, for example, morally indifferent trade with dictatorial regimes that would abuse, for their own enrichment, their international resource and borrowing privileges.<sup>43</sup>

The reciprocity requirement is fair in the following respects. It expresses a commitment to “fair play”: global trade practices should be consistent with (reasonable) policies that partner societies have agreed to follow. Powerful societies cannot give themselves a mulligan – for example, by imposing import tariffs in an effort to protect domes-

tic industries that are especially vulnerable to foreign competition – while insisting, through threat of retaliation, that weaker societies expose their vulnerable industries to the forces of free trade. No global difference principle or the like is needed to recognize the illegitimacy of a society leveraging its power, in an effort to secure even more disproportionate gains for itself, by refusing to adhere to reasonable agreements it has made. Surely, Rawls would agree. Nothing more than a minimalist concept of fairness is needed to ground this claim.

How to characterize a commitment to reciprocal economic benefit is less straightforward. The problem is familiar enough: poor societies will be inclined to settle for global trade practices that would leave them relatively better off than they otherwise would be given their current circumstances, even when this would still leave poor societies poor or only marginally better off than poor. Such a situation seems plainly at odds with reciprocity – where reciprocity is understood as mutually respectful cooperation. That desperate societies (or persons) will accept economic arrangements that leave them relatively better off is no reliable indicator of mutually respectful cooperation: being better off than some desperate alternative is not good enough for justice. The situation is akin to sharecropping, which leaves the working poor in a perpetual state of poverty or near-poverty and overwhelming dependence.

So the challenge is to construe a plausible criterion of reciprocal economic benefit. A deep justification of this criterion would have to appeal to moral foundations that might not prove much less controversial than egalitarian foundations – neutralizing what we take to be a significant advantage of our cosmopolitan cooperationist account. The criterion we propose, then, reflects nothing deeper than good faith judgments about the significant interests and needs of members of trading partner societies. Undoubtedly, these judgments are susceptible to the usual, self-serving biases. The following procedure is designed to control for such biases under realistic circumstances of mutual knowledge of each society’s relative trading power.

Partner societies participate in a transparent lottery to select a criterion of reciprocal economic benefit with respect to their industries of trade, including labor. Each partner society openly specifies the least it deems necessary for sustaining good lives for its members in those industries. The “winning” entry determines the economic benefit through trade that partner societies can expect to receive at a minimum. Inequalities might accumulate above this point. In order to help partner societies resist submitting entries geared solely to their own relative trading power – since more affluent societies will be disposed

to specify terms that would allow greater inequality, while less affluent societies would specify more egalitarian terms – they agree in advance to accept a penalty for exiting trade arrangements after the winning entry has been selected. This penalty in effect dissuades societies from negotiating, after the fact, more favorable terms with new partners. But each society retains, without threat of penalty, a general right to strike for more favorable terms within its current partnership group. Partner societies therefore have an incentive to act in good faith in proposing mutually satisfactory terms. Add to this the assumption that the representatives of each society are rational, nonideological fiduciaries: they simply want to make sure, under the lottery conditions, that the members of their society are able to lead good lives. In short, the lottery aims to compel reciprocity in the arena of international trade.

We recognize that in the actual world, economically powerful countries are unlikely to enter voluntarily into a process that could significantly counteract their relative bargaining advantages. The lottery process we have described is better understood as a hypothetical measure of good faith about judgments of reciprocity in trade. It sets an ethical standard that may be deployed to challenge varieties of wishful, self-serving thinking about flimsier notions of reciprocity.

Our conjecture is that the procedure would yield a threshold, beyond that of humanitarian relief, at which partner societies are stably better off than burdened. What is a solid measure of such stability? One measure, at least, is whether the economic benefit to a society is sufficient generally to enable its members to save after their basic needs have been met. The capacity for savings represents a buffer between being burdened and being neither burdened nor highly vulnerable to being burdened.

This criterion of reciprocal economic benefit expresses a substantive conception of fairness. It will not satisfy cosmopolitan egalitarians, who adopt a maximalist approach in supporting a global difference principle. As we have presented it, a reciprocity requirement expressing mutually respectful cooperation need not be egalitarian. Nor will it approximate principles that would be chosen behind a veil of ignorance by all decent societies. The duty of just engagement that we have introduced does not guarantee that the global economy would be to the greatest benefit of societies (or persons) who are least well off, and some societies might have greater bargaining power, which they could use to advance their own interests. Instead, it requires something like the golden rule for international trade: a partner society, operating within a market scheme, seeks trade arrangements that are no less

favorable to its partners than the least that society judges would be acceptable for its own members.

