GLOBAL INSTITUTIONS AND HUMAN RIGHTS


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Abstract

Thomas Pogge has famously argued that the present arrangement of international institutions that allows for human rights violations to occur on an ongoing basis is unjust, and further, that powerful states that create and maintain these institutions are responsible for the resulting human rights violations. By setting the rules of economic and political interaction in the global forum, the world’s rich and powerful stack the deck against the global poor, making sustainable development difficult and making extreme poverty, malnutrition, and premature death common outcomes. Pogge concludes that this implication of responsibility creates a moral requirement for powerful nations to take immediate steps to reform the global institutional order in such a way as to minimize the number of foreseeable human rights violations that occur within it.

I believe that Pogge is only partly correct in his analysis. In this paper, I argue that the global institutional order, which is comprised of a complex web of global and regional organizations with both political and economic aims, is not unjust as Pogge suggests. However, even if the maintenance of these institutions does not constitute an injustice, I believe that there remains an important sense in which powerful states that support the present arrangement of international institutions are responsible for ongoing subsistence rights violations. Establishing this responsibility means that states that continue to support present institutions are then also morally responsible for ensuring these human rights violations are remedied as a matter of justice.

In his 2007 book *National Responsibility and Global Justice*, David Miller provides the sort of account of responsibility that I believe is lacking in Pogge’s work. Differentiating between *moral responsibility*, *outcome responsibility*, and *causal*...
responsible for a particular outcome can depend on several factors, viz., the foreseeability and the justification for harm. I argue that the sorts of remedies that are required in cases of moral responsibility, outcome responsibility, and causal responsibility turn out to be quite different from one another.
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1. Introduction

Thomas Pogge has famously argued that the present arrangement of international institutions that allows for human rights violations to occur on an ongoing basis is unjust, and further, that powerful states that create and maintain these institutions are responsible for the resulting human rights violations. By setting the rules of economic and political interaction in the global forum, the world’s rich and powerful stack the deck against the global poor, making sustainable development difficult and making extreme poverty, malnutrition, and premature death common outcomes. Pogge concludes that this implication of responsibility creates a moral requirement for powerful nations to take immediate steps to reform the global institutional order in such a way as to minimize the number of foreseeable human rights violations that occur within it.

I believe that Pogge is only partly correct in his analysis. In this paper, I will argue that the global institutional order, which is comprised of a complex web of global and regional organizations with both political and economic aims, is not unjust as Pogge suggests. Rather, these institutions serve important functions in facilitating international co-operation and economic development, resulting in lower rates of poverty and malnutrition than has ever before been possible. However, even if the maintenance of these institutions does not constitute an injustice, I believe that there remains an important sense in which powerful states that support the present arrangement of international institutions are responsible for ongoing subsistence rights violations. They are responsible, but it is not quite in the way that Pogge suggests. Rather, in his analysis,
I believe that Pogge conflates important distinctions between several different notions of the term “responsibility”. The lack of distinction between several types of responsibility leaves us with a confused and incomplete picture of how remedial responsibilities for ongoing subsistence rights violations ought to be assigned. Thus, before we are able to accept Pogge’s assertion that powerful nations are responsible for human rights violations by virtue of their active maintenance of the global institutional order, we require a more nuanced conception of responsibility.

With a more complex idea of responsibility in place, my overarching argument will be this: While the global institutional order may not be unjust as Pogge suggests, powerful states that support and maintain present global institutions are, in a certain sense, responsible for the human rights violations that are allowed to continue under the present institutional regime. Establishing this responsibility means that states that continue to support present institutions are then also morally responsible for ensuring these human rights violations are remedied as a matter of justice.

In his 2007 book *National Responsibility and Global Justice*, David Miller provides the sort of account of responsibility that I believe is lacking in Pogge’s work. Differentiating between *moral responsibility*, *outcome responsibility*, and *causal responsibility*, Miller shows that what we mean when we determine a party is “responsible” for a particular outcome can depend on several factors, viz., the *foreseeability* and the *justification* for harm. In Chapter 3, I discuss Miller’s “connection theory”, which attempts to connect remedial obligations to particular agents in a systematic way. There, I argue that the sorts of remedies that are required in cases of moral responsibility, outcome responsibility, and causal responsibility turn out to be quite
different from one another. For example, while a finding of moral responsibility entails a moral obligation to discontinue an act and to offer reparations, outcome responsibility avoids moral condemnation, but requires the offending agent to provide institutional remedies and/or protections for those who may be harmed by the act. The upshot is that different notions of being held responsible ought to result in different sorts of moral judgments, as well as different sorts of remedial responsibilities. In the case of subsistence rights violations resulting from the present arrangement of international institutions, I believe that we are generally concerned with outcome responsibility. This, I believe, is an important distinction that is missed in Pogge’s account.

In Chapter 4, I attempt to sketch more precisely how outcome responsibility is generated in international relations, and what sorts of institutional-remedial responsibilities are entailed by it. Here I voice my general agreement with Pogge in arguing that powerful nations are responsible for continuing subsistence rights violations, albeit on a specific conception of “responsible”.

Overall, I consider this paper to represent a relatively minor, yet important, clarification of the account of global justice given by Thomas Pogge. With a more complex idea of national responsibility inserted into Pogge’s account—such as the one given by David Miller—I believe we are better able to pass judgments on the moral conduct of states in supporting international institutions, and have a stronger philosophical basis for creating policy recommendations to combat global poverty.
2. Thomas Pogge, and Injustice of the Global Institutional Order

The continuing imposition of this global order, essentially unmodified, constitutes a massive violation of the human right to basic necessities—a violation for which the governments and electorates of the more powerful countries bear primary responsibility. (Pogge, Severe Poverty as a Human Rights Violation 2007)

I. Injustice of the Global Institutional Order

In his influential book *World Poverty and Human Rights*, Thomas Pogge argues that the present arrangement of global political and economic institutions is unjust because it is causally implicated in the ongoing existence of global extreme poverty, to the extent of constituting a human rights violation. The argument further posits that any agent that co-operates in the creation and maintenance of these global institutions is then responsible for any resulting human rights violations.1 In this chapter, I will attempt to bring into question Pogge’s assertion that the global institutional order is “unjust”, and suggest in its place that it is better understood as, “incompletely just”. This conclusion, however, should not be seen as precluding the need for institutional reforms to ensure robust institutional human rights protections are in place, which I argue for in the following chapters.

The post-Second World War institutions such as the United Nations, World Bank, International Monetary Fund, GATT/World Trade Organization, among many others, that are generally seen as comprising the core of the global institutional order have presided over some of the greatest reductions in extreme poverty in recorded history. As Mathias

Risse points out, “The share of people living on less than $1 a day fell from 42 percent in 1950 to 17 percent in 1992. Historically, almost everybody was poor, but that is no longer true”\textsuperscript{2} It would seem initially counterintuitive to argue that the global institutional order harms the world’s poor, when significant aggregate improvements in rates of extreme poverty continue to be made. However, the benchmark for harm that Pogge employs is different from aggregate improvements, and is also somewhat unorthodox.

Pogge proposes the following definition:

The feasibility of a more poverty-avoiding alternative design of the global institutional order shows, I argue, that the present design is unjust and that, by imposing it, we are harming the global poor by foreseeably subjecting them to avoidable severe poverty.\textsuperscript{3}

According to this definition, the present arrangement of global institutions does not in fact have to cause any poverty at all for Pogge to conclude that it constitutes a harm inflicted on the global poor, and is unjust. Rather, there merely has to exist some other feasible alternative arrangement of global institutions that would result in fewer human rights violations in order for the present order to be declared harmful and unjust. While the global institutional order may not cause poverty, it is causally implicated in preventing maximal reductions in rates of extreme poverty. By this definition, there are no doubt vast numbers of alternative institutional arrangements that would be considered “more just” than the current one. However, every institutional order that we could conceive of would again be considered unjust if there was some foreseeable modification that we could make to it to further reduce severe poverty. In what follows, I will advance

\textsuperscript{2} Mathias Risse, "Do We Owe the Global Poor Assistance or Rectification?," \textit{Ethics and International Affairs} 19, no. 1 (2005). P. 10
\textsuperscript{3} Thomas Pogge, "Severe Poverty as a Violation of Negative Duties," \textit{Ethics & International Affairs} 19, no. 1 (2005): 55-83. P. 55
three separate arguments that bring into question Pogge’s fundamental assertion that the present global institutional order is “unjust”.

II. The Standard View

The first argument I will present rejects the notion that the global institutional order is unjust on the basis of the belief that extreme poverty can quite realistically be ended under the current institutional regime. The present global economic order may be incompletely just, since it certainly does not guarantee socio-economic justice; however, sufficient economic growth can still readily occur under the current arrangement of global institutions such that developing nations are able to become full partners in the global economy. Even if reform of global institutions could make this process quicker or more effective, a lack of, or slow adoption of these reforms does not warrant the label of “injustice”. This position, which I will call the Standard View, is one held by much of the development community and many international organizations, and is supported by prominent development economists such as Jeffrey Sachs and Amartya Sen.4

The Standard View relies on obtaining empirical evidence on the causes of extreme poverty and identifying policy-based solutions, rather than pointing to necessary reform of international institutions. Generally, this empirical evidence comes in the form of identifying domestic factors that hold back economic development. Sachs, for example, writes,

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When countries get their foot on the ladder of development, they are generally able to continue the upward climb. [...] The main objective of economic development for the poorest countries is to help these countries to gain a foothold on the ladder. The rich countries do not have to invest enough in the poorest countries to make them rich; they need to invest enough so that these countries can get their foot on the ladder. After that, the tremendous dynamism of self-sustaining economic growth can take hold.\(^5\)

Pogge argues against this position, to which he gives the name “the Panglossian View”, so called after the blithely optimistic tutor in Voltaire’s Candide. Pogge explains that in taking the Panglossian View, “…it is often claimed that we live, in this regard, in the best of all possible worlds: that the present global order is optimal or nearly optimal in terms of poverty avoidance.”\(^6\) While Pogge’s description of the Panglossian View clearly differs from that I have given of the Standard View, the arguments that Pogge presents seem, in fact, to be aimed at the Standard View, rather than the Panglossian View.\(^7\) Instead of arguing exclusively against the position that the global institutional order is “optimal in terms of poverty avoidance”, Pogge’s arguments in fact take aim at the view that the global institutional order is “adequate in terms of poverty avoidance”.

