

# **Global Distributive Justice**

Christoph Hanisch

040007492

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## Introduction: Some Conceptual Apparatus

This essay is concerned with the moral-philosophical dimensions of development and global poverty. To be more precise, the perspective adopted in the argument is the perspective of political philosophy. Political philosophy's approach to practical political issues is a normative one, i.e. it is concerned with the question of what principles and values should guide political action with regard to globally effective policies, procedures and decisions. Moreover, it tries to address the question of how global institutional arrangements must be designed to count as just ones. This essay examines the two concepts of "justice" and "moral obligation" in order to construct an argument that identifies the possession of central capabilities as the threshold of what a just global institutional order must allow all societies to provide for its citizens. My approach to the issue of global justice, "basic needs cosmopolitanism", relates the "capability approach" with the non-material (political, institutional, and social) and the material prerequisites necessary to regard developing societies as being able to provide their citizens with an environment that makes the possession of central capabilities possible.

This essay's first chapter is dedicated to the current debate about global justice in general and the question of whether there are stringent moral obligations asking better-off countries and their citizens to do something about world poverty. This debate has been dominated by focusing on "positive duties"<sup>1</sup> to help the poor in the case of consequentialism and "imperfect obligations" to help in the case of Kantian frameworks. The consequentialist's positive obligation asks the obligation bearer to actively contribute to the endeavour of improving the situation of the badly-off members of the global population because it leads to the best overall consequences and a higher level of aggregated well-being. These obligations are moral requirements but they are not as stringent as negative obligations. Negative obligations are universal moral requirements prohibiting certain (harmful) actions. The negative obligation not to harm will play a crucial role in basic needs cosmopolitanism and in establishing the claim according to which it depends on particular factual contexts whether the positive obligation to help is one based on beneficence or, more

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<sup>1</sup> Thomas Pogge prefers to use the notions of "positive" and "negative duties". I use a unified notion of "obligation" instead of distinguishing between "duty" and "obligation". Consequently, where Pogge introduces his idea of better-off states and their citizens violating a "negative duty" I will use the notion "negative obligation".

stringently, one on justice. In addition, the obligation to help (or better “compensate”) the global poor can have a degree of stringency that is stronger than the one that the Kantian category of imperfect obligations normally assigns to the obligation to actively do something about other’s needs.

The concluding section of chapter one is dedicated to Thomas Pogge’s criticism of the dominance of the positive obligations-framework in discussing global justice. Pogge’s argument is that the better-off’s imposition of an unjust global economic and political order on the poor constitutes the violation of a negative obligation. Even sceptics about social and economic human rights agree that harming someone, regardless of geographical distance and national boundaries, is morally wrong. Pogge claims that stopping the imposition of unjust global political and economic institutions, legal regimes and procedures is the primary obligation of better-off societies. I adopt a positive stance towards Pogge’s emphasis on global negative obligations. At two major points I deviate from his position though.

Firstly, I replace Pogge’s definition of an unjust global order in terms of minimal social and economic human rights with an emphasis on basic needs. Whereas Pogge’s argument identifies an unjust global order as one that renders the fulfilment of basic human rights impossible, I claim that the global order is unjust in so far as it makes the satisfaction of basic human needs impossible. Not being able to satisfy one’s basic needs, due to other moral agent’s conduct, is an instance of inflicting harm on the global poor. The notions of “injustice” and “harm” are linked by means of basic needs, which are defined as the needs that have the property of resulting in harm when they go unmet. Another defining property of “basic needs” is that they are made up of two subgroups: firstly, the needs for living in a minimally just society, i.e. a society and state that is committed to the goal of securing central capabilities for all its citizens. Secondly, and this essay on global *distributive* justice is especially concerned with this group, the needs to what I want to label “basic material necessities”. Basic necessities are the material prerequisites access to which is the other necessary precondition for possessing so-called “central human functional capabilities”. Only a society that can meet both groups of basic needs can provide all prerequisites for its citizens’ possessing central capabilities.

The second chapter is dedicated to Martha Nussbaum’s attempt to show that these capabilities are of cross-cultural appeal, a feature being crucial for basic needs

cosmopolitanism and its project of identifying a universal standard for judging the justice of the *global* institutional order.

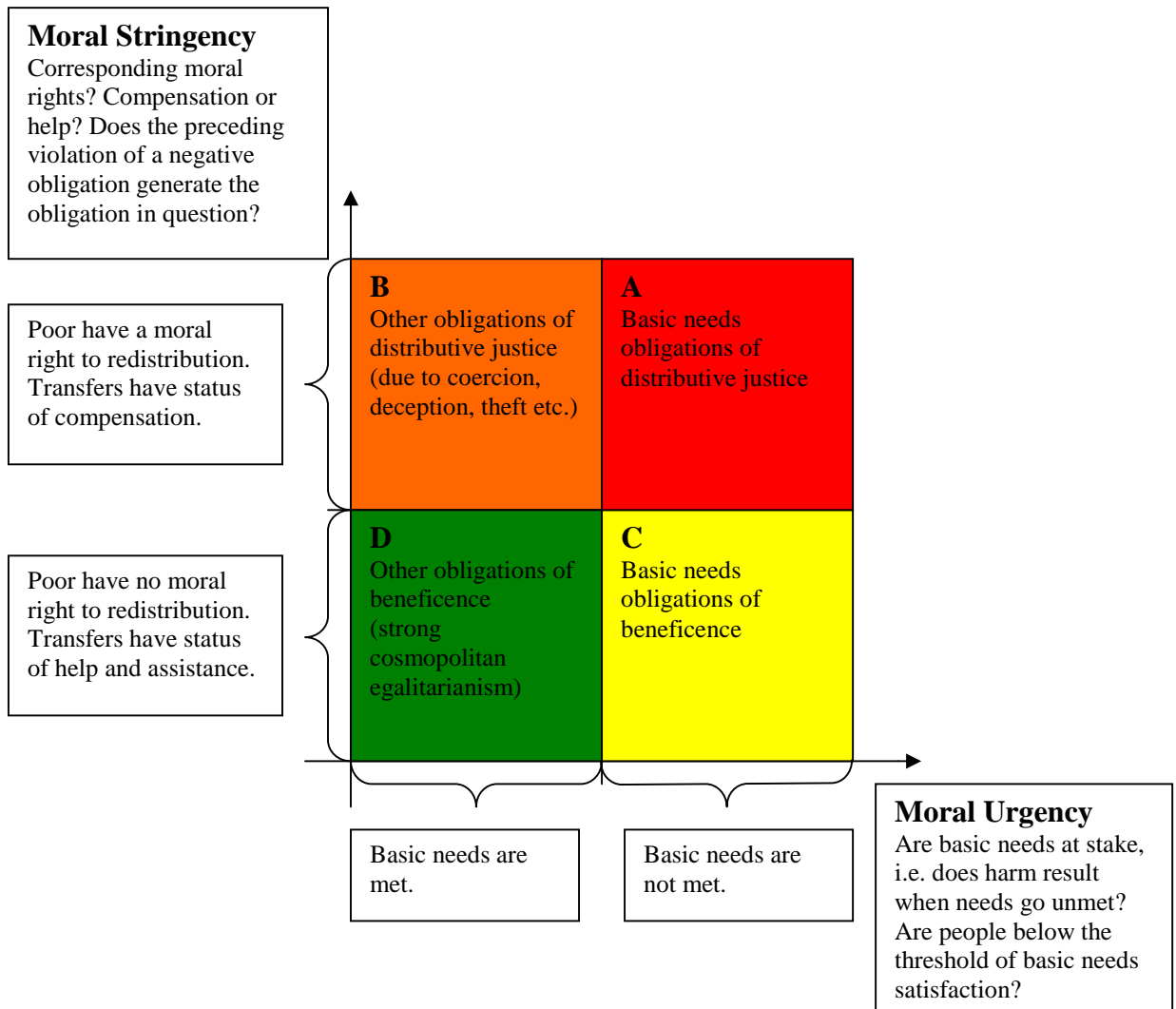
The second point where I deviate from Pogge is related to my idea according to which the better-off have an obligation of justice – as opposed to a less stringent obligation of beneficence – to do something about global poverty only when they have contributed to the dire straits of the poor. Pogge’s positive proposal for the eradication of poverty does not pay enough attention to this consequence of his approach. He is right that the better-off have an obligation to stop imposing an unjust global institutional order. In addition, however, this imposition has an impact on the stringency of the better-off’s positive obligations to do something about world poverty. Basic needs cosmopolitanism’s claim is that some positive obligations have the same stringency as negative ones. That is why I call some positive obligations “obligations of justice” and the compensation for the imposition of an unjust global order is one of these positive obligations of justice.