A more demanding duty of just engagement, one that cosmopolitan egalitarians would prefer, is likely to be in tension with the value of collective self-determination.<sup>44</sup> Insofar as certain reasonable domestic practices are most conducive to economic prosperity, it would seem acceptable to set potentially strong conditions – e.g., for democracy, or gender and ethnic equality – on participation in an egalitarian global economy. Otherwise, continual transfers of wealth could reasonably be unacceptable to better-off societies. But imposing strong conditions on participation in the global economy could be hard to square with the value that persons typically attach to the political and social self-determination of their societies. A society committed to a widely shared conception of the common good of its members would seem to warrant a fair opportunity to participate in the global economy.<sup>45</sup>

The corollary of this argument on behalf of the self-determination of liberal and decent nonliberal societies is that better-off societies should not be required to cooperate with less affluent societies on a more strongly reciprocal, egalitarian basis. More strongly reciprocal terms express a sense of common membership or joint enterprise that extends beyond due respect for the well-being of persons as such and recognition of the value of self-determination for societies. It is not unjust for members of one society to lack a sense of common mission and fate with members of other societies. To suppose otherwise could be contrary to a society's not unreasonable adherence to distinctive political and cultural values. Of course, societies legitimately may establish stronger common bonds with one another (e.g., the European Union), but it seems doubtful that such bonds should be required as a matter of global justice. Here the charge that cosmopolitan cooperationism amounts to a neo-Westphalian enterprise would seem hyperbolic and misplaced. Cosmopolitan cooperationism does not entail or imply a descriptively outmoded and normatively inadequate attachment to the notion of an essentially sovereign state. Only a certain kind of utopian could deny that many societies (e.g., England, France, Norway, Saudi Arabia, China, Quebec, Puerto Rico, and the continental US, among many others) are anxious to maintain their relative political and cultural autonomy in a globally interdependent world.

We certainly are not suggesting that international relations should be conceived of as some kind of state of nature. When societies lack common bonds or a sense of mutual commitment, this provides no warrant or excuse, currently or historically, for doing unconscionable

harm to another society. So a plausible account of global justice will not be entirely forward-looking: societies that have suffered colonial or neocolonial exploitation or egregious breaches of fair play in trade, for example, may well have claims to reparations. These claims become especially pressing for burdened societies: presumably, past injustice often plays a role in helping to explain why poor countries are poor or, at least, not better off than they otherwise could have been.

Even if and when past injustice among societies does not largely explain their relative wealth or poverty today, there may remain legitimate claims to reparations on grounds of corrective justice. The idea is not that countries as such may have claims to reparations, though countries are likely to be the entities charged with satisfying these claims. Rather, members of societies that have suffered unconscionable harm would have such claims. Since reparations claims are most urgent in the case of burdened societies, relatively affluent societies – when confronted with multiple claimant societies – have reason to prioritize the claims of societies that are least well off. This reflects the priority that our account of global economic justice places on eradicating poverty. That is, the primary aim of the corrective duty of reparations, as we construe it, is to lift burdened societies out of poverty. The primary aim is not to promote corrective justice in a more comprehensive sense. Thus the duty of reparations is not tied to, for instance, an estimation of actual damages based on accumulated disadvantage within a society.

It might be asked why – if the duty of reparations has the same, basic aim as the duty of assistance – there is much point in recognizing the corrective duty. The forward-looking humanitarian duty would seem less fraught with complications than the backward-looking corrective duty. Nevertheless, there is a significant, practical reason to include the corrective duty. Affluent countries are often derelict or belated in their response to humanitarian crises; not infrequently, precious time and energy are spent debating how international responsibility for the amount and the means of response is to be divided. The corrective duty of reparations recognizes a special, further, less mediated responsibility that relatively affluent countries have to assist those burdened societies to which they have done unconscionable harm.

Few philosophers who work on global justice would deny the need to address global poverty through urgent, effective measures. Humanitarian concern about the plight of the global poor should be taken for granted. But we have tried to show that a commitment to dealing with global injustice on the ground does not depend on a commitment to cosmopolitan egalitarianism and a principle of global distributive

justice. Nor, philosophically, are claims in support of an egalitarian principle of justice, whether domestically or globally, beyond considerable challenge.