\(^7\) Here, the Panglossian View—that the global institutional order is “optimal in terms of poverty avoidance”—seems to me to be a straw man. To my knowledge, there is no one in the development or philosophical community who would suggest that the present arrangement of global institutions is “optimal in terms of poverty avoidance”. However, as I have pointed out with the Standard View, there are many who believe it is *adequate* in this respect.
In response to the practice of rich countries using their economic clout to provide subsidies to domestic producers that poor nations are unable to match, Pogge argues the following:

…The present rules of the game favor the affluent countries by allowing them to continue protecting their markets through quotas, tariffs, antidumping duties, export credits, and huge subsidies to domestic producers in ways that poor countries are not permitted, or cannot afford, to match. […] Such asymmetrical rules increase the share of global economic growth going to the affluent countries and decrease the share going to the poor countries relative to what their share would be under symmetrical rules of free and open competition.⁸

There are two points to be made here, one with respect to the Standard View, and the other a more general point about Pogge’s conception of injustice. The first is that the Standard View accepts, and deplores, the use of economic and political clout to advance the interests of particular constituent groups in rich nations, but denies that this makes the global institutional order itself unjust. The fact that powerful nations continue to engage in these practices provides a clear example of where improvements can, and should, be made in the name of poverty reduction. Moreover, moral responsibility for extreme poverty caused by these sorts of policies can be assigned, and remedial action can be taken. (I will say more on this point later in Chapters 3 and 4.) The Standard View holds that despite these power imbalances in the global institutional order, extreme poverty can be ended through a combination of domestic initiatives and increased participation in global economic institutions. While power imbalances may impede this process, and represent a serious obstacle that must be overcome, the opportunity for the elimination of extreme poverty under the current arrangement of global institutions still remains if

⁸ Ibid.
domestic factors can be adequately addressed. If this belief held by the Standard View is in fact correct, then it will turn out that fundamental institutional reform is not required to ensure a just institutional order. In other words, if success in maximally reducing incidence of severe poverty is to be the measure of justice, then it may be the case that the present institutional order is able to fulfil this mandate through a combination of foreign aid, development projects, and encouragement of good governance.

It should be noted that invoking the Standard View in this way is not meant to be a knockdown argument against Pogge’s position. Targeted changes in the global institutional order would likely encourage, and make more effective, the domestic reforms that the Standard View advocates for. By appealing to empirical evidence of the causes of extreme poverty, the Standard View does, however, press Pogge to show why changes in the rules of international institutions are necessary to reach his own stated baseline of justice.

The second point that must be made here concerns Pogge’s baseline for injustice. In arguing that, “asymmetrical rules increase the share of global economic growth going to the affluent countries and decrease the share going to the poor countries relative to what their share would be under symmetrical rules of free and open competition”\(^9\), it is not clear why Pogge is now concerned with symmetrical rules of free and open competition, which stands in contrast to his previous definition of harm and injustice in terms of the availability of an alternative institutional order where extreme poverty is further reduced. With this new definition, it seems that Pogge’s baselines for injustice

\[\text{\textsuperscript{9} Ibid.}\]
and harm can be found in the asymmetry of the rules of international trade. This would appear to conflict with his previous definition, because it is quite plausible that even under conditions of symmetry, there would still remain a number of alternative institutional arrangements that would reduce extreme poverty at a faster rate. Under conditions of symmetry, we would not necessarily reach maximal levels of human rights protections.

I believe that this second point raises questions about the stability of Pogge’s baseline for injustice. If injustice is in fact to be judged on the basis of the availability of an institutional order which is better able to prevent severe poverty, the more intuitive baseline of equal treatment for participants in global institutions must be ignored as a matter of consistency.

### III. Reconceptualising “Harm”

There are, in fact, a number of commentators who have pointed out this problem with the baselines of “harm” and “injustice” that Pogge employs in his account. If the baseline falls at the point that Pogge suggests—where there is no feasible alternative arrangement for global institutions to further reduce extreme poverty—we run into a number of problems. As Alan Patten points out, if we are to judge whether a particular institutional order harms the world’s poor entirely by the availability of alternative schemes that could reduce poverty further, we risk overemphasizing the role played by the global

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institutional order, and downplaying the role of domestic factors, in the existence of extreme poverty.\textsuperscript{11} It is reasonably assumed that domestic and international factors work in concert to produce extreme poverty; however, Pogge focuses heavily on the international. This “explanatory cosmopolitanism”, as Patten calls it, ignores the role played by domestic factors in affecting rates of extreme poverty by defining “harm” purely in terms of the arrangement of international institutions.\textsuperscript{12}

In response, Pogge offers the following rebuttal of Patten’s criticism. He asks us to consider the example of arms sales to the developing world, where those legally purchased weapons are then used by unjust regimes to suppress their peoples. In this situation, regardless of whether these arms are sold to unjust regime A or not, the rulers of A will continue to brutally repress their peoples with or without the weapons purchased on international arms markets. Here, Pogge argues that we would not want to absolve international arms dealers of all responsibility for the carnage that their weapons create at the hands of the repressive regime. Rather, they bear responsibility for the harm that is caused by the weapons they have sold. This situation is analogous, Pogge contends, to Patten’s rejection of looking exclusively at international institutions in determining whether the global institutional order is harming the world’s poor. In other words, Pogge argues that if there are two contributing factors to a harm (in this case, unavoidable.

\textsuperscript{11} Alan Patten, "Should We Stop Thinking about Poverty in Terms of Helping the Poor?," \textit{Ethics & International Affairs} 19, no. 1 (2005): 19-27. P. 23

\textsuperscript{12} There is a crucial distinction that must be emphasized between domestic \textit{institutions}, and domestic \textit{factors} that I reference here. It is quite consistent to maintain that domestic institutions play little role in rates of extreme poverty, while domestic factors play a large role. Domestic factors such as draught, disease, low savings rates, poor infrastructure, etc. may contribute significantly to rates of poverty, even when domestic institutions such as governance and legal systems are considered just. Domestic institutions and domestic factors are certainly related, but not identical. I say more on this point in Chapter 4.
international and domestic factors) then they are both responsible for harms that result from their combined actions, even if those harms would not have occurred but for the involvement of either of the factors.

I do not believe that Pogge’s response here is sufficient. We can examine Pogge’s example of international arms dealers to show why. Suppose that the international community passed the needed reforms to effectively ban arms sales to Repressive Regime A, yet, as Pogge allows, the brutal repression of its citizens continues. Suppose further that upon seeing the continued oppression of the people of A, the international community decides that more must be done, and passes sanctions on Repressive Regime A by restricting travel, refusing to buy exports or lend funds, and freezing foreign assets held by Regime A’s leaders. In addition, the international community actively supports rights groups working with A, and does what it can to supply basic necessities to those in need living in A. Despite these efforts, Repressive Regime A continues to oppress its peoples, and human rights shortcomings continue. By Pogge’s definition, the global institutional order would still be “harming” the people of the repressive state, because human rights violations continue to occur. Even in this situation there are other foreseeable institutional arrangements that could potentially reduce human rights violations in A, such as mandated military action against Repressive Regime A. However, it seems implausible to suggest that at this point that the institutional order is still harming the people of A, or that the particular institutional arrangement could still qualify as unjust. As Patten suggests, it seems that by defining harm in this way, Pogge is simply “…skillfully reconceptualizing the concept of harm.”

\[13\] Ibid.
IV. Scope of Justice

It could be argued that my example is too simple because it demonstrates a situation where the institutional order is merely unsuccessful at alleviating a harm that is clearly caused by domestic factors, namely, an oppressive regime. Do the more difficult examples not come from harms that are either directly caused or at least facilitated by international institutions? For example, should we not also be interested in situations where reasonably benevolent and well-functioning domestic institutions are negatively impacted by global institutions or actors? If the global institutional order does, in fact, negatively impact domestic institutions, then there may be a different basis entirely for declaring it unjust. In this situation, we would be required to examine the resources that are being distributed to different political units, and determine if there is an unjust deprivation of resources occurring within the global institutional order.

I believe that this concern brings us to a more fundamental point about determining injustice—which is the third approach to criticizing Pogge’s account—that the global international order itself may be the wrong sort of entity to be describing as just or unjust at all. As I argue in this paper, I believe that insofar as we are concerned with the global institutional order, we ought to be more interested in redressing acts of injustice, rather than determining whether the arrangement of international institutions is itself just or unjust. While domestic political institutions can certainly be judged from the standpoint of justice, I believe that there are important incongruities between domestic political institutions and the global institutional order such that we should not attempt to
make the same sorts of claims of injustice against the latter. Theorists such as John Rawls and Thomas Nagel have argued this point persuasively.\textsuperscript{14}

The problem of the proper domain for judgments of justice is a much larger question than the scope of this paper allows. However, for our purposes, I believe that it is enough to gesture to it as a plausible objection to Pogge’s argument for the global institutional order being inherently unjust. Arguably what we should be primarily concerned with here is less whether the global institutional order should be labelled as unjust, and more whether through this arrangement of global institutions, powerful states are responsible for ongoing human rights violations. As Thomas Nagel puts it,

There is a peculiar problem here for our discussion: The facts are so grim that justice may be a side issue. Whatever view one takes of the applicability or inapplicability of standards of justice to such a situation, it is clearly a disaster from a more broadly humanitarian point of view. I assume there is some minimal moral concern we owe to fellow human beings threatened with starvation or severe malnutrition and early death from easily preventable diseases, as all these people in dire poverty are. Although here is plenty of room for disagreement about the most effective methods, some form of humane assistance from the well-off to those in extremis is clearly called for apart from any demand of justice, if we are not simply ethical egoists.\textsuperscript{15}

V. Conclusion

In this chapter, I have raised three separate arguments that bring into question whether or not it makes sense to call the present global institutional order “unjust”, as Thomas Pogge argues. While I believe that Pogge’s position represents a mischaracterization about the


nature of justice in the global institutional order, there still remains the larger question of whether affluent nations are responsible for human rights violations that continue to occur under the present institutional regime. I will argue in the following chapters that the answer to this question is a qualified yes.

While I have raised several existing objections from different commentators to Pogge’s labelling of the global institutional order as “unjust”, I do not necessarily believe that this issue can be settled conclusively either way. The Standard View is meant to bring into question the necessary connection between maximal levels of human rights protections and the global institutional order. Alan Patten’s “reconceptualising harm” argument, and the “scope of justice” argument are meant to demonstrate from different angles that even if Pogge’s definition of injustice applies to the global institutional order, it ends up talking past most of the literature on global justice by employing an unorthodox definition of “injustice”. Taken together, these arguments are meant to bring into doubt whether we should be using the term “unjust” to describe the global institutional order at all. However, even together, they do not constitute a knockdown argument against Pogge. While I believe it to be the less persuasive option, it is still quite possible to hold fast to Pogge’s definition of injustice. Even in this case, if my rejection of the term “unjust” is found unpersuasive, I believe it is still possible to agree with my discussion of the notion of responsibility in the global institutional order, to which I turn now.