In order to render these conceptual categorizations<sup>2</sup> of global obligations more transparent I present a coordinate grid of positive global obligations concerned with material transfers from better-off to worse-off societies at the outset:

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<sup>2</sup> We are faced with three, double-sided, categories here: 1. Negative obligations vs. positive obligations. 2. Perfect obligations vs. imperfect obligations. 3. Obligations of justice vs. obligations of beneficence. In addition, as my “coordinate grid of positive global distributive obligations” shows, there are subgroups within some types of these categories. The problem with discussing these categories is that the three types of obligations are not congruent. It is one of my claims that some positive obligations are obligations of justice and some are obligations of beneficence – this is a “context-sensitive” approach to categorising global obligations. Moreover, it is difficult to find a place for positive obligations of justice within the Kantian spectrum of perfect and imperfect obligations. I discuss these issues below.

## Global Distributive Obligations



This essay's dominating subject is category "A". This is a positive obligation to do something about global poverty. This does, however and contrary to what Pogge believes, not imply that this positive obligation lacks the stringency characteristic for negative obligations. Some positive obligations (namely categories "A" and "B") have the property of being of highest moral stringency because of their being linked to the violation of (a) negative obligation(s). In the case of "A" it is the stringency of the violation of the negative obligation not to harm someone (by means of rendering the satisfaction of her basic needs impossible or difficult) that "spills over" to the obligation to meet the harmed persons' basic needs. In the case of "B" it is the preceding violation of other negative obligations (not to coerce, not to deceive, etc.) that generates an obligation to compensate. Both, A and B, are what I call obligations

of (distributive) justice whereas C and D are obligations of (distributive) beneficence. C and D are moral requirements and should not be confused with the category of supererogation. They are moral obligations, however, of a different level of stringency. They are emerging in situations where the better-off have not contributed to the worse-off's dire straits at all. With obligations of beneficence the rationale has to be of a different kind than in the case of obligations of justice – a rationale I do not deal with in this essay.

The best way to further introduce this categorization is to state explicitly what types of moral obligations my grid does not cover. As already mentioned it does introduce negative obligations only indirectly. The negative obligation not to impose an unjust global order will, however, play a crucial part in this essay. This has to be so because the contents of A, i.e. the level of transfers required on grounds of justice from the better-off, can only be determined when we get clear about what an “unjust” global order is. Since I will define an unjust global order as one that powerful agents impose on others and that makes the satisfaction of the latter's basic needs impossible, the corresponding positive obligation A will ask the better-off to transfer basic material necessities in proportion to their responsibility for basic needs deficits but not more.

This point leads to another category of obligations neglected in the coordinate grid above. The four categories A, B, C, and D are all concerned with *material* transfers from the better-off to the worse-off. As mentioned above the material prerequisites, i.e. “basic necessities” such as financial and natural resources, foodstuff, medical devices, etc., are a necessary but not a sufficient means to enable a society to secure an environment that guarantees central capabilities. The non-material prerequisites, i.e. a stable domestic political culture and institutional “basic structure” committed to the goal of securing central capabilities for all citizens, must be present as well. Material transfers alone will not do to compensate for the imposition of an unjust global order. Support for domestic institutional reforms, local democratic movements and even humanitarian intervention can have the status of an obligation of justice if the better-off are responsible for the lack of democratic institutions. Basic needs cosmopolitanism as presented here, with its emphasis on obligations related to material transfers, is not a complete theory of global justice. In addition, this focus does not imply that the obligations of justice related to the non-material prerequisites of central capabilities are less stringent and urgent.



At various points in this essay<sup>3</sup> I explain why I adopt this restricted focus on material basic needs. The primary reason for putting to one side the better-off's obligation to take care about non-material political and institutional needs of the global poor is that these obligations open up a whole new dimension of moral-philosophical and political issues discussed under the heading of "global justice". Questions concerning support for domestic political reforms, ranging from the limits of national sovereignty to the justification of humanitarian military intervention, are very important. Since this essay is dedicated to global *distributive* justice, however, I will dedicate the space I have on one out of the two, equally important, parts of "basic needs cosmopolitanism". Again, this does not imply that the second part of this theory, concerned with non-material needs, is less important and the related obligations are of equal stringency as the ones primarily discussed in this essay.

A, B, C, and D are positive obligations in Pogge's sense. They ask the better-off to arrange transfers of money, know-how, resources etc. to worse-off countries. In the case of A and B these transfers are a matter of justice, in the case of C and D they are a matter of beneficence. The crucial property distinguishing A and B from C and D is that severe poverty and basic needs deficits (A) or global inequality (B) can be traced back to other agents' wrongdoing.<sup>4</sup> The scope of this essay, with its emphasis on category A, is a restricted one: neither does the argument for basic needs cosmopolitanism give a rationale for obligations of beneficence at all, nor does it, within the category of "obligations of justice", debate justice-based obligations of type B or the ones that are not concerned with material redistribution. Basic needs cosmopolitanism is a combination of a reinterpreted version of Pogge's definition of an unjust global institutional order and the establishment of the resulting positive obligations of type A. A requires the better-off to discharge this obligation in proportion to their responsibility for basic needs deficits but not more. Since, on my

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<sup>3</sup> See footnote 47 and the discussion in the text on page 80 relating to footnote 86.