Questions of global economic justice are intertwined with less obvious questions about the nature and value of political and social autonomy, reasonable toleration, and respectful cooperation. There also are difficult questions about the extent to which societies are required to make common cause morally, politically, and materially. Grappling with these questions has led us to a non-egalitarian view that allows for asymmetries in the requirements of reciprocity, domestically and globally. Cosmopolitan egalitarians will still be dissatisfied with our view. The underlying issues require discussion in greater detail, and we do not claim to have resolved them. But our cosmopolitan cooperationist account does put pressure on Pogge to explain his evident dissatisfaction with a duty of humanitarian assistance, particularly when such a duty is supplemented with cooperationist duties of just engagement and reparations. Neither his appeal to a negative duty not to harm, nor his appeal to the default view of fairness, nor his appeal to moral universalism establish that the global poor are due more than this.

## Notes

\*We would like to thank Andreas Follesdal and Alison Jaggar for comments on earlier drafts.

1 Thomas W. Pogge, "An Egalitarian Law of Peoples," *Philosophy and Public Affairs* 23 (1994): 195–224.

2 Pogge, "An Egalitarian Law of Peoples," p. 196.

3 Thomas W. Pogge, "Introduction," in *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*, 1st edn (Cambridge, UK: Polity, 2002), p. 16; see also pp. 23–4.

4 See Thomas Pogge, "Severe Poverty as a Violation of Negative Duties," *Ethics and International Affairs* 19 (2005): 55–83, at 61. See also Pogge, "Cosmopolitanism and Sovereignty," p. 170, "How Should Human Rights be Conceived?" p. 70, and "The Bounds of Nationalism," p. 144, in *World Poverty and Human Rights*.

5 See Pogge, "Eradicating Systemic Poverty: Brief for a Global Resources Dividend," in *World Poverty and Human Rights*, p. 201, "The Bounds of Nationalism," pp. 136–9, and "Cosmopolitanism and Sovereignty," p. 176. See also Pogge, "Severe Poverty as a Violation of Negative Duties," pp. 74–8. See criticism by Alan Patten, "Should We Stop Thinking about

- Poverty in Terms of Helping the Poor?," *Ethics and International Affairs* 19 (2005): 19–27, and by Deborah Satz, "What Do We Owe the Global Poor?," *Ethics and International Affairs* 19 (2005): 47–54, at 53–4.
- 6 Pogge, "The Bounds of Nationalism," pp. 137–9.
  - 7 Pogge, "Severe Poverty as a Violation of Negative Duties," pp. 55–6.
  - 8 Thomas Pogge, "Moral Universalism and Global Economic Justice," in *World Poverty and Human Rights*, pp. 105–8.
  - 9 Pogge does not express sympathy for the view that persons be compensated for any disadvantages beyond their control, but he does seem drawn to egalitarianism in the space of resources. On the contrast between these views, see Thomas W. Pogge, "Can the Capability Approach be Justified?," *Philosophical Topics* 30 (2002): 167–228.
  - 10 Pogge, "Human Flourishing and Universal Justice," in *World Poverty and Human Rights*, p. 36.
  - 11 Pogge, "Moral Universalism and Global Economic Justice," p. 96.
  - 12 See, e.g., Pogge, "Moral Universalism and Global Economic Justice," pp. 96–7.
  - 13 John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), p. 114.
  - 14 See John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, MA: Harvard University Press, 2001), pp. 95, 132–3.
  - 15 Rawls, *The Law of Peoples*, p. 106.
  - 16 Peter Singer, *One World: The Ethics of Globalization* (New Haven: Yale University Press, 2002), p. 176.
  - 17 Kok-Chor Tan, *Justice without Borders: Cosmopolitanism, Nationalism, and Patriotism* (Cambridge: Cambridge University Press, 2004), p. 68.
  - 18 Tan, *Justice without Borders*, p. 65.
  - 19 See Thomas W. Pogge, "Rawls on International Justice," *The Philosophical Quarterly* 51 (2001): 246–53; Thomas W. Pogge, *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989), ch. 6, esp. pp. 246–54; and Pogge, "An Egalitarian Law of Peoples," pp. 208–14. On this point there is continuity across these works.
  - 20 Rawls, *The Law of Peoples*, p. 108. He cites the Inuit as a marginal case.
  - 21 See Tan, *Justice without Borders*, p. 70. His criticism follows Pogge's. See, e.g., Thomas W. Pogge, "'Assisting' the Global Poor," in *The Ethics of Assistance: Morality and the Distant Needy*, ed. Deen K. Chatterjee (Cambridge: Cambridge University Press, 2004).
  - 22 Rawls, *The Law of Peoples*, p. 107.
  - 23 Pogge, "'Assisting' the Global Poor," p. 263.
  - 24 For Pogge's critical discussion of an array of possible baselines, see "'Assisting' the Global Poor."
  - 25 Pogge writes, for example, "Partiality is legitimate only in the context of a fair competition . . . national partiality is morally acceptable only on condition that the fairness of international competition is continually preserved"; "An Egalitarian Law of Peoples," pp. 221–2.
  - 26 See Pogge, "Rawls on International Justice," p. 252.