While I agree with Pogge on the fundamental issue of responsibility attribution, I believe that Pogge’s account represents an oversimplification of the concept of responsibility. In the next chapter, I will discuss a recent account of national
responsibility given by David Miller, in hopes that it may shed some light on what we mean when we say that powerful nations are responsible for ongoing human rights violations.
3. Responsibility for Harm in the Global Institutional Order

I. Responsibility

In arguing that the world’s rich nations are responsible for ongoing violations of subsistence rights of the world’s poor, I believe that Thomas Pogge conflates important distinctions between several different notions of responsibility. The question I will address in this chapter is whether or not the sort of responsibility for human rights violations that Pogge attributes to powerful states through the global institutional order is the sort of responsibility that is required for assigning remedial duties. In other words, we must look more closely at whether the role played by the global institutional order in underfulfillment of human rights globally entails the sort of moral responsibility required for initiating institutional reform that Pogge suggests. I believe that once we unpack the notion of “responsibility”, we will then be able to see how different types of responsibility can lead to very different sorts of moral obligations when it comes to setting right situations where human rights are inadequately fulfilled. It seems to me that Pogge’s thesis—that rich nations are responsible for violating the human rights of the world’s poor by their imposition of an unjust global institutional order—depends on an oversimplified idea of responsibility.

With a more nuanced examination of the concept of responsibility, we will be able to arrive at a more complete explanation of situations in which harms caused by actors in the global institutional order ought to give rise to remedial responsibilities. Moreover, once we understand more clearly the type of responsibility that is being invoked when we talk about institutional actors being responsible for human rights
violations, we will then be able to better understand the sort of corrective action that is required in particular situations. The moral imperative to adequately ensure universal fulfilment of human rights need not be any less stringent than Pogge insists. However, as we examine the concept of responsibility more closely, I believe that we will find that attributing responsibility for human rights violations to an unjust global institutional order is a misstep.

Recently, David Miller has taken up the issue of national responsibility, and has argued for a threefold distinction in the types of responsibility that we attribute to agents. 16 Dividing responsibility into three separate notions: moral responsibility, outcome responsibility and causal responsibility, Miller argues that how we determine remedial responsibility will turn on the type of responsibility we attribute. I believe that a detailed consideration of the notion of responsibility such as this is an important element that is lacking in Pogge’s work. Taking into account the tripartite classification of responsibility developed by Miller, I will attempt to reformulate Pogge’s argument by proposing an alternative conception of remedial responsibility for ongoing human rights violations.

II. Outcome and Remedial Responsibility

In working out his theory of national responsibility, David Miller takes on the task of determining how we might assign responsibility for global injustice to agents such as nations, governments, or institutions. Required for this job is differentiating between two

16 David Miller, National Responsibility and Global Justice (New York, NY: Oxford University Press, 2007). Ch. 4
types of responsibility that we may mean: outcome and remedial. Outcome responsibility is what we refer to when we are interested in the causal antecedent of a particular event. For example, if I were to spill a glass of water by carelessly bumping into the table it was resting on, I would be considered outcome responsible for the resulting spilled water—responsible for that particular outcome. Remedial responsibility on the other hand, identifies the agent responsible for righting a situation in need of a remedy. So, in our glass of water example, while intuitively it may be I that am responsible for cleaning up the mess, it may also be the case that some other person has been previously assigned the responsibility for cleaning up all spilled water within a particular area. Thus, outcome and remedial responsibility may in certain circumstances conflict with one another.

There are various reasons why we might want to “pre-assign” remedial responsibility for potential harms. In our water example, the assignment of cleaning duties would likely be a pragmatic decision—i.e., in areas used by many people, it may be cost efficient to hire janitorial staff. However, remedial responsibility can also be pre-assigned for normative reasons as well—i.e., if the potential harms are of the sort that we believe for moral reasons that it is important they be remedied, and where the responsible agent may be unable to provide a remedy, or is unidentifiable entirely.

Distinguishing between outcome and remedial responsibility allows Miller to conceptually separate questions of which agents are responsible for bringing about unjust states of affairs in the world, and which agents can be seen as bearing remedial responsibility for these states of affairs. While in practice the responsible agent in both cases may in fact turn out to be one and the same, this is not necessarily the case. We may want to say that in situations where the agent (or agents) who is outcome responsible
for situations of injustice is not easily identifiable, unable to adequately right the situation that they have caused, or possibly justified in taking their harm-causing actions, that we can then assign remedial responsibility to other agents based on some criteria.

This is precisely what Miller attempts to do in setting out his “connection theory”. Miller suggests the following six criteria by which an agent may be identified for remedial responsibility: moral responsibility, outcome responsibility, causal responsibility, benefit, capacity, and community.\footnote{David Miller, \textit{National Responsibility and Global Justice} (New York, NY: Oxford University Press, 2007). p. 100-104} In the first two cases, outcome and remedial responsibility are closely linked—an agent who is outcome responsible can be identified, and is remediably responsible for the resulting situation. When considered together, I will attempt to show that these two principles of moral and outcome responsibility are sufficient in assembling a more plausible connection theory that is able to identify particular agents as remediably responsible. In other words, I believe that the criteria of causal responsibility, benefit, capacity, and community are unnecessary or implausible for inclusion in Miller’s connection theory.

III. Moral and Outcome Responsibility

\textit{Moral Responsibility}

Differentiating moral responsibility from mere outcome responsibility, Miller explains that,

\begin{quote}
In order to be morally responsible for P’s condition, A must have acted in a way that displays moral fault: he must have deprived P deliberately or recklessly, or he must have failed to provide for P despite having a pre-
\end{quote}
existing obligation to do so (e.g. he had promised to feed B, but then defaulted on his promise by doing nothing).\textsuperscript{18}

Moral responsibility thus involves an \textit{unjustifiable} harm inflicted by one agent upon another, giving rise to remedial obligations. This is the key feature that will differentiate moral responsibility from outcome responsibility. It seems that in the case of moral responsibility, there must be an identifiable A, who exhibits intentionality in her actions or omissions in such a way as to incur moral praise or blame. For example, it would seem quite odd to assign moral responsibility to the earth’s tectonic plates for shifting in such a way as to cause a tsunami that destroys a coastal village. The interesting assumption behind moral responsibility is that there is an identifiable A whose actions we can judge as justifiable, or not.

This is helpful to those interested in assigning remedial responsibility, because where moral responsibility can be identified, full remedial responsibility can be assigned in a reasonably straightforward manner to that agent. Moreover, the losses suffered by the deprived party are seen as unjustified losses, and thus the content of the remedial responsibilities is also relatively straightforward to work out as well. For example, in the aftermath of the first Gulf War in 1991, Iraq was judged to be in violation of international law by means of its invasion of Kuwait, and remedial responsibility in the form of reparations was assigned to the state of Iraq specifically for “any direct loss, damage—including environmental damage and the depletion of natural resources—or injury to

\textsuperscript{18} Ibid. P.100
foreign Governments, nationals and corporations...“¹⁹ Where a morally responsible agent is identifiable, there is also an identifiable agent upon whom to pin responsibility for losses incurred.

While moral responsibility may be the less philosophically interesting way of connecting remedial responsibility to particular agents, I believe that it is also the most straightforward, and least controversial. Where unjustified action resulting in harm can be attributed to A, remedial responsibility for that harm could also be so attributed. I will call the type of remedial responsibility arising from breaches of moral responsibility, *direct remedial responsibility*.

*Outcome Responsibility*

Outcome responsibility arises when the actions of A result in harm or deprivation to P, but where the actions of A are “morally neutral, or even justified.”²⁰ Outcome responsibility contains two important distinguishing features. First, for an agent to be held outcome responsible, their action must have reasonably foreseeable consequences—this distinguishes outcome responsibility from causal responsibility. In the case of outcome responsibility, any harm that results from the actions of an agent was either known, or ought to have been known. Here there is an element of intent to cause harm, or at least a lack of will to avoid causing harm. Second, the resulting consequences of the action must be justifiable—this distinguishes outcome responsibility from moral

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responsibility. Justification for causing harm is meant to weaken or eliminate the resulting remedial obligations—i.e., if the agent had no choice but to cause the harm.

There appears a serious difficulty in attributing remedial responsibility where there exists an inherent conflict between the intent to cause harm and the justification for doing so. The harm may be serious enough such that we believe for moral reasons that it ought to be remedied, but the agent who caused the harm may have had good reasons for acting in the way she did. The notion of outcome responsibility is constituted by *foreseeable yet justifiable* harms.

It is arguably the case that the majority of harms or deprivations that occur within the international system at most generate outcome responsibility, for the obvious reason that the international system is anarchic. What I mean by this is where lopsided trade deals are signed, market transactions are made, military power exercised, or political influence is wielded by nations or states, there is always recourse to the justification that self-interest is a reasonable (and rational) motivation for such action. If political actors in the international sphere were to shun exclusively self-interested behaviour, so the justification goes, they would then risk placing themselves in a disadvantageous position vis-à-vis other political actors—the Hobbesean state of nature writ large. As Hobbes argued, principles of morality are identifiable in the state of nature, but we are also morally justified in acting contrary to them until a sovereign can ensure compliance by all. Thus, in all but the most wanton cases of disregard for the well-being of other agents, in the absence of a coercive authority there always appears to be at least some justification for benefitting oneself at the expense of others.
IV. Causal Responsibility, Benefit, Capacity, and Community

With these two principles of moral responsibility and outcome responsibility in place, it now remains to be seen whether the other four—causal responsibility, benefit, capacity and community—add anything of importance to our connection theory.

