

## Appendix A:

### Comments by Rob Reich<sup>1</sup>

#### *Can Charitable Compensation Diminish Complicity?*

Thomas Pogge's prize-winning paper presents an argument for the arresting claim that the great suffering and needs of the global poor constitute for citizens of developed countries not merely a humanitarian obligation but something far worse: a collaboratively imposed evil. Or less dramatically: a massive, foreseeable, and preventable injustice. Because the numbers of the poor are so large and because our role in creating and sustaining desperate poverty is allegedly causal – by collaboratively imposing upon the poor a set of unjust global institutions – the rights violations we wealthy citizens of advanced industrialized countries perpetrate are gargantuan and barbaric, almost certainly the worst in human history. Pogge says that we – that you and I – are guilty of violating the human rights of the poor.

I'll suppose that Pogge's controversial argument goes through, and I'll examine what the argument implies for how we can fulfill our duty not to violate the human rights of the world's poor. At the end of his paper, Pogge writes "We have a duty not to collaborate in the design or imposition of social institutions that foreseeably cause a human rights deficit that is reasonably avoidable through better institutions – unless we fully compensate for our fair share of the avoidable human rights deficit."<sup>2</sup> He argues that we can avoid sharing responsibility for the human rights violations by donating money to effective aid organizations. I contest this conclusion.

#### POGGE'S ARGUMENT IS CORRECT; NOW WHAT?

Let us accept Pogge's main argument that we are indeed violating the human rights of the world's poor. The reason: we collaboratively design and impose supranational institutional arrangements that we intend, foresee, or should foresee, will avoidably deprive human beings of secure ac-

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1. Associate Professor of Political Science, Stanford University.

2. Thomas Pogge, *Are We Violating the Human Rights of the World's Poor?*, 14:2 YALE HUM. RTS. & DEV. L.J. 1, 32 (2011).

cess to their human rights. What are we to do? How can we reduce or eliminate – to borrow a phrase from Eric Beerbohm’s recent book, *In Our Name: the ethics of democracy*<sup>3</sup> – our “complicity footprint?”

In a brief final section of his paper, Pogge gives three possible answers. First, he says that citizens of Western states should commit themselves to collective political or social action so that politicians will act to reform supranational institutions in such a way as to eliminate the human rights violations of the world’s poor. Pogge observes that there is no such citizen majority in any democracy that would bring about such reform and that the prospects for creating social movements to create such a majority are negligible. So second, Pogge suggests that citizens “could emigrate to one of the poorer countries, thereby disconnecting themselves from their erstwhile country’s policies and marginally weakening this country.”<sup>4</sup> But Pogge realizes how unlikely this is to occur, and anyway claims that there is “a far better way for citizens to avoid sharing responsibility for the human rights violations their government is committing in their name.”<sup>5</sup> So third, Pogge says individuals can compensate for their fair share of the avoidable human rights deficit. They can do this by donating money to effective international aid agencies or non-governmental organizations, and Pogge offers some tentative suggestions about just how much money to give. Pogge says an individual who compensates in this way *avoids sharing responsibility* for the human rights violations her government is committing in her name.

I have two points to make. First, I dispute Pogge’s second and third options. I argue that emigration can be morally cowardly rather than heroic, and I reject the assertion that compensation can be a mechanism to avoid shared responsibility for the human rights violations. Compensating the poor may be morally desirable, even obligatory, but that compensation by itself reduces or eliminates our complicity footprint seems to me a mistake. Second, I question Pogge’s apparent attribution of roughly equal responsibility for human rights violations to most citizens. I call attention to the model of shared responsibility that animates Pogge’s view and I suggest better alternatives.

#### POGGE’S THREE OPTIONS

What should citizens of the United States or the European Union make of Pogge’s three options of what to do in the face of their considerable complicity footprint in violating the human rights of the global poor. My view is that what follows from Pogge’s argument is a duty to act politically, to try and bring about institutional change, his first option. We have a primary duty to pursue justice, where justice is construed as the establishment of

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3. ERIC BEERBOHM, *IN OUR NAME: THE ETHICS OF DEMOCRACY* (2012).

4. Pogge, *supra* note 2, at 31.

5. *Id.* at 32.

just global institutions that eliminate any causal contribution to desperate global poverty. On this score, Pogge agrees. What I dispute is the claim that the emigration or the compensation options follow from his argument.

Consider first the emigration option. Pogge sees emigration as a means to exculpate oneself from complicity in the human rights violations of one's country. Where governments act in our name, and when we cannot successfully bring about political reform, we can renounce membership in our homeland and thereby eliminate our individual responsibility. Recognizing, however, the personal cost of emigrating, Pogge seems to view such an act as morally heroic. But I think it possible to see emigration more as a self-interested and ineffective act of moral cowardice. It represents an effort to cleanse one's own hands while leaving wholly intact the very system that dirtied them in the first place. *Emigration does nothing to improve the condition of the poor.* At best, it is a symbolic act, signaling to one's fellow citizens the injustice that one refuses to have committed in one's own name.