<sup>4</sup> One clarification of the coordinate grid seems important: my categorisation might suggest that the violation of the negative obligations of non-coercion and non-deception *cannot* generate the urgent type of positive obligations of justice (type A). This is not the case: deceptive and coercive behaviour *can* lead to someone falling below the level of her being able to meet her basic needs. In this case, the resulting obligation to meet others' needs for basic necessities is an obligation of justice of type A. On the other hand, my category B wants to emphasise that coercion and deception do not, *prima facie*, trigger obligations of the same urgency as the violation of the negative duty not to harm someone by rendering meeting her basic needs impossible. Per definition, the violation of this latter negative duty always generates category A obligations of justice. Category A cannot take place in case all people's basic needs are met! Category B can, however, emerge in a world in which all people's basic needs are met.

definition, the global order counts as an unjust one to the extent to which it makes meeting basic needs impossible or difficult for poor societies, the extent of what positive obligation A can require the better-off to transfer must be determined by this basic needs standard as well. This idea will be important to confront the demandingness-objection against basic needs cosmopolitanism discussed in concluding this essay.

## I. Global Obligations

In the political and everyday debate about global poverty one can observe a competition of two enduring positions: on the one hand many citizens of well-off countries will agree with a claim defended by philosophers such as Peter Singer<sup>5</sup> and Thomas Pogge<sup>6</sup>: It is admitted that we – by means of private financial transfers, our democratic decisions and by putting pressure on our democratically legitimized representatives – are by far not doing what would be sufficient in order to alleviate at least the most severe instances of life-threatening poverty in distant countries. Even the global better-off who regard the challenge of poverty as one that would ask them for enormous sacrifices, if it were to be confronted successfully, have to admit in the same breath that they do not even help as much with alleviating world poverty as is possible without that constituting a weighty sacrifice for them.

Pogge points out, however, that it is a myth that the poverty related deaths of 18 million people annually are a political and economic challenge so overwhelming that it could only be confronted by means of massive global redistribution and would have an unbearable impact on the better-off societies' ways of life and identities.<sup>7</sup> According to Pogge “[t]he aggregate shortfall of all these people [the global poor] from the \$2 PPP [purchasing power parity] a day poverty line amounts to some \$300 billion annually or just 1.2 percent of the aggregate annual gross national incomes of the high-income economies.”<sup>8</sup> The redistribution of these 1.2 percent would be a sufficient means to lift the global poor above the poverty line and secure the satisfaction of their most basic needs.<sup>9</sup>

On the other hand – and this is the second widespread position on global poverty - even if Pogge's statement is accepted many affluent societies' citizens will pose the following questions: “Why *ought* I to help these people? Why am I supposed to have any stringent moral obligation to give away only the slightest part of my hard earned income? Why should I consent to my government distributing (my) tax money

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<sup>5</sup> Singer 1977 [1972], pp. 22.

<sup>6</sup> Pogge 2001, pp. 6-11 and pp. 98-101.

<sup>7</sup> For a philosophical rationalization of this widespread assumption see Rorty 1996.

<sup>8</sup> Pogge 2001, p. 7.

<sup>9</sup> I am indebted to John Skorupski for pointing out that one has to be careful with Pogge's claim according to which defeating world poverty only requires such a small financial effort on parts of the wealthy. There can be many distorting factors in non-ideal applications of Pogge's idea reaching from non-compliance to high transfer costs.

to distant countries in order to alleviate suffering I am *not responsible* for at all?” Whereas the first position focuses on the amount of help that would be necessary in order to eradicate world poverty, the second one asks why the better-off have any moral obligation to do something about world poverty in the first place.

We live quite comfortably with a synthesis of these two positions. We know, on the one hand, that at least severe and life-threatening poverty would not have to be accepted as an unalterable fact but could be alleviated significantly by transfers from better to worse-off countries.<sup>10</sup> On the other hand, we remain passive and we are not embarrassed to justify our inactivity: it might be a good thing to donate some amount to Oxfam or the International Red Cross – moral philosophers say a “supererogatory act” – but the concept of “obligation” is said to be inapplicable in the context of global poverty. In short: giving to the poor might be a morally good thing but not-giving is not morally wrong.

In this essay’s first chapter I pay particular attention to the second, sceptical, position on global justice. I will contrast the category of “supererogation” with a “context-sensitive” conception of moral obligations concerned with doing something about global poverty. Not being a matter of supererogation and alms, doing something about the suffering of others abroad does at least have the status of an “obligation of beneficence” (when we are not responsible for the global poor’s dire straits). All major moral philosophical and religious doctrines defend the existence of such moral obligations to help those who are in life-threatening dire straits. I will develop this position in more detail with reference to Peter Singer’s consequentialist approach to global obligations.<sup>11</sup> Obligations of beneficence taken by themselves are therefore enough to lift the requirement to do something about global poverty out of the sphere of moral supererogation.

In addition, however, I will introduce the idea of “obligations of justice” to do something about global poverty which becomes relevant when the better-off have actually contributed to the dire straits they are asked to alleviate. In short, the obligation to help the poor is a context sensitive one and cannot be categorised as always being a matter of beneficence (or as always being, as the Kantian would say,

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<sup>10</sup> I am not talking about more ambitious aims here. It is true that a more egalitarian world-order or a world-order based on fair equality of opportunity would make much larger redistribution necessary. The prevention of poverty-related deaths, however, would be achievable without great sacrifices on parts of the wealthy. That is what Pogge’s empirical and statistical picture suggests.

<sup>11</sup> For another influential consequentialist account of global justice see Unger 1996.

an “imperfect obligation”). Depending on the preceding wrongdoing that brought the poor into their destitute situation, helping the poor can become a stringent requirement of justice. Pogge’s empirical observations show that the obligation to help the poor is indeed a matter of justice because it is the better-off who contribute in large part to the global poor being in their needy situation.

Even though I disagree with the sceptic’s claim that giving to the poor is not even a matter of obligations that are based on beneficence but merely a matter of supererogation, I share her intuition that it must be of significant moral weight whether the better-off share some responsibility for the global poverty they are asked to eradicate or not. Singer’s consequentialism and O’Neill’s Kantianism fail on that account. This chapter therefore addresses a number of fundamental moral-philosophical issues related to world-poverty. Critical will be the questions of whether there are positive moral obligations towards the poor and why and how obligations based on justice differ from those moral requirements based on beneficence with regards to their stringency and urgency. I will present three approaches to these questions. My aim is to evaluate utilitarian consequentialism, Kantian theories, and cosmopolitan contractualism and their different conceptions of global obligations concerned with redistribution.

## **I.I. Consequentialists and Kantians on Global Obligations**

Peter Singer’s 1972 “Famine, Affluence, and Morality”<sup>12</sup> is one of the initial and important contributions to the current moral-philosophical debates about global poverty. In this essay Singer argues in favour of demanding obligations of the wealthy to alleviate starvation in distant countries. Singer constructs his argument within a consequentialist/utilitarian framework.

