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# On Thomas Pogge's Theory of Global Justice

## Why We Are Not Collectively Responsible for the Global Distribution of Benefits and Burdens between Individuals

**Abstract:** Thomas Pogge's ingenious and influential Rawlsian theory of global justice asserts that principles of justice such as the difference principle or, alternatively, a universal criterion of human rights consisting of a subset of the principles of social justice apply to the global basic structure or economic order. Individuals that contribute to upholding the latter and benefit from it are, Pogge emphasizes, jointly responsible for its unjust features, not least for the fact that it, foreseeably and avoidably, affects up to 18 million people per year in such a way that they die. The paper mounts an immanent criticism against Pogge revolving around his notion of collective responsibility. Especially, it argues that people cannot plausibly be held responsible for the distribution of benefits and burdens between individuals at the global level addressed by the kind of principles Pogge invokes. They, and their governments, can, and should, however, be held responsible for the unjust features of the existing law of peoples or states.

**Keywords:** Thomas Pogge; collective responsibility; principles of justice; principles of the law of peoples

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## 1 Introduction<sup>1</sup>

Thomas Pogge argues that principles of distributive justice such as the difference principle or, alternatively and more ecumenical, a universal criterion of

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<sup>1</sup> The paper has benefitted from several audiences' critical comments, including: (i) the section for political theory at Department of Political Science, University of Aarhus, especially, Rasmus Sommer Hansen and Kasper Lippert-Rasmussen; (ii) participants in a workshop on

human rights apply to the global basic structure or economic order. To the extent that the global structure does not meet these criteria (which is clearly the case today), it is unjust. Pogge holds participants in this structure, especially the more advantaged ones, collectively responsible for its unjust features. The present paper challenges this argument by appealing to the notion of collective responsibility integral to Pogge's approach to justice and its scope. In brief, the argument is that if we spell out and take seriously the conditions of collective responsibility, the principles of justice Pogge invokes do not find support. Instead, the most plausible principles are principles of the law of peoples—the principles invoked in Rawls' conception of global justice the rejection of which plays a crucial role in Pogge's work.

## 2 Pogge's Rawlsian theory of global justice

Following Rawls, Pogge takes an *institutional* approach to justice. That is, he makes clear that principles of justice apply, and only apply, to the basic structure of society or to its ground rules: The latter should be assessed in terms of the patterns of inequality they generate. Generally, the basic structure consists of "the *most important* institutional features of any *self-contained* or *all-inclusive* social system." They include the institutions that: (i) have profound and pervasive effects on people's life-chances and, in the standard case, are beyond people's control; (ii) coercively shape a society; and (iii) regulate the assignment of benefits and burdens (Pogge, 1989, 22; Rawls, 1971/1999a, 7/6–7). The concrete institutions Pogge has in mind are: "[a] society's basic mode of economic organization; [b] the procedures for making social choices through the conduct of, or interactions among, individuals and groups, and limitations upon such choices; [c] the more important practices regulating civil (noneconomic and nonpolitical) interactions, such as the family or the education system; [d] and the procedures for interpreting and enforcing the rules of the scheme" (Pogge, 1989, 22–23).

Pogge challenges Rawls' state-centric or "society-of-states" conception of the appropriate scope of justice (Rawls, 1971/1999a, § 58; Rawls, 1999b). He does

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political philosophy in May 2011 at the same department, especially, Matthew Clayton, Zofia Stemplowska, and Robert van der Veen; and (iii) participants in the Scandinavian conference and Ph.D.-course in normative political philosophy/theory May 30–June 3 2011, Vejle Fjord, especially, David Estlund, Robert Huseby, Aaron Maltais, Jacob Rendtorff, and Raffaele Rodogno. Furthermore, Orsolya Reich commented usefully on the paper.

so, basically, by pointing out that a basic structure exists globally and is as such an appropriate locus for principles of distributive justice or a universal criterion of human rights. Breaking down the existing structure in the general elements of a basic structure emphasized above (especially, the aspects a, b, and d), it consists of: first, an economic order; second, procedures for making decisions; and, third, penal structures or structures of interpretation and enforcement.