*Causal Responsibility*

Miller rightly identifies the difficulties associated with separating causal responsibility from outcome and moral responsibility as being a problem with the degree to which an agent can be reasonably expected to foresee the consequences of her actions and omissions.\(^{21}\) For example, my walking around blindfolded would likely be sufficient grounds to determine that I am outcome responsible for bumping into the table and spilling the glass of water because it was reasonably foreseeable that when I cannot see, I am quite likely to bump into something. On the other hand, your leaving the glass of water sitting on the table was surely a causal contribution to my spilling it, but my wandering around blindfolded may not have been foreseeable to you. Thus, in the second scenario, while you may be causally responsible for the outcome, you would likely not be held remedially responsible because the outcome was not foreseeable to you at the time of your actions. The problem that Miller identifies with separating causal responsibility from outcome and moral responsibility is simply that it is often quite difficult to establish reasonable foreseeability. This problem of establishing reasonable foreseeability is not a

\(^{21}\) Ibid. p. 102
problem exclusively for political theorists—reasonable foreseeability is a key principle in establishing legal responsibility in tort and criminal law as well.\textsuperscript{22}

Recognizing this difficulty, Miller suggests maintaining the conceptual distinction between causal and outcome responsibility, arguing that causal responsibility can only give rise to remedial responsibilities in a very weak way, or in extraordinary circumstances. He uses the following example of how causal responsibility can be connected to remedial responsibility:

\ldots Or consider someone who under coercion injures another. If the coercer himself disappears from the scene, causal responsibility falls on to the person who has been made to inflict the injury, and with it the responsibility to care for the injured party.\textsuperscript{23}

In other words, Miller wants to attribute some sort of responsibility to the agent who was causally involved in the harm, but had no control over it and could not have prevented it from happening. In determining even a weak remedial responsibility in situations such as this, I believe that Miller is trading on two different senses of “responsibility”. Remedial responsibility in the first sense is based on considerations of justice—it would be unjust if the responsible party abdicated her responsibilities in the situation. In the second sense, which Miller assigns to causal responsibility, remedial responsibility is based on what would seem to be a humanitarian duty, or a duty of beneficence. Abdicating the responsibility may violate some imperfect moral duty, but such an abdication would


certainly not be unjust. Thus, attributing remedial responsibility in the second sense would seem to require the use of some background moral theory not present in Miller’s argument. In any case, even if such a background moral theory were in place in this situation that gave rise to duties of beneficence, it would then be a new problem for Miller to explain on just what basis remedial responsibility is being attributed in general. In other words, once we allow a connection theory to be based not only on principles of justice, but also moral theory, then that would seem to open the door to having any number of criteria being included as well.

There is more that must be said about the distinction that I am making here between duties of justice, and duties of beneficence. The theories of David Miller and Thomas Pogge both attempt to establish our duties towards other peoples, in particular the global poor, in terms of what is owed as a matter of justice. Pogge argues that the continued maintenance of the present global institutional order constitutes an injustice, because through it, powerful nations continue to create a global excess of extreme poverty. Miller believes that through a series of varied connections (with more direct connections generating stronger duties), particular agents can be identified as being remedially responsible for ongoing human rights violations as a matter of justice.

The important distinction made here is that persons regardless of their moral outlook can agree upon duties of justice, whereas agreement on duties of morality require a common moral outlook. The criticism I am currently presenting of Miller’s view is that only *some* of the connections he presents, viz., outcome and moral responsibility, fall into this category of duties owed as a matter of justice, whereas others fall into the category of
duties of morality. For example, in our current discussion of causal responsibility, I argue that Miller relies on background moral theory to establish remedial responsibility. However, libertarians would certainly disagree with the moral assumptions that Miller appeals to, and thus find his connection theory entirely unappealing. As a matter of consistency, I believe that Miller must be committed to presenting his connection theory in terms of duties of justice.

A further problem that we run into when attempting to connect causal responsibility to remedial responsibility in the context of global justice is the one which Thomas Pogge runs into in his attempt to attribute causal responsibility for severe poverty to the global institutional order. In the absence of counterfactual situations by which to judge whether a particular agent was the cause of a particular instance of injustice, attributions of causal responsibility are speculative and difficult to prove. This is precisely the case when we attempt to attribute causal responsibility to countries or international institutions, because there is only one world to examine for our empirical evidence. We have no counterfactual situations existing on other worlds to compare how different a global institutional order might affect the world’s poor.24 Thus, we have now both a conceptual, as well as an empirical reasons for rejecting the use of causal responsibility as part of a “connection theory” that assigns remedial responsibility to particular agents.

24 For a discussion of this point, see Mathias Risse, "Do We Owe the Global Poor Assistance or Rectification?," Ethics and International Affairs 19, no. 1 (2005).
Benefit

Miller considers a situation where an agent A is in no way causally responsible for the deprivation of P, however agent A benefits in some way from P’s deprivation. He concludes that in this situation, A can still be assigned remedial responsibility based on benefit, considered separately from causation.\(^{25}\) There are a couple of points that must be made about this. It is important to point out that situations of an agent benefitting from deprivation without in some way being causally responsible are exceedingly rare, and the case likely ought to be considered a red herring. So much so that it is quite difficult to imagine a situation where A’s benefit does not in some way provide either an incentive for the continuing deprivation of P, or where A is not committing a sin of omission by neglecting to prevent the ongoing injustice against P. When we consider international relations and global justice, I am at a loss to come up with any situation of an agent benefitting without also finding them somewhere along the causal chain as well. In making his conceptual argument for benefit giving rise to remedial duties, Norbert Anwander also appears to run into the same difficulty, and must resort to otherworldly examples to make his point.\(^{26}\)

Nevertheless, it seems that Miller’s conceptual distinction between benefit and causal responsibility remains intact, although it may not find any empirical use in assigning remedial responsibility in the real world. Granting this, I would like to argue


\(^{26}\) Ibid. P.40
that a plausible “connection theory” does not require any consideration of benefit at all. As I will suggest, I believe that establishing remedial responsibilities requires us only to look at moral and outcome responsibility, and the normative implications that we are able to draw from those principles.

**Capacity**

The principle of capacity giving rise to remedial responsibilities seems to me to fall prey to the same sort of problem as causal responsibility, namely that it appeals to a different sort of responsibility than outcome responsibility. If mere capacity is to give rise to remedial duties, it would appear that the remedial duties would have to be based on beneficence, and thus find their moral force in one or another moral theory. This is quite different from the justice-based arguments given by both Pogge and Miller.

However, Miller complicates the principle of capacity by appealing to the following example:

> One rather obvious way of identifying an agent who can be held responsible for bringing relief to P is to establish who is capable of supplying the remedy. If A is uniquely in this position, then he is remedially responsible for P: if I am the only person walking along a river bank when a child falls in, then it is my responsibility to rescue the child.27

Of course we would agree with Miller that there is a moral responsibility to save a drowning child, and further, that this duty is not based on any principle of beneficence. More than wrong, it would be *unjust* for us to abdicate this responsibility. But, is it really our *capacity* for saving the drowning child that gives rise to the intuition that we have a

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remedial obligation in this situation? I believe the answer is no. Rather, it seems to me that the dire situation of the child would make us grossly negligent if we were to choose to walk past without offering assistance. Recall that failing to prevent a severe deprivation when the outcome is reasonably foreseeable is one of the key elements of outcome responsibility. Thus, the example seems to show why we could be held outcome responsible for the child drowning, but this responsibility is hardly based on a principle of capacity.

It helps to look at this example from another direction. Suppose, having never learned to swim, I recognize that my jumping into the river to save the drowning child would only result in my own certain death. Does my lack of capacity absolve me of all remedial responsibility, and permit me to carry on with my day uninterrupted? I think not. I would argue that the moral duty in this situation is to do something to help the drowning child, and unfortunately my range of options may be limited by my capacities. Certainly we want to recognize that capacity is a precondition to offering certain types of remedial assistance, but the moral motivation for offering assistance clearly must lie elsewhere—capacity seems to be a necessary condition for attributing remedial responsibility but it does not appear to be a sufficient one. For this reason, I believe that a criterion of capacity should be left off the list in our connection theory, or at least it must remain on a different level.
Community

Miller argues that ties of community such as “family or friendship, collegiality, religion nationality, and so forth” are ones that may give rise to remedial responsibilities.\(^{28}\) This principle appears to combine two separate intuitions: that, a) capacity gives rise to remedial obligations, and b) a Humean “particularist” conception of morality is the correct one. Miller clearly accepts that community is connected with capacity in certain ways. He writes,

In some cases being connected to P by ties of community will also mean having certain kinds of expertise that will help in relieving her condition: if A and P share the same language or cultural background, for instance, A may be better able to work out with P needs. So here community is connected with capacity. But this is a special case and it would be a mistake to try to reduce community to one of the forms of connection already discussed.\(^{29}\)

The twist that community seems to put on the principle of capacity is that it adds the Humean idea of special duties being first owed to compatriots as a natural function of being human.\(^{30}\) Essentially, the claim is that moral duties should not be seen as being equally owed to all persons by virtue of their humanity (as per Kant), but rather that various communal bonds give rise to particularistic moral relationships between specific individuals. This moral partiality would place certain agents in a position to be held remedially responsible.

As I have argued with a number of the previous principles, it seems here that appeal to a background moral theory is required in order to ground remedial

\(^{28}\) Ibid. P.104
\(^{29}\) Ibid. P.104
\(^{30}\) For Miller on Humean particularism, see David Miller, *On Nationality* (Oxford University Press, 1995). P.58 n.11
responsibilities. Without first accepting the Humean picture of moral relationships, we have little reason to attribute remedial responsibility based on community. The sort of moral responsibility that Miller is invoking here is certainly different in character from the sort of responsibility that he invokes in his discussion of outcome responsibility. It is not the same sense that has been used up to this point in which redress is owed for wrongs committed based on justice. Thus, if we accept Miller’s connection theory with these criteria, we may then be left wondering on what grounds these criteria are being included. It appears that the elements of Miller’s idea of remedial responsibility that are grounded in moral theory might attempt to explain our moral obligations to others generally, but why they constitute a connection theory remains a mystery.

Miller seems to recognize this problem quite readily. He writes,

There is some truth to this challenge [of using two different senses of remedial responsibility], in so far as it draws attention to the fact that in explaining the moral force of the various criteria, we invoked quite different considerations. It is also true, and worth recognizing, that moral responsibility and outcome responsibility can ground claims for redress even in cases where the injured party is not deprived in some absolute sense. […] Despite this concession, I want to defend the idea of remedial responsibility I have been examining.31

I believe that the challenges that I have raised to the latter four principles are more damaging to Miller’s connection theory than he concedes. Not only do some of the principles appeal to “different considerations”, but many of these considerations must also be grounded in moral theory that lies entirely outside of Miller’s conception of remedial responsibility. These principles speak to why we ought to have moral concern

for others, but say nothing about how we ought to assign remedial responsibility to particular agents.

Despite this, I believe that Miller’s distinction between moral, outcome and causal responsibility can in fact shed a great deal of light on how we are able to attribute remedial responsibilities. I turn now to my discussion of how we ought to understand the implications of moral and outcome responsibility as they relate to remedial responsibility.

Thus far I have argued that, while David Miller correctly sets out the six salient types of connections we ought to consider when assembling a “connection theory” that identifies particular agents as remedial responsible for harms, only two of these six are in fact needed for a such a connection theory. I have attempted to show why causal responsibility, benefit, capacity and community ought to be excluded from such a theory, and I have suggested that Miller’s principles of moral responsibility and outcome responsibility are together sufficient to generate a connection theory. I have suggested that moral responsibility gives rise to direct remedial responsibility, but I have yet to say anything about how we ought to connect outcome responsibility to remedial responsibility.