A consequentialist regards the current global situation as indefensible on moral grounds because Wealthy states’ citizens and their governments could alleviate a great amount of life-threatening suffering by transferring funds to the poor. A more balanced global distribution of material resources would result in a greater overall amount of happiness and well-being. This is so because the basic needs of the poor could be met by requiring the wealthy to abstain from dedicating large parts of their

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<sup>12</sup> Singer 1977 [1972].

income on goods and services that increase happiness only slightly. Lifting the starving masses up to the level of secured basic needs is of greater weight in a global utility calculation than the affluent citizens' satisfaction of non-basic preferences. The affluent's sacrifices would not outweigh the suffering of the poor brought about if the affluent refused to engage in the global redistribution of their wealth.<sup>13</sup>

Singer commences his argument by asserting two premises. The first premise states "that suffering and death from lack of food, shelter, and medical care are bad."<sup>14</sup> It is unproblematic to agree with Singer that this assumption is not a very controversial one and I will therefore not try to justify it against sceptical extremism. Things are different with Singer's second premise: "[I]f it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it."<sup>15</sup>

It is important to note that Singer's second premise comes in two versions: the first one, stated above, is stronger than a second, weaker, version that replaces the formulation "comparable moral importance" with the phrase "anything morally significant." Singer is confident that in the case of the current state of the world even the weaker version will generate significant demands on the affluent. Once the two premises are accepted it follows, so says Singer, that there is a strong obligation to do whatever one can in order to alleviate global poverty and starvation. In order to support his argument Singer introduces the drowning-child case. When I walk by a shallow pond and see a child drowning I ought to pull the child out. I can prevent something very bad (the child's death) from happening at a very low cost (my clothes getting muddy). The obligation to rescue the child is the result of accepting Singer's premises regardless of whether one adopts the strong or the weak version of Singer's second premise. My clothes getting muddy is not of *any* moral importance let alone of *comparable* moral importance.

The strong version of the second premise leads to the requirement that the wealthy give until they reach the point of marginal utility. The global better-off would have to transfer large parts of their income until "by giving more, [they] would cause

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<sup>13</sup> Here I argue in accordance with Scheffler 1981. On the idea of giving "priority" to transfers benefiting the worse-off recipients - "the principle of weighted beneficence" - see also Parfit, 1991. "The principle holds that when promoting well-being, one should give (some) priority to promoting the well-being of those who are worse off. Benefits to worse-off people matter more, they have greater moral weight." (Murphy 1999, p. 263)

<sup>14</sup> Singer 1977 [1972], p. 24.

<sup>15</sup> Ibid.

as much suffering to [themselves] or [their] dependents as [they] would relieve by [their] gift.”<sup>16</sup> Even though Singer favours the strong version of his principle he admits that there might be other consequentialist reasons for favouring the moderate one. It might have fatal consequences on the globally aggregated well-being if the developed countries followed the strong version and reduced themselves to the level of marginal utility. An extreme slowing-down of economic growth in the developed countries could lead to the overall outcome that these countries give less in absolute terms. It must be noted, however, that these reasons for preferring the weak version of Singer’s principle are themselves of a consequentialist nature. Just because it is *my* family or *myself* who would suffer a loss due to the utilitarian redistribution I cannot reject the strong version of the consequentialist principle.

Singer’s demanding conclusion is also the result of two prominent features of consequentialism: 1. The second premise does not allow proximity or distance any moral significance. From the moral perspective my obligation to help the drowning child is equally strong as the obligation to help a starving stranger thousands of miles away. 2. The premise is equally applicable in cases where I am the only potential helper as in cases where I am among millions of people who could help. The psychological effect of feeling less guilty when one can hide one’s failure to fulfil the obligation to help in the mass of a modern state citizenry has no moral significance.<sup>17</sup>

The most important aspect with regard to our major question in this chapter on global obligations is Singer’s claim that if his argument was accepted we would have to redraw the distinction between duty and charity.<sup>18</sup> Singer criticises the affluent’s belief that giving money to famine-relief is regarded as an act of charity, i.e. doing so is supposed to be a “supererogatory” act. While one is praiseworthy for giving away parts of one’s income, the same person is not blameworthy for not doing so. Contrary to this widespread opinion Singer’s argument regards someone who spends parts of her income on fancy clothes (not on clothes essential for satisfying basic needs) instead of giving these funds to famine relief as failing to live up to her duties. The

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<sup>16</sup> Singer 1977 [1972], p. 32.

<sup>17</sup> Here Singer switches from the question of whether the number of potential helpers has any impact on the stringency to fulfil the obligation to help the starving to the quite different question of whether the fact that we are involved in bringing about the global situation has any effect on the demands of global justice. Singer does not pursue this important point further. This question is of crucial importance for a non-consequentialist justification of global obligations and for my differentiation between obligations of justice and obligations of beneficence. See Singer 1977 [1972], p. 26.

<sup>18</sup> I will use the concepts “duty” and “obligation” interchangeably.

basic needs of famine victims are of high moral importance; the same cannot be said of wealthy people's desire to be well-dressed.

Typical for a consequentialist Singer does not pay attention to possible differentiations within the group of moral obligations. In particular he does not distinguish among different types of positive moral obligations – “positive” meaning here “asking the obligation bearer to actively do something about the poor's misery”. From a consequentialist point of view the question of, *whether* and *how* the obligation bearers – in this case the wealthy citizens of developed states - are connected to the poor's situation is not of moral significance. Important for Singer are the facts that there is a large amount of suffering in the world, and that there is a straightforward way to reduce the amount of suffering by means of assistance, aid, and redistribution.

It is a critical shortcoming of consequentialism that it does not differentiate levels of moral stringency and urgency within the group of “positive obligations to do something about world poverty”. Singer does not consider the questions of the affluent's responsibility and their involvement in bringing about the dire straits of distant populations. In analogy to Singer's drowning-child case this question focuses on the fact that there *must* be a moral difference between being obliged to save the child in the case where the child fell into the pond without one's causal interference, the case where one pushes the child into the pond unwittingly, or the case where one pushes the child into the pond deliberately.

It appears indeed implausible to regard the first case as asking for a supererogatory action. I agree with Singer that in all three cases we have *some* positive moral obligation to save the child. It seems, however, to strengthen the child's case considerably when the obligation bearer is causally involved in bringing about its life-threatening situation. It is this moral intuition, playing such a prominent role in everyday and political debates about global poverty, that consequentialist approaches such as Singer's pay insufficient attention to. The (criticised) elements of consequentialist approaches to global obligations we have to keep in mind are therefore the following (here I already mention some concepts that will follow from this criticism of Singer's approach and will be spelled out below): The question of whether and how the global poor came into the destitute situation that generates the positive obligation to help them is not considered sufficiently in Singer's argument. I will introduce the distinction between obligations based on justice and obligations based on beneficence to overcome this shortcoming.