The *economic order* is made up of, *inter alia*, the so-called Bretton Woods institutions, including the International Monetary Fund (IMF), the World Bank, and the General Agreement on Trade and Tariffs (GATT) later the World Trade Organization (WTO) (Lowe, 2007, 188–233; Risse, 2005a, 350). It includes two privileges, namely “the resource privilege” and “the international borrowing privilege”:

Any group controlling a preponderance of the means of coercion within a country is internationally recognized as the legitimate government of this country's territory and people—regardless of how this group came to power, of how it exercises power, and of the extent to which it may be supported or opposed by the population it rules ... It means ... that we accept this group's right to act for the people it rules and, in particular, confer upon it the privileges to borrow in the country's name (international borrowing privilege) and freely to dispose of the country's natural resources (international resource privilege) (Pogge, 2002, 112).

Involving no constraints on how governmental power is acquired, both privileges generate strong incentives for coup attempts and civil wars (Pogge, 2002, 113, 115).

The second significant aspect of the existing global structure is its *procedures for making decisions* regarding the form of the institutions constituting the economic order. As Pogge points out, these procedures are severely skewed in favour of, or in the interest of, the wealthy Western countries (Pogge, 2002, 125–126; Pogge, 2004, 263ff.). This facet of the global basic structure is related to the deeper fact that: “[g]overnments are engaged in a competition that is regulated by whatever institutions the main adversaries find it advantageous to agree upon or to acquiesce in from time to time” (Pogge, 1989, 222).

When it comes to *penal structures or structures of interpretation and enforcement*, the relevant global structures are, for example, the sanctions a government faces when it resists honouring a debt incurred by a former corrupt regime (Pogge, 2002, 114). However, a fundamental aspect of the international global structure is an absence of effective structures of international law (Pogge, 1988, 230; Pogge, 1989, 266–267). For example, this lack implies that people impoverished by their government can only in rare cases expect external assistance.

These global institutions profoundly and pervasively affect people; they are coercively imposed on others, especially by the advantaged participants; and they crucially determine the global distribution of benefits and burdens. We need a criterion of justice for assessing these institutions and the inequalities they generate. Pogge endorses Rawls' maximin criterion of an ideally just distribution according to which a set of institutions is just if, and only if, it is maximally conducive to the worst-off group (Rawls, 1971/1999a, 302–303/266). His more ecumenical argument appeals, however, to a less ambitious criterion of justice.<sup>2</sup> According to the latter, an arrangement of the global basic structure is just if, and only if, it at least ensures (insofar as is reasonably possible) that each participant enjoys secure access to a certain range of goods such as certain political liberties and opportunities and rights to economic goods including a right to subsistence (Pogge, 2002, 48–49. Cf. Rawls, 1993, 6–7). The criticism raised in this paper targets both criteria.

Pogge supplements the Rawlsian edifice in a significant way by emphasizing the collective responsibility of participants in a social scheme, especially the more advantaged members, for its potentially unjust features (Pogge, 1989, 27, 31, 34–5, 238, 276; Pogge, 2002, 23–25, 44–46, 49–50, 66, 94–5, 101, 133, 135–136, 199–201):

The normative force of others' human rights for me is that I must not help uphold and impose upon them coercive social institutions under which they do not have secure access to the objects of their human rights. I would be violating this duty if, through my participation, I helped sustain a social order in which such access is not secure, in which blacks are enslaved, women disenfranchised, or servants mistreated, for example. Even if I owned no slaves or employed no servants myself, I would still share responsibility: by contributing my labor to the society's economy, my taxes to its government, and so forth. I might honor my negative duty, perhaps, through becoming a hermit or an emigrant, but I could honor it more plausibly by working with others towards shielding the victims of injustice from the harms I help produce or, if this is possible, toward establishing secure access through institutional reform (Pogge, 2002, 66. Cf. 49–50, 135–6, 201).

A global institutional framework is imposed *by*, especially, its more advantaged, more powerful participants ... Such institutions are “up to us,” collectively, and we therefore have a collective *causal* responsibility for existing institutions ... [T]his causal responsibility gives rise to a *moral* responsibility, which is a collective responsibility for our collective role in imposing existing institutions upon, in particular, their most disadvantaged (and involuntary) participants ... We have a *negative* duty not to collaborate in the imposition of unjust institutions; and we must then reflect upon and promote institutional reform (Pogge, 1989, 276).