V. Institutional-Remedial Responsibility

On Miller’s account, outcome responsibility can give rise to remedial responsibility for two reasons: First, because, “If in cases like this, P’s subsequent condition calls out for remedy, then it will seem natural to pin the responsibility on A, who has brought about the deprivation, albeit inadvertently.”\(^{32}\) Secondly, Miller says, “Is there an independent moral reason for doing this? I think there is, although the reason is

\(^{32}\) Ibid. P.101
less compelling than the case of moral responsibility. When we act as free agents among other free agents, we expect to keep the benefits that result from our actions, and so we should also expect, in general, to bear the costs.\textsuperscript{33}

I believe that we should reject the first of these two reasons for the same reasons we rejected causal responsibility. In fact, it is difficult to see how this reason is different from Miller’s previous explanation of causal responsibility at all. If an agent bears remedial responsibility for harms caused by entirely justified action, then that remedial responsibility would seem to be based on a sort of duty of beneficence, rather than any kind of duty of justice. For example, if in the course of a game of rugby, A tackles B and injures him in the process, any sort of assistance offered by A to remedy B’s situation after the fact would likely be seen as supererogatory. Certainly it is an act that is praiseworthy as showing good sportsmanship, or even showing good character more generally, but we would likely not want to suggest that any assistance offered by A was obligatory.

In this sort of situation—where it is reasonably foreseeable that B may be injured in the course of a rough game—we believe that we ought to arrange to have medical staff on hand, and delegate remedial responsibility to them. Thus, if B is injured, the medical staff is remediably responsible by means of prior agreement. If, either a) the medical staff decided to skip the game and go for a pint instead, or b) the organizers of the game neglected to hire medical staff, then it would seem that we are now in a situation of assigning remedial responsibility based on moral responsibility rather than outcome.

\textsuperscript{33} Ibid. P.101
Moreover, remedial responsibility would either fall on the medical staff or the game organizers, not A for his justified actions.

If I am correct about this, then it would seem that outcome responsibility gives rise to duties to establish institutional structures (i.e., medical staff at a rugby game) to take on remedial responsibility when harm is reasonably foreseeable. This is an important point, and I will return to it shortly. For the time being, I would simply like this example to show that, contra Miller, it is not in fact, “…natural to pin the responsibility on A, who has brought about the deprivation, albeit inadvertently.”

I believe that the second of Miller’s reasons for using outcome responsibility to assign remedial responsibility is correct, but brings along with it more normative content than Miller recognizes. Here, we are able to recognize the real value of Miller’s framework of remedial responsibility, having now peeled back some of what I believe to be its unnecessary features.

VI. The Changing Significance of Outcome Responsibility

An interesting way to go about looking at this second aspect of outcome responsibility is to look back over a number of versions of Miller’s “distributing responsibilities” argument originally published in 2001. In both the 2001 and 2005 versions, Miller includes an example of two shopkeepers, A and P, where A drives P out
of business through fair practices, and business acumen. Miller suggests that in this case, A bears no remedial responsibility to P. However, in 2007 he adds the following caveat:

"But if the costs are heavy—the defeated shopkeeper becomes destitute, or the losing athlete become suicidal—then remedial responsibilities cut in, and, other things being equal, they fall to the agent who was outcome responsible."

This seems initially like an odd intuition, given that it does not appear to reflect our actual practices at all. On the contrary, corporations and athletes are encouraged to compete as hard as possible because, in theory, society gains from competition in the institutions of commerce and athletic competition. In cases where there are dire consequences for the loser of such competitions, we generally set up institutions to mitigate harms, such as bankrupting the business owner and the making the athlete suicidal, rather than attribute remedial responsibility to the agent who was outcome responsible for the situation. Miller responds to this objection in the following way:

"Not everyone shares my intuition that in these competitive examples the winners may have remedial responsibilities to the losers when the latter suffer serious harm. Of course we can establish practices that assign these responsibilities elsewhere—we can set up social safety nets for bankrupt shopkeepers and counselling services for defeated athletes—and there may be good reason to do this. My argument is that in the absence of such practices primary responsibility lies with the agent who is outcome responsible for the harm."


36 Ibid. P.101 n.19
I believe that Miller’s intuition here is correct, but he does not go far enough. It seems right to say that action taken by A that results in serious harm to B—regardless of whether it is justified or not—ought to give rise to some sort of remedial responsibilities. After all, it is reasonable to infer that if we are to be held responsible for harms we cause to others, we should also not be left to suffer the consequences of others acting in harmful ways towards us. But what kind of remedial responsibilities do we need, and to whom should they be assigned? Our rugby example showed that it seems implausible to attribute direct remedial responsibility to A, yet it would seem an injustice if B were allowed to suffer the consequences of A’s harmful, albeit justified, action. Miller suggests that we may have “good reason” to establish institutions to assign remedial responsibilities, but I argue that it goes further than “good reason.”

I believe that the discussion of outcome responsibility thus far gives us good reason to believe that where we find outcome responsibility, there ought to be a correlative duty to establish institutions or practices that take on remedial responsibility. More than having “good reason” to establish practices such as having medical staff at rugby games, I argue that where harms are foreseeable yet justified, there is a corresponding duty to ensure that there is recourse to institutions for harmed agents and this duty falls on those involved in the harm. Since both A and B entered into the rugby game with the foreseeable consequence of one of them being injured, I believe that there is a duty imposed on both A and B to ensure that institutional protection is available for

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37 To deny that the shopkeeper who becomes destitute or the athlete who becomes suicidal requires some remedy as a matter of justice would seem to require invoking a sort of libertarian response that accepts as just the results of free agents participating in market transactions. This is certainly a route that is available, however responding to it falls out of the scope of this paper.
any potentially harmed parties. I will call this duty to establish such institutions in this context *institutional-remedial responsibility*.

An instructive way to explain *institutional-remedial responsibility* is with reference to issues of global justice. As I have argued, I believe that the vast majority of instances of under fulfilment of subsistence rights that occur in international relations are examples of outcome responsibility. For example, markets are competitive structures, and thus where legal constraints are absent it is generally seen as justified to push for trade agreements that are primarily in the national self-interest. Perhaps these trade agreements are damaging to one of the parties, or as is more likely the case, damaging to some third party. Suppose that A and B enter into a free trade agreement concerning product X, but exclude C from the agreement. If C is reliant on exports of X, then it may find itself economically uncompetitive and suffer serious consequences as a result. That a free trade agreement of this sort would harm C’s economic well-being is likely quite foreseeable by A and B, but the agreement is also likely justified by the nature of global trade institutions (i.e., WTO trade rules), or to the overall benefits of trade. Thus, we have a situation of outcome responsibility that, according to Miller, gives rise to weak, or possibly no remedial responsibilities. In contrast to Miller, I argue, that this could place institutional-remedial responsibility on A and B in the form of a remedial responsibility for C’s plight, should C’s deprivations be significant. The idea of institutional-remedial responsibility attaches a stronger sense of remedial responsibility to agents who participate in acts that give rise to outcome responsibility. I return to discuss institutional-remedial responsibility in greater detail in the next chapter.
As another example, consider immigration policies that favour highly skilled immigrants. If country A offers significantly higher living standards than country B, and accepts B’s highly skilled emigrants, then A likely benefits at the expense of B by means of the resulting “brain drain”. The emigration of highly skilled workers has the very foreseeable consequence of leaving B with shortages in certain industries, yet the practice of accepting (or even attracting) highly skilled immigrants is likely quite justifiable by A on the basis of allowing them freedom of movement, or the potential benefits to A’s economy and people, or possibly the benefit to B’s emigrant workers themselves. Again, we appear to have outcome responsibility for B’s labour shortage falling on A, but according to Miller, only very weak remedial responsibilities. Institutional-remedial responsibility in this situation would entail remedial responsibility falling on A in the form of ensuring adequate institutional protections for B are in place, should deprivations from emigration prove to be significant.

It appears that the list of harms in international relations that may give rise to outcome responsibility is virtually endless. Nations and states engage in practices that have foreseeably negative consequences for other agents, yet these practices may be largely justified. I believe that it is important in these situations to distinguish outcome responsibility from moral and causal responsibility. We have little difficulty assigning remedial responsibility in cases of moral responsibility, and relatively little difficulty in denying remedial responsibility in cases of causal responsibility. However, attributing remedial responsibility in cases of outcome responsibility continues to be a complex task, which I believe is best handled by the idea of institutional-remedial responsibility that I have sketched above. While I believe that Miller’s connection theory does not give
enough weight to outcome responsibility, the idea of distinguishing different sorts of responsibility is a key element missing from Pogge’s work.

VII. Forward-looking Institutional Protections

Miller would likely respond to the preceding argument by accepting my invocation of direct remedial and institutional remedial responsibility, but denying that it undermines his connection theory in any serious way. His argument is rather that in the absence of the institutional structures implied by institutional-remedial responsibility, we still need some sort of system to assign remedial responsibilities for the immediate harm.

My approach has advocated for the establishment of remedial institutions for situations of outcome responsibility, i.e., when harmful results are foreseeable, yet justifiable. Thus, in situations where agents are outcome responsible, there is a prior responsibility to ensure that corrective institutions are in place to mitigate the possible harms of their conduct. This seems to me to significantly narrow the range of situations where we would be required to assign remedial responsibility in the absence of corrective institutions. For example, if nations participating in free trade agreements exclude others from the agreement, institutional-remedial responsibility may kick in and require the participants of the agreement to establish institutions to mitigate possible harm to third parties. These sorts of responsibilities could conceivably be placed under the mandate of existing international institutions, or new oversight bodies could also be created.

If I am correct in suggesting that remedial responsibility can be attributed throughdirect remedial responsibility (in the case of moral responsibility), and institutional-remedial responsibility (in the case of outcome responsibility) then it would seem that the
only remaining cases where we would be concerned about remedial responsibility are those where we are only able to find causally responsible agents for harms. In this situation, we would have to imagine harms being caused in such a way as to not be at all foreseeable—situations akin to a natural disaster. As I have argued, the types of responsibilities that seems to arise when we can only determine causal responsibility are duties of beneficence, rather than a duties based in justice. Thus, I believe that Miller’s hypothetical response that a connection theory is still required where institutional safeguards do not exist does not pose a serious threat to my extension of the duties that come from outcome responsibility.