Singer's approach to global justice allows categorising the better-off's obligation to help the poor as being a matter of beneficence only. Of course, Singer's positive obligation is stronger than "requirements" located within the sphere of "supererogation" and it has been Singer's lasting achievement to be one of the first contemporary moral philosophers to argue in favour of global moral obligations asking the better-off to transfer parts of their wealth to the global poor. I share, however, Thomas Pogge's concern that consequentialist and utilitarian approaches to global justice leave a relevant moral intuition unaddressed, namely that a focus on Singer's positive global obligations to help, as he presents them, ignores the two crucial issues of *why* the poor cannot satisfy their most essential needs and the impact the answer to this question has on the stringency of the moral obligation to help people with meeting those needs. Leaving the issue of the better-off's responsibility unaddressed has a detrimental impact on recognizing how stringent the moral requirements actually are. Certainly, and Singer might stress this point in responding to my criticism, not discharging his version of the obligation to help the poor (based on beneficence as I stress) is morally wrong. Obligations of beneficence are moral obligations and I take as their defining property that one is blameworthy if one does not fulfil them. What I stress, however, is that within the context of justice, i.e. where prior wrongdoing yields a situation that makes helping the needy necessary, the stringency of the obligation to do something about world poverty is stronger than in the context of beneficence. To ignore the context of justice is what I charge Singer's consequentialist approach to global obligations with.

I now turn to Onora O'Neill's obligation-based theory of global justice. O'Neill coins her approach a "maverick version of Kantian ethical reasoning."<sup>19</sup> She takes Kant's conceptions of perfect and imperfect obligations and the Categorical Imperative in its universal law formula as fundamental elements of ethical reasoning about world poverty.

For our current evaluation of how well various moral theories fare with regard to grounding an obligation to do something about the distant poor's dire straits, it is a good starting point to take a closer look at the distinction between perfect and imperfect obligations. Let us clarify the idea of perfect obligations first. A maxim - defined by O'Neill as a "principle of action" and not as "acting on a certain

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<sup>19</sup> O'Neill 1986, p. 131.

intention”<sup>20</sup> - involving the use of coercion, deception or harm is not morally permissible because its general acceptance would not be *conceivable* without contradiction. We cannot conceive of a world in which all agents follow a maxim based on, for example, deceptive behaviour. To render this idea more accessible consider the example of an international business corporation negotiating a deal with a Third World country’s government. Imagine the highly skilled professional business executives deliberately keeping the harmful side-effects of setting up a factory in the poor country, desperately in need of foreign investment, a secret. This pattern of conduct constitutes an instance of deception.

Universalising this negotiating-strategy’s underlying maxim would lead to the paradoxical situation that the corporation uses deception in order to achieve its goals and at the same time all other moral agents use deception to achieve their goals. All agents would then be in a world in which they both freely act and are unable to act freely: “Any ‘consent’ or ‘agreement’ given to coercive [or deceptive, or harming] action, which pre-empts the victims’ capacities to choose and act, is spurious. [...] A maxim of coercion [or deception, or harming] could not underlie all action, since those whose agency is undercut cannot themselves coerce [or deceive, or harm].”<sup>21</sup> O’Neill’s dense quote points towards the underlying philosophical idea of the Kantian universalizability test. The crucial idea is that the business company acting on a deceptive maxim would have to make an exemption from a general rule (“do not to deceive”) for its particular strategy to work. Only in a world where it is only this corporation deceiving other parties, would the cooperation’s dishonest strategy work. If we try to imagine an alternative world where all agents make the principle of deception their action-guiding maxim we simply fail to consistently complete this imaginary task. If all parties were to deceive all others, how should the former be free enough to do so when they are deceived and misguided themselves? This is what the Kantian means with a universalised maxim being “not conceivable”. In addition, and this is a slightly different point, to make an egoistic and non-universalizable exemption in order to achieve one’s goals is not compatible with a central tenet of all moral theories based on at least a rudimentary conception of egalitarian respect, namely the idea of neutrality.

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<sup>20</sup> O’Neill 1986, p. 132. This is another move in O’Neill’s argument to show that the application of the Categorical Imperative is not restricted to the acts of individual humans but can be extended to policies and institutional behaviour as well.

<sup>21</sup> O’Neill 1986, p. 139.

Not to be allowed to make exemptions for oneself if these exemptions cannot underlie all action counts for individual action as well as for institutional policies. What follows from the non-universalizability of maxims based on coercion, deception or harming is a *perfect* obligation not to perform acts/policies based on these maxims. O'Neill identifies the group of perfect obligations by means of detecting elements of coercion, deception, and the infliction of harm in fundamental action-guiding principles someone is following. We are morally obligated not to act on maxims involving coercion, deception or harm-infliction because universalising them is not conceivable. An additional trait<sup>22</sup> that distinguishes perfect from imperfect obligations is that perfect obligations cannot be discharged in varying degrees. It is not possible to non-coerce or non-deceive someone only a little bit. The prohibition not to act on these maxims is absolute. Kant's famous example, also pointing to the problems generated by this categorical rigorism, is the perfect obligation not to lie (even in the case a madman intent on murder asks you to tell him the whereabouts of his would-be victim). The third property that is important for distinguishing perfect and imperfect obligations is that only in the case of the former can the obligation bearer be matched with a specific claimant (who is then the holder of a moral right, as I will stress below). The obligations not to coerce, not to deceive and not to inflict harm are "universal perfect obligation"; every moral agent owes them to all other moral agents. The obligation to keep one's promises (derivative from the obligation not to deceive) is owed by the specific promising agent to (the) specific promisee(s) and constitutes an instance of a "special perfect obligation". Kantian "imperfect obligations", to which I will now turn, differ in all three respects from perfect obligations.

More crucial for our endeavour of successfully confronting the sceptical argument of our fellow Western citizen concerning a stringent obligation to help the global poor is the Kantian justification of imperfect obligations. The group of imperfect obligations comprises many duties. Here I concentrate on those imperfect obligations that O'Neill presents as the ones requiring the avoidance of actions based on maxims based on disrespect, nonbeneficence and nondevelopment.<sup>23</sup> The most

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<sup>22</sup> I introduce three "properties" that distinguish perfect from imperfect obligations. The latter two are spelled out in Pogge 1992.

<sup>23</sup> Ibid., p. 136.

prominent way to present these imperfect obligations as positive ones is to summarise them as the group of “obligations to help others”.

In the case of imperfect duties we can ask again whether a particular maxim, guiding the actions of individual or collective agents, can be universalized. The first particular feature of imperfect obligations is that in their case the maxim’s attempted universalization does not lead to a contradiction in conception (as is the case with the rationale for perfect obligations) but to a “contradiction in willing.” A world accepting the maxim that permits *never* to help the poor when this would collide with one’s own minor preferences could indeed be conceived. Such a world is, however, not a world we – actual earthlings - can rationally will.