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<sup>2</sup> The two aspects of Pogge's work are represented respectively by his 1989 book and his 2002 book. Instructive in this regard are his responses in Pogge, 2010b, 175–250, esp. sec. 2, 5.

Irrespective of which of the two criteria of justice mentioned above we invoke, the global structure seems conspicuously unjust. Each year, Pogge points out, the global basic structure affects 18 million people in such a way that they die (Pogge, 2002, 2; Pogge, 2008, 24);<sup>3</sup> and it seems clear that arrangements of this structure that are superior in the light of these criteria are part of the feasible set (e.g., Pogge, 2004);<sup>4</sup> Hence we, especially affluent Western participants in the global basic structure, are responsible for grave injustices: in fact we, Pogge claims, uphold a structure that “kills more efficiently than the Nazi extermination camps ...” (Pogge, 2010a, 2. Cf. Pogge, 2002, 25). I take it that the kind of collective responsibility Pogge is concerned with is *moral* responsibility or *judgmental* responsibility implying that the group agent with respect to a given act or outcome is an appropriate candidate for praise or blame (Miller, 2007, 81–134). As Pogge emphasizes in the citation above, moral responsibility presupposes *causal* responsibility.<sup>5</sup> Being morally responsible is one important ground upon which *remedial* or *liability* responsibility may be assigned (Miller, 2007, 100).

Some may question that a notion of collective responsibility is crucial to Pogge's argument. They may think that Pogge could simply appeal directly to individual responsibility and generate the same conclusions about us harming others by imposing unjust institutions on them and thus having a negative duty to desist from doing so. Accordingly, the scepticism about the ascription of collective responsibility to be voiced in this paper would seem to be of limited interest.<sup>6</sup> In reply, rightly I believe, Pogge appears sensitive to the fact that people may not be individually responsible or blameable for the shape of (global) institutions and the pattern of distribution they sustain; their influence on this pattern may be imperceptible, and it would not make much difference (if any) if they unilaterally changed their way (Pogge, 1989, 31 n. 26, 238 n. 29, 277–78; Pogge, 2002, 145). Together or collectively, however, we may be responsible and hence appropriate candidates for blame. This, it seems, motivates investigating patterns of collective responsibility with respect to global institutions.

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<sup>3</sup> The wording here is meant to reflect the fact that Pogge, at least in his 2002 book and the second edition (2008), tends not to say that the global basic structure and those who uphold it “kill” people. See Lippert-Rasmussen (forthcoming). In Pogge's 2010a book, 2, he makes, however, such claims.

<sup>4</sup> For discussion, see Cohen, 2010 and Pogge, 2010b, 175–191; Risse, 2005a.

<sup>5</sup> According to Miller, it also presupposes “outcome” responsibility (2007, 89)

<sup>6</sup> I owe this objection to Rasmus Sommer Hansen.

### 3 Conditions for group responsibility

My key objection to Pogge's Rawlsian view on global justice is that I find it doubtful that we can properly be held responsible for the distribution of benefits and burdens between individuals on a global scale.<sup>7</sup> There are, I submit, at least three requirements for a group to be morally responsible for an act (or a failure to act) or an outcome: (i) the group should be capable of performing an act – Agency; (ii) the group should be capable of making moral judgements regarding the options it faces – Value judgment; (iii) the group should be capable of controlling the act or outcome in question – Control (Pettit, 2007, 177. Cf. Held, 1970, 471–472).

Agency implies that the system in question: “forms and reforms ... desires for how its environment should be and ... beliefs as to how its environment is and ... acts in such a way that those desires are satisfied according to those beliefs” (Pettit, 2007, 178). Groups can constitute agents in accordance with this requirement:

They will do so, at least in the normal case, when members act on the shared intention that together they should realize the conditions that ensure agency. They will each intend that together they mimic the performance of a single unified agent. They will each intend to do their bit in the pattern of coordination required for this performance. They will each be motivated to do this by the belief that others intend to do their bit too. And all of that will be above board, as a matter of shared awareness: each will believe that those conditions obtain, believe that each believes this, and so on (Pettit, 2007, 179. Cf. Rescher, 1998).