VIII. Conclusion

In this chapter I have argued that the 6-fold criteria used by David Miller in constructing a connection theory, which connects remedial responsibility to particular agents, is overly complicated and contains unnecessary and inappropriate criteria. I believe that outcome responsibility will prove to be the most philosophically interesting aspect of a reconstructed connection theory, and it is the implications of demonstrating outcome responsibility that I turn to in the following chapter.
4. Foreseeability and Justification

I. Outcome Responsibility in the International System

Thus far, I have argued that justifiable and foreseeable harms that are allowed to occur through the maintenance of the present global institutional order give rise to outcome responsibility, as well as what I have called institutional-remedial responsibility. Where human rights underfulfillment is a foreseeable yet justifiable (in the sense that policy makers can, and do, in some way account for their actions which result in the ongoing maintenance of the present global institutional order) outcome of institutional arrangements in the global order, participating political actors have a duty to establish reliable mechanisms for ensuring effective remedies are in place for those who are vulnerable under the particular institutional regime. What I am presenting here is an institutional account of the moral responsibility to remedy subsistence rights violations; however, it is quite different from the institutional account of Thomas Pogge. Where Pogge argues that an unjust global institutional order is imposed by rich states on poor states, making adequate fulfilment of human rights by national governments difficult or impossible, I have argued that the global institutional order is itself not unjust. Rather, that within the framework of an “incompletely just” global institutional order, we require a fuller understanding of what it means for agents to be responsible for

39 I borrow the idea of the “imperfectly just” global institutional order here from Mathias Risse, see Mathias Risse, "Do We Owe the Global Poor Assistance or Rectification?," *Ethics and International Affairs* 19, no. 1 (2005). P. 10
subsistence rights violations, and how remedial responsibility for these violations ought to be attributed.

Broadly speaking, the international institutions that constitute the global order fulfil important functions in facilitating interaction between states. Global markets facilitate economic growth, international legal conventions allow for more predictable interaction between states and adjudication of matters of mutual concern, and international covenants allow for action on global challenges such as nuclear proliferation and climate change. There is no reason to believe that accepting the beneficial role played by international institutions should preclude us from identifying instances of human rights violations that occur within the global institutional order, and assigning remedial responsibility appropriately. As I have argued, I believe that responsibility for subsistence rights violations generally falls into the category of “outcome responsibility”, i.e., that subsistence rights violations are often a foreseeable outcome of present institutional arrangements, but policy makers are able to account for the maintenance of the present institutional order. For example, responsibility for chronic malnourishment in Malawi, I believe, falls into the category of “outcome responsibility” as it is no doubt the result of various institutional factors that collude to prevent economic development. The institutions we may be interested in here would likely be governance structures, healthcare systems, legal systems, capital markets, foreign aid inflows, domestic and international agriculture markets, and trade conventions, to name but a few. Importantly, we will be interested in how these institutions interact with the global institutional order. How these various institutional arrangements will affect the prevalence of subsistence rights violations will vary greatly from country to country, and even from citizen to
citizen. I believe that Pogge’s move of labelling the complex web of interconnected global institutions as “unjust” is a step in the wrong direction. Moreover, Pogge’s account of powerful nations being implicated as directly responsible for human rights violations rests on an impoverished notion of responsibility.

In the previous chapter, I argued that in instances where we find outcome responsibility for human rights violations, there exists a correlative institutional-remedial obligation for responsible agents to establish and maintain reliable institutional remedies for those who are vulnerable under the particular institutional order. What is left for us now is to explore more closely how outcome responsibility is generated with respect to the global institutional order. Thus far I have simply argued that harms which are justifiable and foreseeable constitute outcome responsibility, but this is not enough—if we are to assign remedial responsibility for subsistence rights violations to particular agents based on outcome responsibility, then we must still explain what sorts of relationships give rise to outcome responsibility. In this final chapter, I will show how interaction between the non-voluntary institutions of diverse states and the global institutional order gives rise to outcome responsibility—and thus institutional-remedial responsibility—for subsistence rights violations.

II. Outcome Responsibility and the Global International Order

In Chapter 1 I argued against the assertion by Thomas Pogge that the global institutional order in fact harms the world’s poor. However, even with substantial improvements globally in many measurements of quality of life that may be attributed to the global institutional order, could it not be the case that the same institutional order is in some way
responsible for the ongoing existence of extensive and debilitating poverty? Despite being absolved of perpetuating injustice, I believe that the concept of outcome responsibility for ongoing subsistence rights underfulfillment can be attributed to agents who maintain the present global institutional order.

The implication here is that the current institutional arrangements that are in place will foreseeable allow systematic deprivations that will be severe enough to constitute human rights violations. For example, it is estimated by some that a full 30% of the recent jump in the price of grain that is presently threatening the lives of millions of the world’s most vulnerable people is the result of increased global biofuel (i.e., ethanol) production.\textsuperscript{40} This increased production of biofuel is itself a direct result of farm subsidies and trade policies that are currently allowed under the terms agreed upon by the World Trade Organization (WTO). Thus, it would seem that states providing biofuel subsidies are “responsible” for at least a part of any human rights shortfalls that occur as a result of the recent increases in the price of grain. Moreover, this interaction is both facilitated and allowed under the present arrangement of global institutions such as the WTO.

Not only is the increased production of biofuels causally responsible for a portion of the increase in food prices, but also this effect was readily foreseeable to policy makers prior to the subsidies being offered. In fact, a switch in production from foodstuffs to biofuels was precisely the intended consequence of the targeted farm subsidies, albeit with the laudable goal of producing cleaner-burning fuel to reduce carbon dioxide

emissions. So it would seem that policy makers in North America and the European Union have created policies in accordance with the rules of international trade institutions that foreseeably have the effect of raising the price of a basic necessity, without which many of the world’s poor could face severe malnutrition or starvation.

From this point of view, it appears at first that Pogge may be correct in arguing that rich nations are responsible for human rights violations in developing countries by imposing the current global institutional order that allows for such policies to be enacted. However, here we begin to see why the distinction drawn in the previous chapter between moral responsibility and outcome responsibility is important. While the harms inflicted on the world’s poor may be a foreseeable result of policies allowed by the global institutional order, we must also be cognizant of the justifications given for such policies. If policies that foreseeably cause harm are properly justified, then the sorts of remedial duties that are entailed by the resulting outcome responsibility will be quite different from a situation where there is found to be moral responsibility.

III. Foreseeability and the Global Institutional Order

In order to establish outcome responsibility, the first criterion that is required is to establish that a particular harm was foreseeable. If the harm caused by a particular policy or action is an unintended consequence that could not have been predicted with any sort of certainty, the agent that causes the harm may be said to be causally responsible. The conclusion we drew in the previous chapter showed that causal responsibility ought not oblige offending agents to right whatever harm was caused.
Establishing the foreseeability of deprivations that occur within the global institutional order is an enormously onerous task due to the sheer complexity and diversity of institutions at work within it. Take for instance our above example of farm subsidies contributing to rising grain prices and increased incidence of starvation—it is certainly not nearly as direct an interaction as our example has made it out to be. While it may be true that providing farm subsidies to farmers in order to encourage a switch in production from foodstuffs to biofuels does place upward pressure on global grain prices, the effects on poverty and starvation are less clear. Among poor countries, those who are net food exporters will benefit from a global rise in food prices, whereas those countries that are net food importers will be harmed. Rising grain prices will increase the real wages of food exporters, while reducing the real wages of food importers.

Moreover, the distribution of these deprivations and benefits caused by increased food prices will vary within each country depending on the proportion of workers in farming industries. Farmers who sell grains at market prices will benefit from the increased prices, while other types of workers who must buy grains will be hurt. For example, a recent World Bank-sponsored study has suggested that a hypothetical 20% rise in global food prices could decrease the poverty rate in rural Peru by 0.3%, while the same rise in food prices would lead to a 0.1% increase in the poverty rate among urban Peruvians. The same 20% increase in global food prices was estimated to affect a 2.1% increase in the poverty rate in rural Zambia.41

Foreseeability of human rights violations resulting from these sorts of policies is not only put into question by the diversity of impacts they have on different groups, but also the indeterminate responses from other national governments, international institutions and non-governmental organizations. For example, if reform policies are successfully enacted at the national level that turns a state from a net importer to a net exporter of grain, then a rise in global grain prices will turn from a harm to a benefit. When the particular situations of people vary greatly from country to country, and even vary greatly within countries, it is difficult to assess reasonable foreseeability from the point of view of policy makers with respect to agricultural policy that may severely deprive peoples who rely on low grain prices for their survival.

Pogge certainly recognizes these difficulties in foreseeing the effects of policies within the global institutional order, but he provides an odd response. In explaining why judging the success of institutional reform is preferable to judging the actions of specific agents he writes,

Assessing adjustments of the rules within some particular jurisdiction is relatively straightforward. One can try to estimate how a rise in the minimum wage, say, has affected the unemployment rate and per capita income in the bottom quintile. [...] It is more difficult, by contrast, to assess the relative impact of variations in the conduct of individual or collective agents. Such an assessment can be confined to the persons immediately affected—for example, to the employees of a corporation or to the inhabitants of a town in which an aid agency is running a project. But such a confined assessment is vulnerable to the charge of ignoring indirect effects upon outsiders.42

It is curious why Pogge believes that judging the effects of institutional reforms is any
easier than judging the impacts of particular actions—it appears that both could have
unforeseen consequences and would likely be equally complex tasks, as our examples
above have shown. To be sure, the ability to depend on a certain degree of foreseeability
seems to be crucial to Pogge’s account.

If the global institutional order were to be reformed in the ways Pogge suggests,
we would have to rely on a certain degree of foreseeability with respect to the effects of
his reform proposals. Without some degree of foreseeability of the effects of these policy
changes within the global institutional order, we would have difficulty knowing whether
Pogge’s recommendations would result in a “more just” institutional order. Pogge goes
on to explain that,

…One can try to assess the impact of the aid project upon the nutritional
situation of the whole country over a period of five years, say. But within
this larger time frame, the aid project is a small factor whose effects are
hard to discern against the background noise of many other causal
factors.\textsuperscript{43}

This response is clearly not sufficient. First, there is little reason to believe that we would
necessarily be able to draw any significant conclusions by examining the impact of a
development aid project over a five-year time span, whether our dependent variable was
particular interventions or institutional reform. Some targeted measures, such as child
mortality rates or hunger-related deaths, may provide some indication of the effectiveness
of the project, but this would tell us little about the resulting justice in the reformed
global institutional order. Whether the changes actually allow impoverished peoples to

\textsuperscript{43} Ibid.
cast of the yoke of an oppressive institutional order and sustain continued improvements in standards of living would almost certainly take much more time.

Second, as we have seen, looking at the “whole country” for arriving at judgements about the effects of institutional reform, as Pogge suggests we do, may not capture the range of effects that changes in the global institutional order affect among different types of citizens. A particular policy may cause a net reduction in poverty rates in a specific country, however the benefits will likely not be evenly distributed. The example of Peru above showed that a 20% increase in food prices could reduce poverty rates of rural citizens, while at the same time increasing poverty rates of those in urban centres. Thus, by taking poverty rates over an entire country after reform has been made of international institutions, we still may end up ignoring severe deprivations occurring in some segments of the population. It is not at all clear why institutional reform should have any more foreseeable consequences than particular policy changes.