At this point O’Neill’s stressed vulnerability of actual human beings plays a prominent role. Since we are not fully rational and self-sufficient beings we know that in order to achieve our short-range and comprehensive life-goals – something we *will* - we need the assistance of other human beings. The contradiction in willing arises when we consider that as physically limited human beings and wanting to achieve our goals, we would accept the help of others but at the same time we would also assent to a state of the world of universal indifference to the suffering of others because of giving unrestricted priority to individual interests. Rationally and physically limited human beings, dependent on the help of others to achieve their goals and to satisfy their basic interests (which in turn is a necessary condition to develop moral agency and to live an autonomous life) cannot will these two things together without contradiction.

The nonuniversalizability of the maxim not to help others generates the obligation to help some people at least sometimes. The duty to help allows fluid degrees of discharging it but it nevertheless remains a moral obligation. This argument leads to the point that the distinction between perfect and imperfect obligations becomes less exact and more complicated on the less abstract level. Take for example the perfect obligation of non-coercion. On the first sight this obligation requires the obligation-bearer not to abuse her more powerful position to arrange the terms of an agreement without taking into consideration the needs and interests of other parties. When we construct this argument further, however, it becomes clear that the lack of basic needs satisfaction contributes a lot to make moral agents vulnerable to such coercion. This in turn suggests that in order to render agents less vulnerable against coercion, positive action and the discharging of imperfect duties on parts of

the obligation-holders is required. Discharging the perfect obligations of noncoercion and nondeception can require a significant amount of positive action such as redistribution and donations on parts of the wealthy, O'Neill claims.

After this very brief introduction of O'Neill's Kantian categorisation of moral obligations I now want to highlight a key question that seems to be left out of her account and that leads us back to the problem introduced in my discussion of Singer's consequentialism. I have criticised Singer's approach because it does not ask why the global poor need help. Here my point is very similar and I apply a comparable line of criticism to the Kantian categorisation of perfect and imperfect obligations. The problem I have with O'Neill's account is that she always categorises the obligation to help the global poor within the group of imperfect obligations. If the current unpleasant state of the world came into existence because of the better-off's preceding or current violation of a perfect obligation, then it seems problematic to categorise the obligation to help as an "imperfect" one with all the properties characteristic for imperfect obligations.

In order to spell out this criticism of O'Neill's Kantian categorisation of the obligation to help the global poor as always being an imperfect one we have to pay attention to the three properties distinguishing perfect from imperfect obligations. Firstly, the categorical imperative test works very differently in the two cases. In the case of perfect obligations their universal violation is not conceivable; in the case of imperfect obligations this universal disregard is conceivable but nothing we, actual human beings, can rationally will. Secondly, in the case of perfect obligations every obligations-bearer can be linked with (a) specific claimant(s). Note that this is not the case in the paradigmatic "imperfect" case of the obligation to help the poor where it is up to the obligation-bearer to decide whom to help. The case of global poverty seems to be such a typical example; a Western citizen cannot help all the poor in Africa and is, on the Kantian picture, free to decide whom to help. In addition, and this is the third property distinguishing perfect from imperfect obligations, the obligation bearer is free as to how much he should help the global poor. The last two properties point towards the characteristic "latitude"<sup>24</sup> going along with imperfect obligations and within O'Neill's picture the obligation to help the (global) poor is marked by this flexibility in discharging it.

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<sup>24</sup> See Baron 1997, p. 16.

I do not claim that the obligation to help the global poor can have the status of a perfect obligation. What I claim is that it can have the stringency, i.e. the normative force that gives us an especially strong reason to fulfil the obligation in question, that is associated with perfect obligations. With regards to the second property, the relationship between obligation-bearers and claimants, my point can be best illustrated. When the better-off share some responsibility for the poor's dire straits then they owe assistance to exactly those people that are harmed by their conduct and are not free to decide whom to direct their help to. In this context, which I want to label the "context of justice" (as opposed to beneficence), it is the better-off's preceding actions that make the latitude, so characteristic for the typical Kantian imperfect obligation to help, impermissible. Depending on the context of preceding actions we can categorise the obligation to help the poor as a typical Kantian imperfect one (context of beneficence) or a "more-than imperfect" one (context of justice). In this essay's second chapter I will show why this context-sensitivity of the obligation to do something about global poverty also has an impact on the second dimension of the latitude of the obligation to help the poor - the third distinguishing property. I will claim that also the content and amount of the obligation to help the global poor can be determined by adopting a specific definition of how the better-off harm the global poor. What makes me reluctant to categorise the obligation in question as a perfect one is the first property though, identifying perfect obligations by means of the categorical imperative procedure. We can indeed conceive of a world where the better-off do not help the global poor *even* in the case where they have brought the poor's dire straits about in the first place. The categorical imperative test continues to work as it does in the case of typical imperfect obligations.

Thus, it is difficult to find a definite place for the obligation I am concerned with on the spectrum of perfect and imperfect obligations. What I wish to stress in my reflections on O'Neill is that there seems to be a tendency among Kantian approaches to neglect the question so much insisted on in ordinary debates about global redistribution. It makes a difference for the categorisation of the obligation to help the poor when help is necessary because of other agents' wrongdoing. I find it difficult to regard this obligation as a typical imperfect one (properties two and three show why); it is, however, also impossible to categorise this essay's crucial type of moral obligations as a perfect one (the first property shows why). I now turn to Thomas

Pogge's work which pays sufficient attention to the crucial question of the better-off's share of responsibility for world poverty.

## **I.II. Pogge On The Unjust Global Order And Negative Obligations**

In discussing O'Neill's obligation-based approach to global justice we have seen that taking into consideration globally effectual social, political, and economic institutions is of great importance for evaluating problems of global poverty. Thomas Pogge's approach to global justice focuses on the justification of those institutions. This chapter presents Pogge's most recent approach to the question of how to determine the unjust condition of the current global economic and political institutional order. Pogge's works are marked by a theoretical development in three steps: The early Pogge<sup>25</sup> defends a variety of globalised Rawlsian contractualism. The moral status of principles that guide institutional policies and actions are assessed by means of a global Rawlsian original position incorporating the crucial element of a veil of ignorance. In subsequent essays Pogge applies a Lockean approach to the crucial question of whether the global institutional order counts as minimally just. Pogge's most recent publications, which I will focus on in my exposition, take the fulfilment of basic human rights as the threshold of a just global order.

Pogge's move from a very demanding theory of global justice (globalising Rawls's "Justice as Fairness" – the difference principle inclusive) towards the definition of an unjust global order in terms of human rights deficits is due to rendering his approach to global justice as widely acceptable as possible to adherents of diverse political and philosophical doctrines. Not only the Kantian contractualist but also the Nozickian libertarian will regard the imposition of a global order that renders the fulfilment of negative human rights impossible as being on a par with violating stringent negative obligations and as constituting an injustice. Even though this essay's argument agrees with most of Pogge's recent approach some difficulties with it make an emphasis on "basic human needs", instead of human rights, a more suitable baseline for evaluating the current global order. Let me now turn to Pogge's most recent account of determining the global institutional order as "unjust".<sup>26</sup>

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<sup>25</sup> See: Pogge 1988 and Pogge 1989, pp. 210.