Relevant patterns of coordination assigning individual members duties and responsibilities with respect to the generation of desires and beliefs and facilitating acts in accordance with them include direct deliberative arrangement and representative alternatives (Pettit, 2007, 179). Basically, a decision method is needed that generates desires and beliefs on the part of the group and facilitates appropriate actions of the group on these grounds.

A system that satisfies the first condition is capable of performing acts corresponding to a set of desires and a set of beliefs (about the requisite means for promoting the relevant set of desires). Furthermore, the acts it chooses are morally relevant or of moral significance (Pettit, 2007, 177). That is, its acts may be morally good or bad. A group may, for example, realize a basic structure that is just or unjust (amongst other relevant value properties). It is a further question, however, whether a group agent is capable of reflecting morally on the options

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<sup>7</sup> Ser-Min Shei (2005) voices concerns similar to those I raise in the paper. He ends up ascribing responsibility for the distribution of benefits and burdens between individuals to humanity as such though (see Shei, 2005, sec. V), which I find implausible for the reasons given in this paper.

it faces: intentional agency itself does not imply that the agent in question has any “critical or evaluative beliefs ...” (Pettit, 2007, 185). The *second* condition for collective responsibility says that the collective entity in question should be capable of such reflection: “[t]he group has the understanding and the access to evidence required for making judgments about the relative value of ... options” (Pettit, 2007, 177, 185–187). Stated differently, it is aware of the moral nature of the options it faces, that is, whether a given option is good or bad, just or unjust and so on (Held, 1970, 472).

The explanation of how a group might be capable of being thus aware again appeals crucially to the existence of a decision method:

[A] group will form a judgment or other attitude over a certain proposition when the proposition is presented for consideration and the group takes whatever steps are prescribed in the constitution for endorsing it; these steps may involve a vote in the committee of the whole, a vote in an authorized subgroup, or the determination of an appointed official. Thus, a group will be able to form a judgment over any proposition that members are capable of presenting for consideration and of adjudicating by means of a vote or something of the kind. But, since the members of any group will be able to do this in their individual lives, they will certainly be able to do it when acting within the group (Pettit, 2007, 186–187).

The *third* and final condition for a group agent to be held morally responsible on appropriate grounds concerns control, that is, it should have the requisite control “for being able to choose between the options on the basis of its judgments about their respective value” (Pettit, 2007, 177). The central reason to question the ability of a group agent in this regard is that one may think that whatever degree of control a group agent has, it has in virtue of the control enjoyed by its members. This worry is obviously pivotal to the debates about collective agency (e.g., May and Hoffman, 1991). So a plausible attribution of responsibility to a group agent must show that the agent has a non-trivial independent influence on an outcome (good or bad). One strategy of argument here proposes that a group agent may share in the control exercised by individual agents in virtue of the pattern of coordination it establishes or its constitution:

[T]he group may control in a reason-sensitive way for the performance of a certain action by some members, maybe these or maybe those. It will do this, by maintaining a constitution for the formation and enactment of its attitudes, arranging things so that some individual or individuals are identified as the agents to perform a required task, and other individuals are identified as agents to ensure that should the performers fail, there will be others to take their place as backups. Consistently with this group-level control, however, those who enact the required performance will also control in a reason-sensitive way for what is done; they will control for the fact that it is they and not others who actually carry it out (Pettit, 2007, 192. Cf. May, 1989, 26).

One circumstance in which an organized group may be held morally responsible for failing to act is when it is obvious to the reasonable member of this group that one of, say, three actions on its part is called for (which of the three does not matter).<sup>8</sup> In such circumstances, it is morally responsible for not performing one of the three acts (the moral nature of not doing so was clear to it) (Held, 1970, 479).