A magnificent short story by Ursula LeGuin, "The Ones Who Walk Away From Omelas" illustrates my point.<sup>6</sup> LeGuin imagines a supremely happy small town, Omelas. It is a utopia, but the maintenance of its utopian state depends on the imprisonment and neglect of an innocent child, kept in a prison cell beneath the city. If anyone ever helps the child, the utopian character of the city disappears instantaneously. The citizens of Omelas have a festival once a year to celebrate their great happiness. The festival requires them visually to acknowledge the child in the underground cell and confront the terms of their city's social contract. The story's final sentences – and its title – refer to the few people who every year walk away from Omelas after the festival, renouncing their happiness because of the injustice of the foundation on which it is built. Are the ones who walk away heroes or cowards? LeGuin does not say, but I view them as cowards, for they do nothing to change the condition of the child, nothing to alter the fundamental injustice of the city. Perhaps we should view Pogge's emigrants in the same way.

Emigration does not alter the institutional arrangements that produce the injustice and elevates the moral purity of the individual over the admittedly messy and uncertain efforts of collective action, political movement building, and actual reform or transformation of institutional arrangements. In Pogge's terms, emigration creates interactional innocence by fully detaching oneself from the unjust institutional arrangements. But why should we prefer interactional innocence that simply leaves intact the unjust arrangements and, more to the point, the very harms that these institutional arrangements cause to the poor? There is a case to be made for remaining in Omelas, not emigrating in order to undertake long-term, highly uncertain, political movement building.

Perhaps Pogge would accept this. Do not emigrate and avail oneself of what he calls a better way to avoid sharing responsibility for human rights

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6. URSULA LEGUIN, *THE ONES WHO WALK AWAY FROM OMELAS* (1993).

violations. Pay a fair share to compensate for the harms caused by the institutional arrangements sustained by one's country and carried out in one's name. What then of the compensation option?

Unlike the emigration option, I do not dispute that compensation is a morally recommendable, even obligatory, act. What I reject is the claim that compensation is sufficient, on its own and on Pogge's own terms, to *avoid sharing responsibility* for the human rights violations in the first place. Compensation may be desirable because it holds out the humanitarian promise of improving the welfare of severely poor people. But compensation does not diminish or excuse culpability for the injustice of the institutional arrangements imposed in one's name. Pogge too quickly leaps to the conclusion that financial compensation could enable citizens to avoid shared responsibility. In a nutshell, Pogge mistakenly asks charity to correct an injustice.

The compensation option is in deep tension with Pogge's most important claim, namely that we are guilty of massive institutional injustice in harming the poor. Pogge suggests that an individual charitable or philanthropic act (even if obligatory, not voluntary) can compensate for or mitigate an institutional injustice, that charity is the appropriate exculpating response to one's responsibility for injustice.

Consider several reasons why compensation is a problematic option.

First, Pogge's own views about official development aid suggest a problem with individual fair share compensation. Pogge says of development aid that it is "neither cost-effective nor sustainable" (30). Why should we believe anything different about individual compensation?

Second, Pogge's compensation scheme is mismatched with demands of justice, with the negative duty not to impose harms on others. I fail to see how payment to any international nongovernmental organization that will help alleviate severe poverty can ever undo the injustice of what caused the poverty in the first place. Fair share compensation temporarily improves the condition of the desperately poor, leaving fully intact the collaboratively imposed institutional injustice that will, over time, continue to cause violate the rights of the poor and do so in a way that will culpably implicate the donor, for these injustices will continue to be carried out in his name. Pogge wrongly asks charity to act in the register of justice.

I think of the parable of the wealthy man who is riding on the back of a poor man, causing the poor man to be slower, causing him not to be able to walk as far or as long as others. People all around ask what's wrong with the poor man, why he is so slow. They take pity on him. So too does the wealthy man on his back. The wealthy man keeps offering to mop his brow and give him a drink of water. But what the poor man actually needs is for the wealthy man to get off his back. Giving the poor man water improves his welfare but does not diminish the wealthy man's culpability for being on the poor man's back in the first place.

Perhaps Pogge would resist the accusation that he views charity as a suitable substitute for justice. Perhaps he views fair share compensation

not as charity but as a form of reparative justice, where individuals aim to do their part to repair the harms done by the collaboratively imposed global institutional regime.

I doubt, however, that the concept of reparative justice can gain traction in the case of global poverty. Reparative justice aspires to restore victims to a pre-harm baseline, but no individual compensation can restore all victims to a pre-harm baseline. More important, no individual contribution construed as reparative justice would reform the humans-rights-violating, collaborative imposed unjust institutional regime. Therefore, despite the fair share compensation, the policies carried out in one's name, and for which citizens share responsibility, will continue to cause global poverty. Compensation does not attack the root cause of poverty but merely temporarily relieves the desperate condition of those very badly off. In short, fair share compensation does not seem capable of restoring victims to a pre-harm baseline.<sup>7</sup>

Third, endorsing compensation pulls individuals away from their first and primary duty to act politically, even in the face of uncertain success and long time horizons for change. Citizens confront opportunity costs in their finite time and financial resources, so allocating these to compensation comes into inevitable tension with political organizing for institutional reform. Rather than compensating, why not give one's fair share to a domestic political organization agitating for institutional change, to a candidate who pledges to attempt to reform supranational institutions? By endorsing compensation as a fully responsibility-eliminating action, Pogge provides a reason for citizens who face opportunity costs in allocating their time and money with reason to opt for compensation over attempts at political reform because compensation is allegedly a fully responsibility-eliminating option.