Despite this, it would be wrong to condemn Pogge for providing an insufficient response to the problem of foreseeability in the global institutional order, because it is a pervasive problem with no obvious solution—it is virtually impossible to predict all of the effects of a institutional arrangement. Yet we do not want to absolve policy makers of all responsibility for the effects of their policy decisions. Armed with a more complex conception of responsibility, we may be able to judge responsibility of policy makers in a more nuanced way.

In calling into question Pogge’s assertion that the current global institutional order is unjust, as well as pointing to the imposing foreseeability problems that arise in attempting to arrange the institutional order such that injustice does not occur, we begin
to see the need for a more thorough account of foreseeability of harms. In other words, while it may not be possible to work out an entirely just set of rules for the global institutional order, we may still want to understand to what degree policy makers ought to be able to foresee human rights violations that occur on their watch. Establishing such a degree of foreseeability will be crucial for attributing outcome, and its correlative institutional-remedial, responsibility.

IV. Foreseeability and Non-Voluntary Institutions

The key problem that we encountered in determining the foreseeability of subsistence rights violations occurring as a result of policy decisions within the global institutional order was that it is exceedingly difficult to determine just who is affected by these decisions, and how. In a highly globalized and increasingly interconnected world, it is a virtual certainty that some groups will be harmed, while others benefit from any policy enacted within the global institutional order. However, identifying all the groups that may be affected before policy is enacted is a daunting, and perhaps impossible, task.

What this seems to point to is a need for a more structured account of foreseeability within the global institutional order. If we are to make a serious attempt to demarcate instances of outcome responsibility from mere causal responsibility for subsistence rights underfulfillment in the global institutional order, we need to understand what deprivations arising from policy decisions are to count as “foreseeable”. I believe that it is a deplorable reality of the present international system that far too much misery is routinely accepted as generating merely causal responsibility as a result of the complexity of effects of policy decisions, and thus no serious remedial duties. A
structured account of which among these deprivations are to count as generating outcome responsibility (and correlative remedial responsibility) could eliminate the excuse of unintended consequences in many cases.

The sort of foreseeability that we will be looking for will not be foreseeability of particular harms to particular agents, since we have seen that the “butterfly effect” of policy decisions can make the connection between policy and deprivation extremely difficult to trace. Rather, foreseeability of deprivations in the global institutional order will mean that it is foreseeable that some agents will face serious deprivations as a result of policy decisions. As Pogge puts it, and on this point I believe he is correct,

It may be known that the people living around a polluting factory have a five times greater chance of dying prematurely from cancer than people in general and yet impossible to demonstrate of any particular cancer death that it was caused by (would not have occurred in the absence of) the pollution.

From a moral standpoint, however, this ignorance is not problematic. Even if it is unknown which deaths were caused by the polluting factory, it may be known roughly how many. And this suffices for moral assessment.44

Foreseeability on this account is quite inclusive. It is not necessary to be able to point out a specific agent who will be harmed by a particular policy in order to make the harm foreseeable—the knowledge that some agent will likely be harmed is enough. However, this still does not yet help us to identify what sorts of policies can be said to foreseeably affect rates of extreme poverty. To help determine whether it is primarily domestic or

international policy decisions that foreseeably impact poverty rates, I believe it is instructive to quote Pogge here at some length. Pogge points out that,

In the modern world, the rules governing economic transactions—both nationally and internationally—are the most important causal determinants of the incidence and depth of poverty. They are most important because of their great impact on the economic distribution within the jurisdiction to which they apply. Thus, even relatively minor variations in a country’s laws about tax rates, labour relations, social security, and access to health care and education can have a much greater impact on poverty there than even large changes in consumer habits or in the policies of a major corporation. This point applies to the global institutional order as well. Even small changes in the rules governing international trade, lending, investment, resource use, or intellectual property can have a huge impact on the global incidence of life threatening poverty. 45

However, I believe that this passage does not capture the important differences between national and international economic rules with respect to the impact they have on poverty rates. The examples of national economic institutions that Pogge raises in fact initially have relatively little impact on poverty—at least the sort of extreme poverty we have been discussing. Tax rates mean very little to those with virtually no income, labour relations mean little to those without an employer, and social security, health care and education depend much less on domestic laws than they do the actual capacity of the state to provide them. This is not to say that domestic rules necessarily cannot affect severe poverty. It is conceivable that a dictator could coercively impose an economically crippling income tax, or that labour law could be enacted legalize slavery. However, the reality of extreme poverty in today’s world is that the poorest of the poor—those

45 Ibid. P.26
living on $1/day or less—do not have a foothold in the modern economy at all. Thus, changes in domestic laws such as income tax rates and labour relations have little bearing on this group.

Conversely, and as Pogge correctly points out, international economic rules have a massive impact on extreme poverty if domestic factors are ignored. International trade agreements affect prices that poor farmers can obtain for their goods, lending and investment rules affect the amount and type of revenues that governments can obtain to then invest in infrastructure, and intellectual property laws can have a dramatic effect on crop yields and technology transfers. These rules affect virtually all states in one way or another, however, different domestic factors in each state mean that impacts are also felt differently. While the global institutional order may not be unjust, policy changes can have devastating impacts on vulnerable peoples. A rise in the price of a foodstuff commodity on global markets may simply prompt a change in production in one country, while causing many to go hungry in another. Thus, if we are interested in an account of what sorts of policies foreseeably affect extreme poverty, we ought to look first to policies that apply to the global institutional order, and to domestic institutions only secondarily. This focus on the harms caused by the global institutional order largely accords with Pogge’s general thesis, however, there is more to be said here.

Deprivations that occur as a result of policies enacted within the global institutional order are generally foreseeable because there is no presumption of egalitarianism, redistribution, or justice, within it. There is no institutional structure that

47 See Ch.2, n.8
exists to mitigate the diverse impacts of complex interactions within the global institutional order, thus we should not be at all surprised that the rising price of food harms some, that restrictions on the use of intellectual property harms others, or that import tariffs harm others still. Internationally, we do not presently have the same presumption of justice that we do domestically. As Thomas Nagel has pointed out, the non-voluntary nature of domestic political institutions is what gives rise to a presumption of justice—the presumption that arbitrary inequalities that arise from a non-voluntary socio-political system ought to be justified or ameliorated.48

When deprivations occur as a result of disastrous domestic policy, we expect to hold national rulers to account. International institutions and the global institutional order do not presently establish the same commitment for the international community to look out for the interests of citizens any member state, or to address domestic factors that may hinder development. Thus, it is quite foreseeable that policies enacted within international institutions, and that have ripple effects throughout the global institutional order, will affect member states in various ways, up to and including increased examples of severe poverty. Moreover, these effects carry with them no presumption that harms will be mitigated. Although international institutions may prove to be generally beneficial, the system contains no institutional mechanisms that exist to ensure maximal levels of subsistence rights protections.49 Poor nations can often find themselves unable

49 This point would seem to apply to more than just subsistence rights. Institutional protections for those human rights that are generally considered to entail “positive obligations” are generally relatively weak.
to cope with policy changes within the global economic order, and vulnerable populations suffer as a result.

Note that this is merely a descriptive, rather than a normative point. We are presently concerned with the question of how harms within the present global institutional order can be seen as “foreseeable”. My answer to this question is that these harms are foreseeable when the effects of policies are complex (as they virtually always are), and where no institutional mechanism exists to mitigate harmful impacts that may result. It is not so much that the present global institutional order causes poverty so much as it lacks the mechanisms to prevent it.

Thomas Pogge argues that this institutional apathy to severe poverty constitutes an injustice, and it shows that those who create and maintain the global institutional order are responsible for human rights violations. I have argued against this by suggesting instead that present global institutions are generally beneficial—and not unjust—however, they are far from perfect. While they have allowed us to decrease global poverty at a faster rate than humankind has ever been capable of, poverty-related deaths still occur in alarming numbers. Moreover, many of these deaths are preventable as they occur indirectly as a result of arrangements within the global institutional order, which itself is actively driven and maintained by powerful member states. I believe that agents who participate in creating and maintaining the present global institutional order which allows human rights violations to foreseeably occur are importantly responsible for the ongoing global underfulfillment of human rights, but only in the sense that David Miller calls outcome responsible. As I have argued, outcome responsibility means that harms are foreseeable yet justifiable, however, that a harm is justifiable does not absolve the
offending agent of remedial responsibility. Rather, I have argued that it imposes strong
_institutional-remedial responsibilities_—the offending agent is justified in their conduct
that produces the harm, but there comes with it a correlative obligation to create and
maintain institutional mechanisms to ameliorate those harms. In the case of global
poverty allowed by policies present in the global institutional order, institutional-remedial
obligation will mean that institutional remedies must be provided in cases where states
are unable to provide the basic means of subsistence for its citizens. While a certain
degree of inter-state distribution of wealth may be assumed where global institutions
create both winners and losers with a state, each state must be capable of ensuring basic
human rights are fulfilled.

It is important to address the question of whether the foreseeability of
deprivations applies only to particular policies that are considered for enactment within
international institutions, or whether current levels of extreme poverty are themselves a
foreseeable result of present institutional arrangements. This will have implications for
attribution of institutional-remedial responsibility. If we are only concerned with
assessing the foreseeability of poverty increases from particular policy decisions, then
assessing institutional-remedial responsibility will be necessarily limited to correcting
those harms that are created by the policy and nothing further. Conversely, if we are
concerned with assessing whether human rights violations are a foreseeable result of
present institutional arrangements more generally, then institutional-remedial
responsibility must address the institutional order more directly, rather than particular
policies enacted within it.
The examples given earlier of changes in poverty rates resulting from grain subsidies could support either reading. On one hand, harms that result from farm subsidies could be seen as calling for institutional-remedial duties to be assigned to the responsible government, obliging an institutional remedy for the resulting increases in poverty levels. Alternatively, we might see institutional-remedial duties being placed on supporters of the institutional regime that foreseeably allows domestic farm policies to affect poverty rates in disparate states. On this second conception, institutional-remedial duties would include obligations to work towards reducing pre-existing levels of extreme poverty, rather than simply addressing the effects of new policies.

I believe that the second reading is the correct one, because any foreseeable (yet justifiable) underfulfilment in subsistence rights that occurs as a result of institutional arrangements ought to be seen as generating outcome responsibility. If the present arrangement of international institutions foreseeably results in any human rights violations, institutional-remedial responsibility ought to fall on those actors who actively support the institutional regime. The upshot is, institutional-remedial responsibility should be seen as applying not only to particular policies that are enacted or allowed by international institutions, but also pre-existing levels of extreme poverty.