## 4 Collective responsibility for the global distribution of benefits and burdens between individuals?

The conditions for collective responsibility as stated above suggest that a group can only be morally responsible for an act or an outcome in so far as a decision mechanism or constitution pertains to it that: (i) generates desires and beliefs on the part of the group and facilitates appropriate actions of the group on these grounds (these actions and/or their result being of moral import); (ii) facilitates that propositions are presented for and morally judged by the group (making the group aware of the moral nature of its acts); and (iii) allows the group non-trivial control with respect to the (morally significant) options it faces.

Now, I do not deny that a decision mechanism of the relevant responsibility-generating kind constitutes a part of the global community arranged by the global basic structure. Indeed, I do not deny that such a decision mechanism pertaining to (a certain conception of) human rights obtains globally. What I do deny, however – a denial which I believe is of crucial import to Pogge's theory and to his campaign against Rawls' view on international relations – is that the global community includes a decision mechanism the object of which is the distribution of benefits and burdens between individuals. The global community, or the individuals and subgroups (for example, states, regimes and multinational firms) constituting this community, is, we may say, random – that is, does not have a decision procedure – with respect to this distribution (cf. Held, 1970, 471, 475–476).

To explain this point, I need to make a distinction between a group that is organized with respect to the distribution of benefits and burdens between individuals and one that is not – a group that is random in at least this respect. The former group has a decision method the object of which is principles for a struc-

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<sup>8</sup> I discuss such a case below in sec. 5 in connection with the second objection.

ture which generates a certain pattern of distribution of benefits and burdens between individuals. The purpose<sup>9</sup> of deciding upon principles for this pattern is, at least according to some conceptions of justice, to settle the fair distribution of the benefits of social cooperation. It may as well, however, more generically, be to formulate just principles for the distribution of benefits and burdens between individuals undertaken by this structure. This procedure is the one pointed to by Rawls in the context of stating the role of the principles of justice (Rawls, 1971/1999a, § 1). I follow him in referring to principles pertaining to this procedure or decision method as *principles of justice*. As David Miller rightly observes, the paradigmatic case of the procedure outlined is the modern state: "... [T]he state, through its various branches and agencies, has a major influence on the share going to each person ..." (Miller, 1999, 11). The state is not a random group with respect to the latter distribution.

The latter group, in contrast, does not have a decision method the subject of which is principles for this distribution. Rather, its decision procedure concerns the formulation of principles for group agents (states or peoples) to count as legitimate or as members in good standing of a well-ordered society of peoples or states. I refer to these as *principles of the law of peoples* (cf. Rawls, 1999b, § 4). I appeal here to Charles R. Beitz' interpretation and development of the role assigned to human rights in Rawls' *Law of Peoples*:

The political significance of human rights is given by their "special role" in the public reason of the Society of Peoples. A society's adherence to human rights is necessary to qualify it as a member "in good standing in a reasonably just Society of Peoples." On the other hand, a society whose institutions fail to honor its people's human rights cannot complain if it is condemned by world society and it makes itself vulnerable *in extremis* to forceful intervention to protect human rights (Beitz, 2009, 98. Cf. James, 2005, 311).

In this way, human rights are a "matter of international concern" justifying forceful intervention in certain circumstances (Beitz, 2009, 109). This special or distinctive role of human rights has an important influence on the content of rights adopted. Given that the rights "are supposed to be capable of guiding political action by agents external to the societies in which they are breached, it must be shown that any candidate human right is a suitable object of international concern" meaning, *inter alia*, that: (i) the threats to individual interests the constraints are meant to protect "are amenable to correction or remediation

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<sup>9</sup> I follow Rawls in believing that the purpose of principles of justice (or similar principles) is a crucial part of the conceptual content of justice (1971/1999a, § 1). In determining the purpose, we appeal to the role principles of justice play within the public reason of citizens and officials in a well-ordered society; in determining the purpose of human rights, we similarly appeal to the role played by this rights standard within the public reason of peoples.

by means of some sequence of actions that could be carried out by political agents outside the society in question”; (ii) “any such external action should be permissible ...;”<sup>10</sup> (iii) “there should be some outside agents (not necessarily the same in every case) that, in virtue of their location, capabilities, and resources, would be in a position to carry out these actions;”(iv) “at least a proper subset of these eligible agents should have reason to bear the burdens that would be imposed by taking the actions” (Beitz, 2009, 140).