<sup>26</sup> Pogge 2002, pp. 1-26; Pogge 2005a; Pogge 2005b; Pogge 2005c.

In a nutshell, Pogge's strategy is to take the fulfilment of social and economic human rights, as they are codified in the UDHR, as the minimal requirement for a just global order. The global institutional order counts as unjust when it contributes to making the fulfilment of human rights difficult or impossible in poor countries. Better-off states and their citizens are harming the global poor by imposing such an unjust global order. Pogge now believes that minimal social and economic human rights are the most plausible candidate for finding an undisputed baseline for judging the global order's moral justifiability. This new emphasis on human rights does not constitute a rejection of Pogge's two older, and at least in the case of the first (Rawlsian) one more ambitious, conceptions of global justice. Taking the supposedly modest and widely shared standard of basic human rights as the baseline for evaluating the global order is compatible with the more ambitious cosmopolitan vision of globalising a Rawlsian conception of social and economic justice. Moreover, Pogge's recent approach is compatible with his Lockean state-of-nature-baseline of global justice. Pogge's recent, human-rights-based, approach describes a minimum requirement of what fundamental property a not-unjust global order must possess. He now believes that even the libertarian critic of global (and domestic) redistribution will not find a global order acceptable that violates others' basic rights and therefore violates a negative obligation.

In what follows I present two criticisms of Pogge's most recent approach – one internal and one external. These criticisms allow me to accept most of Pogge's argument as a basis for establishing my own theory (basic needs cosmopolitanism) with the important exception of replacing his emphasis on human rights with an emphasis on basic human needs. In order to present these two criticisms I have to discuss another aspect of Pogge's most recent writings, namely his awareness of the difficulties that emerge when the concepts "harm" and "justice" are related with each other.<sup>27</sup> Crucial for Pogge's approach is, as will become more clearer below, that the better-off states and their citizens are actively harming the poor, and therefore violate a very stringent negative obligation. The Lockean approach to global justice links "harm" and "justice" in a particular way. It presents an independently defined conception of "harm" and then identifies the imposition of a global institutional order as "unjust" when it harms the poor in this Lockean sense. Here justice is defined in

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<sup>27</sup> Pogge 2005a, pp. 4-5 and Pogge 2005c, pp. 45-46.



terms of harm: According to the Lockean approach it is an instance of severe deprivation when the poor are left with a share of natural resources smaller than the equal share they are entitled to in a hypothetical state of nature. It is unjust to impose such a harmful order on the poor and it constitutes the violation of a stringent negative obligation to do so.

In the case of Pogge's most recent version of his approach (and in the case of his earliest, "globalising Rawls") the relationship between "harm" and "justice" works exactly the other way round, so Pogge claims. The "human rights based" strategy works the following way: Identifying the global institutional order as unjust by inspecting its impact on the fulfilment of basic social and economic human rights

does not conceive justice and injustice in terms of an independently specified notion of harm. Rather, it relates the concepts of *harm* and *justice* in the opposite way, conceiving harm in terms of an independently specified conception of social justice: we are *harming* the global poor if and insofar as we collaborate in imposing an *unjust* global institutional order upon them. And this institutional order is definitely unjust if and insofar as it foreseeably perpetuates large-scale human rights deficits that would be reasonably avoidable through feasible institutional modifications.<sup>28</sup>

My internal criticism of Pogge's way of relating harm and justice in this way concerns his idea that he can define a widely acceptable notion of global social justice *independently* of any notion of harm. The passage quoted above introduces a two-step argument: first comes a conception of social justice in terms of human rights and then Pogge defines "harming the poor" in terms of this harm-independent conception of social justice.<sup>29</sup> My criticism is stimulated by Pogge's motivation for introducing the, seemingly, less disputed human-rights-based conception of social justice. It has been, I claim, the fact that the Rawlsian conception of social justice is not explicitly enough related to the notion of harm that renders it too ambitious to find the undivided acceptance of diverse moral and political outlooks especially in the global case. The human rights based variety of Pogge's approach is indeed more capable of gaining such acceptance. It does so, however, only by implicitly resting on a notion of harm

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<sup>28</sup> Pogge 2005 a, pp. 4-5.

<sup>29</sup> His earliest approach, "globalising a Rawlsian conception of social justice", has proceeded the same way: in the first step the parties in the global original position choose a conception of global justice. In the second step the existing global order is judged in terms of this conception.

and by doing what Pogge tries to avoid, namely defining global social justice in terms of harm.

The core of my internal criticism is that Pogge's argument actually has to introduce a third step in order to obtain the undivided acceptance it wants to achieve. The third step spells out the reason why diverse moral and political theories assign great moral importance to basic social and economic human rights. Why does Pogge's most recent proposal sound plausible, i.e. why does a global order "definitely" count as unjust when it leaves basic human rights unfulfilled? The answer is, I claim, that these human rights are themselves inherently related to the notion of harm. In fact Pogge's most recent argument runs as follows: the better-off harm the global poor by imposing an unjust global order. This order is unjust insofar as it perpetuates human rights deficits. Human rights deficits are regarded as being of highest and universal moral concern because if these rights remain unfulfilled harm results. Therefore, the specification of an unjust global order in terms of human rights is not independent of the notion of harm. The unjust nature of the global order is identified by means of the human rights deficits it generates; these deficits are, however, defining an institutional order as an unjust one only because these deficits are tantamount with instances of severe damage and, if this damage is due to other parties' wrongdoing, harm.

In the case of Pogge's earlier project, globalising Rawls, things are different. In this case the conception of social justice (Rawls's "Justice as Fairness") is indeed specified independently of a conception of harm. It is exactly my internal criticism's point that this harm-independence of Pogge's early approach leads to it being too ambitious to find undivided approval by adherents of diverse moral and political outlooks. This is especially so in the case of discussing the issue of global justice. Pogge takes the right step in deciding to focus on a less disputed definition of a just institutional order. What Pogge does not notice is that approach's better chances to gain universal approval depend on the employed notion of human rights being inherently related to the concept of harm. Actively contributing to the non-fulfilment of human rights is in fact regarded by adherents of diverse moral and political outlooks as a grave violation of a negative obligation and as constituting an injustice. That better-off states and their citizens are responsible for human rights deficits in poor countries is, however, regarded as "unjust", by adherents of doctrines that are sceptical of social justice, only insofar as these deficits are tantamount with severe harm inflicted upon the poor. In a nutshell then my internal criticism of Pogge's most

recent method of identifying the current global institutional order as unjust is that human rights can only function as an undisputed baseline insofar as we observe the inherent connection between human rights and the concept of harm. The concept of human rights carries with it the claim that very basic interests are at stake.<sup>30</sup>

That Pogge underestimates the difficulties that emerge with employing the notion of human rights leads me to the second, external, criticism of his most recent approach. Pogge takes the notion of “social and economic human rights” as an unproblematic starting point for his argument. As quoted above he claims that an “institutional order is *definitely* unjust if and insofar as it (...) perpetuates (...) human rights deficits.”<sup>31</sup> My internal criticism has shown that this “definite” connection between injustice and human rights deficits only works when a narrow definition of human rights in terms of severe damage and harm is employed. The external criticism claims that there is a less problematic and more direct way to establish an undisputed definition of the “unjust global order”, namely one in terms of “basic human needs”. This essay’s second chapter is dedicated to presenting my argument that regards the global poor’s basic needs deficits, insofar as they can be traced to the better-off’s conduct, as the baseline for judging the global order as unjust. In accordance with the basic needs literature<sup>32</sup>, I claim that the crucial property of basic needs is that harm results when these needs go unmet. The advantage of this strategy over Pogge’s is that basic needs are explicitly defined in terms of harm. I therefore prefer Pogge’s first (Lockean) strategy and define global injustice in terms of harm and not, as his most recent approach does, the other way round. I agree with Pogge that imposing an unjust economic and political institutional order on the poor constitutes the violation of the stringent negative obligation not to harm. The harm inflicted upon the poor is, however, not that the poor’s human rights are unfulfilled but that the poor are not able to meet their most basic needs.