Consider a citizen who, in her political activity, votes for a politician who does nothing to push for reforming the unjust supranational institutions that cause a significant amount of severe global poverty. She shares responsibility, on Pogge's account, for the human rights violations of the severely poor. She is riding on the back of the poor, actively harming them. But she is moved by their plight and mops their brow by donating a significant amount of money to effective NGOs that aim to alleviate poverty. She fails to act politically to overcome the problem, yet she does act purposefully as an individual to alleviate poverty. Pogge appears to think this citizen no longer shares responsibility for the human rights violations. But giving private charity does not relieve an individual from the duty to oppose unjust institutions, does not relieve an individual of the shared responsibility for the harms caused by these unjust institutions.

Or consider a slightly different case. Imagine a second citizen who pays her fair share of compensation and yet votes for politicians whom she

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7. I leave aside the additional objection that determining the pre-harm baseline condition of the global poor is an impossible task. But without such a specification, calculating fair share contributions is likewise impossible.

knows will oppose reform of the supranational institutions that cause poverty. Pogge appears to think this citizen exculpates herself as equally as the first citizen. But I think this must be false, for the second citizen fails in her duty to aim for political reform. The second citizen is a walking contradiction.

So I reject the claim that compensation morally exculpates. At best, it is a second-best or third-best response to the injustice of the global poor. Endorsing compensation as an exculpating response to injustice is to commit, as John Stuart Mill put it, "the great error of reformers and philanthropists . . . to nibble at the consequences of unjust power, instead of redressing the injustice itself."<sup>8</sup>

#### DIFFERENTIAL COMPLICITY FOOTPRINTS

The discussion of the two citizens above leads me to my final point. I think these two citizens, in light of their different political engagements and attitudes, are differentially responsible. They share responsibility for the human rights violations of the poor, but not equally. If compensation is required of them, their fair shares are not only a function, as Pogge argues, of their per capita income, but also of their different levels of responsibility.

I can't discern Pogge's stance on this because he appears to endorse a simple understanding of what it means to share responsibility as a citizen of a developed country for collaboratively imposing an unjust supranational institutional regime. Pogge excuses children and the domestic poor. But otherwise all are complicit. This shared responsibility arises, it seems, for reasons no more complicated than that one is a citizen of such a country, that one is associated with and thereby implicated in the policies of a country in virtue of one's status as a citizen. We act wrongly, more or less continuously, by membership alone.

The assignment of blame for violating the human rights of the global poor cannot be placed upon such a crude structure. Citizens may have different complicity footprints. If there are compensation requirements, they cannot flow from considerations just of one's income.

Consider the following possibilities:

1. A citizen jointly *intends* with fellow citizens to bring about or sustain global institutional injustice by voting for politicians who support the objectionable institutional regime and by supporting domestic and global policies consistent with it. These are people akin to segregationists in the South who use political means to maintain domination over blacks.

2. A citizen *does not intend* to bring about or sustain the institutional in-

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8. JOHN STUART MILL, PRINCIPLES OF POLITICAL ECONOMY (1848).

justice but votes for a politician who sponsors or supports the institutional injustice. The citizen never intended the injustice but understood herself to be delegating responsibility for decisionmaking about supranational institutional design to the politician.

3. A citizen does not intend to bring about or sustain the institutional injustice; she *intends the opposite* and votes in favor of a politician who would act on Pogge's argument to correct this injustice. But this politician loses and a rival politician who supports the objectionable institutional regime wins. (Can this citizen say "Don't blame me?")

4. A citizen does not intend to bring about or sustain the institutional injustice; she intends the opposite and votes in favor of a politician who aims to correct the injustice; she also campaigns and agitates through civil society to create a political movement to correct the injustice. She donates money and time to a political organization that champions Pogge-preferred policies. Yet still the justice-promoting politician loses and there is no political majority in support of better institutional design.

5. A citizen neither intends to bring about or sustain the institutional injustice or to end it. She is ignorant of the matter. She votes if she pleases. She has never read Pogge.

I think the complicity footprints of these citizens are different. I can't tell if Pogge thinks these citizens are identically liable.

We need, I suggest, an account of shared responsibility in a democratic country where the behavior of politicians who act in our name is sensitive to the individual actions undertaken by citizens in their capacity as citizens, in their appropriately political efforts to correct injustices that are indeed carried out in their name. I conclude by asking: does Pogge believe he needs a more nuanced account of shared responsibility in light of these considerations?