A decision procedure of this kind, or in Beitz’ vocabulary, a discursive practice of this nature is arguably representative of the existing human rights practice; it is indicated in the central human rights documents and covenants and constitutes a well-established part of the political practice (Beitz, 2009, 102ff.). So there is indeed a clear decision-making procedure at the international level the object of which is human rights in the form of key standards for international legitimacy or principles of the law of peoples. Hence, clear patterns of collective responsibility with respect to these standards or principles seem to be a part of the international or global structure. Indeed, the responsibility of individual group agents to see to the formulation and implementation of a number of constraints with the purpose to protect individuals against certain major threats to their interests (including constraints on the way in which the group agent itself threatens its citizens) and the responsibility of other suitably placed external agents (that is, other group agents) to intervene in the case that a given group agent fails to protect its citizens in such ways, is part and parcel of the practice in question.

What appears to be absent at the international level, on the other hand, is a decision procedure and, hence, accompanying patterns of responsibility involving another conception of human rights such as the conception defended by Pogge and, for that matter, a conception invoked by a number of other theories of global justice (many of which are in other respects alternatives to Pogge’s view). I have in mind conceptions or standards of human rights formulated along the lines of the purpose and role ascribed to the standards or principles in the first type of decision procedure described above; formulated, that is, as principles of justice. That is, while these accounts conceive of the content of human rights as being less demanding than the content of (domestic) principles of justice – according to a popular distinction in the literature, the former are claimed to be non-comparative or absolute principles and the latter comparative or relative principles (Miller, 1998, 169) – the purpose or role of the principles are considered to be invariant. The latter is claimed to be to assess the distribution of benefits and burdens between individuals, just as it is for principles of

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<sup>10</sup> Implying, for example, that justification for such actions should be capable of rebutting a number of *prima facie* reasons against intervention (Risse, 2005b, 91).

justice, or to establish how this distribution should be in order for the global structure to count as minimally just. Not appealing to human rights as standards of international legitimacy or principles of the law of peoples and settling the content of the standards accordingly, they appeal instead to fundamental human interests or concerns, for example those revolving around a liberal principle of autonomy (Blake, 2001. Cf. Pogge, 2002, 37, 48–49).

If it is correct that the international practice of human rights is not characterized by a conception of human rights of this nature and decision mechanisms pertaining to such a conception, then the plausibility of patterns of responsibility obtaining with respect to this conception is thrown seriously in doubt. This is the main claim of my paper: the conception of human rights defended by Pogge and others as standards for global justice is unsustainable as such in that suitable patterns of collective responsibility do not obtain with respect to it. It is much more plausible that such patterns are present with respect to the conception of human rights as standards of international legitimacy or principles of the law of peoples. Hence, in the prevailing terminology, the argument defended here is *strongly anti-cosmopolitan*. On grounds similar to those upon which it denies the mentioned individualistic conception of human rights, it denies the application of principles of distributive justice or comparative principles such as the Rawlsian difference principle to the global level. This makes it anti-cosmopolitan. Furthermore, it denies the application of a certain type of non-comparative principles of human rights at the global level, namely the kind of principles that retain the role or purpose of a principle of justice (i.e., continues to be a principle of justice, only a less demanding one) in the transition from a principle of justice that is more demanding in content and perhaps appropriate in the domestic context, thus constituting a criterion for the appropriate distribution of benefits and burdens between individuals. This restriction makes my view strongly anti-cosmopolitan.

## 5 Two objections

I now consider two objections to my argument. The first concerns the implied claim that for a distribution to be unjust, someone must be responsible for it. Many deny this view.<sup>11</sup> In reply, it is not clear that Pogge is one of them or could take this view without considerable and unwelcome revision of his theory. The

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<sup>11</sup> Kasper Lippert-Rasmussen emphasized this point in comments to my paper.