- 27 Pogge prefers to construe a global original position as representing individual persons rather than peoples or societies; see *Realizing Rawls*, ch. 6.
- 28 Pogge, "Moral Universalism and Global Economic Justice," pp. 93–4.
- 29 Pogge, "Moral Universalism and Global Economic Justice," p. 93.
- 30 Roughly, the concept of fairness illustrates what W. B. Gallie called an essentially contested concept. See W. B. Gallie, "Essentially Contested Concepts," *Proceedings of the Aristotelian Society* 56 (1956): 167–98. As we would put the idea, though, the concept of fairness is not so much contested as are conceptions of fairness.
- 31 For instance, after proposing the merit of a minimalist definition of "fairness," Brad Hooker concludes that fairness is narrower than all-things-considered moral rightness but that it brings in certain substantive requirements, including priority for the needs of the worst-off; Brad Hooker, "Fairness," *Ethical Theory and Moral Practice* 8 (2005): 329–52, at 350. Hooker is largely responding to John Broome, who seems to propose a theory of the concept of fairness. See John Broome, "Fairness," *Proceedings of the Aristotelian Society* 91 (1990): 87–102.
- 32 Jeanna Bryner, "Monkey Fuss over Inequality," LiveScience.Com, 13 November 2007.
- 33 On Pogge's reading, "it seems clear, then, that Rawls endorses double standards" because Rawls allows "a global economic order that generates strong centrifugal tendencies and ever increasing economic inequality, provided we 'assist' the societies impoverished by this order just enough to keep them above some basic threshold" (Pogge, "Moral Universalism and Global Economic Justice," p. 107).
- 34 The first principle of justice requires "equal basic liberties" for all; the second principle of justice requires "fair equality of opportunity" and also includes the difference principle; Rawls, *Justice as Fairness*, pp. 42–3. Also see Rawls, *A Theory of Justice*, p. 266.
- 35 Rawls, *A Theory of Justice*, p. 3.
- 36 Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), pp. 13–14.
- 37 Rawls, *The Law of Peoples*, p. 61.
- 38 Pogge, "An Egalitarian Law of Peoples," p. 199.
- 39 In particular, Rawls emphasizes "amour-propre," which he describes as "a people's proper self-respect of themselves as a people, resting on their common awareness of their trials during their history and of their culture with its accomplishments"; Rawls, *The Law of Peoples*, p. 34.
- 40 Rawls, *The Law of Peoples*, p. 106.
- 41 For criticism of Rawls on this point, see Charles R. Beitz, "Rawls's Law of Peoples," *Ethics* 110 (2000): 669–96, at 677–85.
- 42 See, e.g., G. A. Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99 (1989): 906–44, at 922.
- 43 See, e.g., Pogge, "Moral Universalism and Global Economic Justice," pp. 112–16.

- 44 See Andreas Follesdal, "Justice, Stability, and Toleration in a Federation of Well-Ordered Peoples," in *Rawls's Law of Peoples: A Realistic Utopia?*, ed. Rex Martin and David A. Reidy (Malden, MA: Blackwell, 2006), especially pp. 310–12.
- 45 For discussion of the value of collective self-determination, see Joshua Cohen, "Is There a Human Right to Democracy?," *The Egalitarian Conscience: Essays in Honor of G. A. Cohen*, ed. Christine Sypnowich (Oxford: Oxford University Press, 2006), pp. 233–5.

## 6

## Realistic Reform of International Trade in Resources

Leif Wenar

Many readers of Thomas Pogge's work have found it opens what is for them a new world:

We live in extreme isolation from severe poverty. We do not know anyone earning less than \$30 for a 72-hour week of hard, monotonous labor. The one-third of human beings who die from poverty-related causes includes no one we have ever spent time with. Nor do we know anyone who knows and cares about these deceased – someone scarred by the experience of losing a child to hunger, diarrhea, or measles, for example. (4)<sup>1</sup>

This is the world of 18 million premature deaths every year from poverty. "If developed Western countries had their proportional shares of these deaths, severe poverty would kill some 3,200 Britons and 16,000 Americans per week. Each year, 14 times as many US citizens would die of poverty-related causes as were lost in the entire Vietnam War" (104).

It is in fact our world, which we never knew was there.

How could it be that this world is there without our realizing that it is the same world on which we stand every day? "The global poor," Pogge says, "who labor all day for a few dollars a month, are unable to cause us the slightest inconvenience and unable even to alert us to their plight" (133). These parts of the planet have been kept, for us,