Thus far I have shown that subsistence rights violations that occur as a result of policies within the global institutional order are largely foreseeable. What is left is to determine whether these harms are in some way justifiable by those who instigate them.
V. Outcome Responsibility and Justification

In the previous chapter, I discussed the distinction made by David Miller between moral responsibility and outcome responsibility. Where moral responsibility carries with it some moral condemnation for a harm, outcome responsibility implies responsibility for a particular harm while accepting the act as morally neutral or justified. Although I have argued that both sorts of responsibility entail remedial obligations, the remedial obligations will be different in each case. For an act causing harm to result in outcome responsibility, as opposed to moral responsibility, adequate justification must be given for the act. We must now consider whether there exists an adequate justification that powerful states employ for creating and maintaining the present global institutional order.

As I see it, there are two ways to approach this question. The first involves questioning Pogge’s “institutional cosmopolitanism”, which Pogge explains in the following way: “Interactional cosmopolitanism assigns direct responsibility for the fulfilment of human rights to other individual and collective agents, whereas institutional cosmopolitanism assigns such responsibility to institutional schemes.”50 Thus, echoing the discussion in Chapter 2, we could question whether present international institutions constitute the right sort of institutional scheme where principles of justice ought to apply.51 In Chapter 2 this objection was directed at whether the global institutional order.

50 Thomas Pogge, World Poverty and Human Rights (Polity Press, 2002).
is the right sort of structure to be describing as just or unjust, here it is raised as a justification for actors to act without regard for justice. While this school of thought may have some traction against Pogge’s view in general, it seems to me that it is quite possible to judge actors’ actions from the standpoint of justice. In focusing on whether actors commit an unjust act, rather than considering the institutional order itself as just or unjust, we are able to leave the much broader “scope of justice” questions for another place.

Consequently I follow a second way of approaching this question of justification, which attempts to determine whether actors are able to provide adequate justification for maintaining the present global institutional order despite its allowing foreseeable deprivations to occur within it, such that they can be absolved of moral responsibility. The difference between the two approaches is the difference between asking, “Is the global institutional order the right setting to be asking for justification at all?” and, “Are actors X, Y, and Z justified in their actions which serve to maintain the present global institutional order, and the foreseeable deprivations generated therein?”

The institutions that comprise the global institutional order are quite varied in membership and their stated goals; however, they can be divided broadly into four types. There are Global Political organizations such as the United Nations General Assembly (UN), the United Nations Security Council, the G8 group of nations, and the Organization for Economic Co-Operation and Development (OECD). There are also Global Economic organizations active in the global institutional order such as the World Bank, International Monetary Fund, and the World Trade Organization. On top of global

institutions, there are also Regional Political, and Regional Economic organizations. Included in the Regional Political organizations are groups such as the European Union (EU), African Union (AU), North Atlantic Treaty Organization (NATO), and the Association of South-East Asian Nations (ASEAN) to name a few. In the Regional Economic category, we find institutions such as the North American Free Trade Agreement (NAFTA), the Asia-Pacific Economic Co-operation forum (APEC), and the Organization of Oil Producing Countries (OPEC). Acting within, or upon, the rules of the global institutional order are also actors such as multinational corporations, criminal organizations, sovereign wealth funds, NGO’s, lobby groups, and individual nations.

Dividing the rule-setting bodies of the global institutional order into these four categories is admittedly imperfect, as many straddle the lines between Global and Regional, or Political and Economic. For example, Regional Political organizations will often establish rules for economic exchange, as is the case with the EU. However, these four categories taken together serve to give us some idea of the types of organizations that constitute the global institutional order.

The first striking feature of this picture of the global institutional order is that it is certainly not as centralized as Pogge makes it out to be. He suggests that, “This catastrophe was and is happening, foreseeably, under a global institutional order designed for the benefit of the affluent countries’ governments, corporations and citizens and of the poor countries’ political and military elites.”\(^52\) However, rather than being imposed by affluent countries, we see (more or less) democratic nations such as India, Brazil, Russia

and Mexico participating in the maintenance of some of the most important global institutions as well. While certainly not liberal or democratic, considering the rapid decline of extreme poverty, it would be difficult to argue that China’s participation in maintaining the global institutional order has been entirely for the benefit for political and military elites. This point does not apply exclusively to official state relations. Firms such as Tata Consultancy and Infosys (India), Petrobras (Brazil), Cemex (Mexico), and Haier (China) are examples of large multinational corporations that are based in developing countries, and are active agents within the global institutional order.

These examples are not meant to show that the potential benefits of participation in global institutions serve as an adequate justification for maintaining the present global institutional order. What these examples illustrate is a global institutional order that is created and maintained by competing interests from multiple powerful nations and institutional actors. Unsurprisingly, economically, politically, and militarily powerful nations are capable of shaping the rules of the global institutional order, and do so in an explicitly self-interested manner. Thus, rule changes such as the ones proposed by Pogge for the global institutional order are entirely dependant on the will and cooperation of competing interests. However, the reality of the present political situation frustrates these aims—co-operation on wholesale reform of the global institutional order is not a realistic possibility under the regime of primacy of state sovereignty. The justification for maintaining the present global institutional order lies not in the virtue of the present regime, but rather it lies in the present resistance to the dispersion of political authority, which is required to institute the proposed changes. The institutional reforms

53 See Thomas Pogge, World Poverty and Human Rights (Cambridge: Polity Press, 2002). Ch 6, Ch 8
proposed by Pogge would certainly require a prior global reconsideration of the principle of state sovereignty.

Pogge considers this question of the dissolution of the monopoly of sovereignty held by national governments in Chapter 8 of *World Poverty and Human Rights*, where he argues that,

> From the standpoint of a cosmopolitan morality—which centers on the fundamental needs and interests of individual human beings, and of all human beings—this concentration of sovereignty at one level is no longer defensible. [...] Persons should be citizens of, and govern themselves through, a number of political units of various sizes, without any one political unit being dominant and this occupying the traditional role of the state.\(^{54}\)

This begins to open a larger argument between liberal cosmopolitans and liberal nationalists (as well as libertarians, among others) that falls out of the scope of this paper. However, there is a more fundamental point to be made here. In order to motivate the argument for a move to a more “vertically dispersed” conception of political authority in the first instance, Pogge must rely on his previous conclusion that the present global institutional order is unjust. As we have seen in Chapter I, that does not appear to be the case.\(^{55}\)

\(^{54}\) Ibid.

\(^{55}\) It seems to me that there are two main ways of defending political cosmopolitanism (as opposed to moral cosmopolitanism). First is arguing that it is the best/only way to realize some pre-political notion of global justice (i.e., Singer, Beitz). Second, which I believe to be Pogge’s approach, is to skip the question of global justice entirely and argue for political cosmopolitanism as being the most pragmatic way to avoid injustice. My criticism of Pogge has rejected the assertion that the present global international order is unjust, and proposed an alternative conception of responsibility that places remedial responsibility on institutional actors.
The typical move of political cosmopolitans in arguing for some form of world government or anti-statist political authority is to first provide an account of what global justice might look like, and to then argue that a world government is required to realize this conception of global justice. Pogge, however, argues for the divestment of political authority away from states in a different manner. On his account, it is first established that the global institutional order is “unjust”, and second, that empirical evidence shows us that reform of international institutions is required to adequately ensure human rights standards are met globally. Following this, Pogge argues that the only way to reform international institutions in a satisfactory manner is to make a move towards “dispersed sovereignty.” On this view, it is the injustice of the global institutional order that is required to motivate the shift to dispersed sovereignty, or it must be empirically true that institutional reform is necessary to ensure human rights standards are met. Both of these assumptions I have attempted to reject in this paper.

VI. Institutional-Remedial Responsibility and the Global Institutional Order

Thus far in this chapter I have argued the following two points:

1. Deprivations that occur as a result of arrangements in the global institutional order ought to be considered foreseeable, because adequate institutional protections simply do not exist to shield vulnerable peoples from shifts in the global geopolitical and economic landscape.

2. Despite allowing foreseeable deprivations to occur (and thus are in an important way, responsible), powerful states and organizations are justified in their maintenance of the present institutional order because it is presently not feasible to suggest the dissolution of the principle of state sovereignty such that just principles could be universally instituted for regulating the global institutional order.

Moreover, as I have argued in the previous chapter, foreseeable yet justified deprivations may result in outcome responsibility being assigned to those who contribute to the deprivation. This is weaker than “moral responsibility”, as the act does not entail moral condemnation, but it does not absolve the offending agent of the responsibility to remedy the harm. Instead, outcome responsibility entails a correlative obligation to ensure that victims are either adequately compensated, or the deprivation is ameliorated. This is an important point that I want to emphasize. Showing the global institutional order to be “unjust” is not a necessary precondition to assigning remedial responsibilities for human rights violations that occur within it. Whereas Pogge’s account relies on establishing a causal connection between global institutions and subsistence rights violations, my modification of his account is able to accept the global institutional order as not unjust, yet is still able to insist that human rights violations that are allowed to occur within it not go without institutional remedies and/or protections. The important virtue of outcome responsibility is that we are then able to understand and accept the realpolitik justifications that political actors give for their self-interested actions, and yet still are
able to insist on moral grounds that remedial duties for any resulting human rights violations be assigned.

The upshot of both my view and Pogge’s is significant institutional reform. However, where Pogge seeks the reformulation of the principles guiding international institutions, I argue for institutional measures to be taken which allow all parties adversely affected by the present global institutional order to be given assistance in becoming an equal partner within it.
5. Conclusion

I. Conclusion

The view I have expressed in this paper is intended to be a refinement of Thomas Pogge’s view, more than it is a rebuttal. I have presented a series of objections to Pogge’s argument that the global institutional order is unjust, and suggested reconceptualising his notion of responsibility in light of recent work on national responsibility and global justice by David Miller. While the view I have presented still holds powerful states responsible for ensuring human rights standards are met, the way these obligations are cached out under a notion of institutional-remedial responsibility will be quite different from Pogge. Where Pogge argues for changes in the “rules” by which international institutions operate, I have argued that this is neither feasible, nor required as a duty of justice. Rather, I have argued that participation in an institutional order that foreseeably reproduces human rights violations requires actors to establish institutional remedies for those harms. While I believe that there are justifiable reasons for maintaining present international institutions, this justification does not warrant the wanton disregard for human rights shortcomings that are allowed to occur on their watch. Moreover, even if a fundamental restructuring of the global institutional order is not required as a matter of justice, there are certainly good reasons for work to be done in reforming global institutions to make them more inclusive, effective and equitable.

The view of Thomas Pogge rests on the assumption—I believe mistakenly—that the only way to ensure standards of human rights are met is through a restructuring of the global institutional order. It is my view that programs that work to better integrate
citizens of poverty-stricken nations into the global economy may provide the best path to ensuring human rights standards are reliably met. The notion of institutional-remedial responsibility that I have presented places the onus on powerful actors who dictate the development of the global economy to ensure these programs are adequately funded, and successful in their mandate.
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