core claim of his theory is, recall, that we ordinary citizens of affluent Western countries “uphold”, “impose”, “are causally deeply involved in their [the global poor’s] misery”, “harm”, “have a collective *causal* responsibility for existing institutions”, “[have] a *moral* responsibility, which is a collective responsibility for our collective role in imposing existing institutions”, and are “committing” a “monumental crime” against the world’s poor (Pogge, 1989, 27, 31, 34–5, 238, 276; Pogge, 2002, 23–25, 44–46, 49–50, 66, 94–5, 101, 133, 135–136, 199–201; Pogge, 2010a, 3). According to Pogge, the wrongness or injustice is quite clearly related to our imposition on others institutions that deny them secure access to basic goods such as means of subsistence and essential political liberties. Absent such imposition, no injustice arises.<sup>12</sup>

Second, the view that a distribution may be unjust although someone is not responsible for it is questionable, I believe. At least it is not forced upon us when working within the broader Rawlsian conception of justice, as this paper does. We may see this by considering some cases proposed to motivate this claim. Assume, for example, that I have to dispense aid to people with varying needs but that I am barred from distributing according to needs (for example, I am not familiar with the identity of the recipients). I distribute the aid, but unfortunately and through no fault of mine, I end up distributing most of the aid to those with the least needs.<sup>13</sup> The challenge is that although no one is responsible for this state of affairs, it seems conspicuously unjust. Consider a similar case proposed by Thomas Christiano (2008). Let us presume a criminal trial designed in such a way that it to the highest possible degree (but still imperfectly) ensures that only guilty persons are convicted. Still, innocent people are convicted once in a while. Surely, this seems unjust although no one is responsible for it (as stated above, the system was designed in the best possible way and, say, the occupiers of roles in the system conscientiously discharged their duties and responsibilities).

While both cases apparently challenge the idea that a distribution cannot be unjust unless someone is responsible for it, we should note that they both, the latter explicitly, rely on a certain conception of justice, namely imperfect procedural justice (Rawls, 1971/1999a, 85–86/74–75): “[T]he characteristic mark of imperfect procedural justice is that while there is an independent criterion for the correct outcome, there is no feasible procedure which is sure to lead to it” (Rawls, 1971/1999a, 86/75). It follows straightforwardly from this view that

<sup>12</sup> Cf. Pogge, 2002, 199; Pogge, 2010b, 197: “Those who are not contributing to imposing institutional arrangements upon me are ... not violating my human rights” [i.e., the universal core criterion of justice, see Pogge, 2002, 37 and Pogge, 2010b, 216]

<sup>13</sup> This example was suggested to me by Kasper Lippert-Rasmussen.

despite the fact that the best procedure (in terms of how likely it is to lead to the desired result) among the feasible options is adopted and that the people that staff this procedure flawlessly follow its rules, unjust outcomes may be generated. This is not, however, the only way of conceiving of justice and not, in fact, the way at least Rawlsians conceive of justice. They appeal instead to so-called pure procedural justice: “[P]ure procedural justice obtains when there is no independent criterion for the right result: instead there is a correct or fair procedure such that the outcome is likewise correct or fair, whatever it is, provided that the procedure has been properly followed” (Rawls, 1971/1999a, 86/75). According to this view, injustices arise if, and only if, the procedure has not been designed correctly and/or its rules are not followed. Assuming, as Rawls does, that a just procedure is part of the feasible set (at least under favourable circumstances) (Daniels, 1996, 50–51; Rawls, 1971/1999a, 137/119; Rawls, 1999c, 294, 351–353) and that its rules are clear and possible to follow (Rawls, 1993, 182 n. 11) then any shortfall in justice is one that people, individually or collectively, are responsible for. I fully understand that this reply appeals only to those attracted to this Rawlsian view of justice and that there are other reasonable views on justice according to which an outcome may be unjust despite the fact that no one can be held responsible for it. However, in the context of this paper, the aim of which is to state an immanent criticism of Pogge, I believe it suffices to point out that aside from the clear link between (in)justice and responsibility made by Pogge himself, the broader frames of the Rawlsian view within which Pogge works suggest such a view.

The second objection I consider does not deny the claim that a distribution can only be unjust in so far as someone is responsible for it. Instead, it takes the argument made in this paper to task for letting us wealthy participants in the global structure off the hook too easily with respect to the responsibility for the global distribution of benefits and burdens between individuals. Although there is no decision method with respect to this distribution (if this is indeed the case), and the group in question is in this sense random, might it not be possible to hold the group and its members responsible for the act or outcome in question?<sup>14</sup> Virginia Held suggests that we may indeed in some cases hold random groups responsible for an outcome or a failure to act. The following case is one example: “Assume that there are seven apparently normal persons in a subway car; none is acquainted with any other; none are sitting together. The second smallest person of the seven rises, pushes the smallest to the floor, and, in full view and hearing of the remaining five, proceeds to beat and stran-

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<sup>14</sup> Pogge's response to Leif Wenar in Pogge, 2010b, 221–2 suggests that he would answer this question affirmatively.

gle his victim” (Held, 1970, 476–477). It seems clear that this random group (the five bystanders) ought to act so as to prevent something bad from happening (the foreseeable death of the smallest person), that is, for example, cooperate to restrain the attacker (and that they are morally responsible to the extent that they refrain from doing so).

The question in our context is whether we can similarly be held responsible for the global distribution of benefits and burdens between individuals. Held points out, rightly I believe, that our reason for holding the random group in the subway car responsible is that “the action called for in the circumstances specified ... [was] ... obvious to the reasonable person,” the “desirability and probability of its outcome ... [being] ... of a certain level ...” (Held, 1970, 477–478). Accordingly, the group is plausibly aware of the moral nature of its act or, in this case, its non-performance of the action called for and is hence an appropriate candidate for blame. In the case of the global distribution of benefits and burdens between individuals, the action required to avoid the death of 18 million people each year from poverty-related causes seems far from obvious. One perhaps natural suggestion, namely transferring means from the well-off to the worst-off, will not do, in that justice Rawls-style and economic common sense suggest that combating inequality and poverty in a significant way involves measures pertaining to the production of goods (not only to how a given stock of resources is distributed) (Rawls, 1971/1999a, 88/76–77. Cf. Pogge, 1989, 28–29). Pogge’s main suggestion, reforming major aspects of the global basic structure such as the resource privilege, has some plausibility as an obvious way of reducing poverty, but so does the suggestion to focus on domestic institutional structures (Risse, 2005b). Doing both may seem the right thing to do (Pogge, 2005, sec. 6), but again, this might be done in a number of ways.

Whilst it may not be obvious to the reasonable person *which* action on the part of the group is called for in the case of global poverty, the fact that *some* action is called for may be so; it might be obvious to the reasonable person, that is, that a decision method is needed. Accordingly, the random group can then be held responsible in so far as it fails to adopt a decision method (Held, 1970, 479). However, a further reasonable condition seems to be that the adoption of such a mechanism has a relatively high degree of success and is at all feasible (Held, 1970, 477–478) (The latter perhaps including a regard to the cost of turnover from an existing decision mechanism.)<sup>15</sup> The latter condition seems clearly satisfied in the case Held mentions to exemplify this kind of responsibility of a random group: here a group of three has to decide whether to remove beam 1, 2

<sup>15</sup> See, e.g. Pogge, 1989, 230 (see, however, *ibid.*, 260 for an apparently conflicting claim); Räikkä, 1998, esp. sec. III.

or 3 in a collapsed building entrapping a wounded man so that they can apply a tourniquet to his thigh (preventing that he bleeds to death). It is much less clear, I submit, that it is satisfied in the complex case of global poverty, not least if I am right that the implied kind of attention to human rights differs fundamentally from the one integral to the existing practice. Still, might we not have a duty to strive to achieve such a decision method?<sup>16</sup> It depends, I submit, on our available alternatives. Given that we have an alternative existing practice, undoubtedly improvable in many ways (partly guided by philosophical examinations of its rationale and underlying principles), that, although as a by-product, addresses concerns similar to those driving human rights conceived as a standard assessing the distribution of benefits and burdens between individuals, we might do better by working to improve this practice. So, I conclude, Pogge and others motivated by these concerns and drawn to analyzing global justice in terms of institutional structures imposed on others to the detriment of their secure access to basic goods should embrace instead of dismiss the “society-of-peoples” approach to global justice proposed by Rawls.

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<sup>16</sup> Matthew Clayton emphasized this point. Cf. Pogge, 1989, 260.

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