Pogge admits that his recently established preference for using the vocabulary of “human rights” is due to political reasons.<sup>33</sup> Human rights are, so he believes, the

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<sup>30</sup> That I am not satisfied with this definition of human rights will become clearer below. In the global, not the domestic, case I defend the argument that the poor only have a moral right to have their basic needs met when the better-off have contributed to their dire straits. The purpose of my internal criticism of Pogge is to show that even if libertarians agree with his human-rights-based argument, they only do so insofar as human rights are concerned with very basic, harm-related, interests.

<sup>31</sup> *Ibid*, p. 5. My emphasis.

<sup>32</sup> For influential definition of “needs” in terms of harm see Frankfurt 1998 [1984] and Wiggins 1998 [1991].

<sup>33</sup> Pogge at a conference in Edinburgh 5/2006.

*lingua franca* in the debate about global justice and not much philosophical substance hinges on using this notion. He even claims, and this point is important for the remainder of this essay, that the notion of “human rights” can be easily replaced by using the vocabulary of “basic needs” and “basic capabilities”. Pogge believes that his argument works similarly in case one opts to use these notions in preference to his conception of human rights.

I disagree with Pogge here. Since I do not think that the concept of “human rights” is as undisputed as he thinks – consider the libertarian scepticism about social and economic rights even in the domestic case – I prefer to take a specific conception of “basic needs” with its inherent link to harm as the starting point of my theory of global justice. In the next chapter I derive these basic needs from the capability approach’s claim according to which there is a number of cross-culturally acceptable “central human functional capabilities” that an institutional framework must allow each individual participant to possess. Not possessing one or more of these central capabilities constitutes a significant deprivation, I prefer to use the notion of “harm” at this point – especially, and this will be the second crucial element of my basic needs cosmopolitanism, when this deprivation is due to others’ wrongdoing.

In order to conclude this section I want to stress the importance of the empirical data Pogge’s theory is closely related to. The importance of these empirical aspects is one of the major features that distinguishes Pogge’s approach to global justice from the other theoretical strands discussed above. Sure, also consequentialist and Kantian theories of global obligations need to appeal to some empirical facts in the process of confronting our sceptical affluent Western citizen’s arguments denying the existence of a stringent obligation to arrange transfers to the global poor. Since these approaches, however, take the status-quo as a sufficient basis for their arguments it is enough for them to point at rather uncontroversial empirical assumptions in order to argue in favour of an obligation to help the poor: The two approaches mention the destitute situation of the global poor and the much better situation of the affluent. On some occasions they point to the fact that it would only be a minor sacrifice for the rich to alleviate at least the life-threatening cases of world poverty.

Pogge agrees with these points but his theoretical approach, stressing the better-off’s active contribution to world poverty, renders a much more complex empirical story necessary. It is a strength of Pogge’s approach to global justice that it

asks *how* the unpleasant status quo came about in the first place and *why* the situation of the poor is enduring. Pogge admits that domestic causes play a role in the explanation of underdevelopment. What Pogge rejects is a position he calls “explanatory nationalism.”<sup>34</sup> Local causes for poverty such as corruption, mismanagement and civil wars are empirically easier to observe than the complex global causes Pogge is primarily concerned with. Pogge’s project is largely dedicated to face this challenge and to explain why the global causes are not only the more significant ones but also how the local causes are themselves often the result of global economics and politics.

We have seen that Pogge blames two major factors for the current situation: the unjust global institutional political and economic order on the one hand and the better-off’s individual involvement in upholding and legitimising these unjust and harming institutions. Contrary to the other approaches, Pogge’s theory justifies our obligation to help the poor with arguments that are more dependent on a causal, political and historical analysis of the current world-order. Much hinges on successfully showing that it is *in fact* the two factors that contribute to the severe poverty characteristic of our world. I present two of the empirical observations Pogge introduces in order to strengthen his argument.

Pogge’s empirical arguments pay much attention to the role of global institutions and legal frameworks that regulate the political and economic interaction among states, transnational corporations and other global moral agents. In analysing the role of the International Monetary Fund and the World Bank Pogge shows that their influence on domestic social policies of developing countries is a major contributor to inequality and poverty. Under the heading “Does our new global economic order really not harm the poor?”<sup>35</sup> Pogge discusses the effects the World Trade Organization’s (WTO) policies have on the economies of developing countries. He considers various baselines in comparison to which the effects of the new global economic order should be judged. The question Pogge eventually addresses is whether the global poor would now be better-off had the old global economic regime continued to operate.<sup>36</sup> Pogge regards this baseline as the most unproblematic one in

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<sup>34</sup> See *ibid.*, pp. 110 and pp. 139.

<sup>35</sup> *Ibid.*, p. 15.

<sup>36</sup> Pogge also considers a “subjunctive baseline” of zero global economic interaction. According to this alternative the situation of the global poor under the new WTO framework must be compared to a hypothetical state of nature in which individuals have an equal claim to a fair share of the natural

order to make his point. Defenders of the WTO claim that the new regime has in fact decreased global poverty and the number of poverty related deaths to an extent that would not have been possible had the Bretton Woods institutions remained unchanged. An affluent and well-informed citizen may claim then that her government has already done a lot in order to alleviate global poverty.

Even if it is true that the new WTO treaties have improved the situation of some segments of the world's poorest population, Pogge gives strong arguments that this improvement is not at all a reason for affluent states (and their citizens) to lean back and rest in inactivity. The crucial point is that even if the new WTO regime harms the poor less than the old one, the new global economic regulations still unduly harm a large number of the world's population: "By analogous reasoning one could argue that the headwind you are facing today must be benefiting you because it is not as strong as yesterday's headwind."<sup>37</sup> The new WTO framework does not cut the affluent state's tariffs and open their markets to the same extent as developing countries are required to do:

Rich countries are particularly protectionist in many of the sectors where developing countries' are best able to compete, such as agriculture, textiles, and clothing. As a result [...] rich countries average tariffs on manufacturing imports from poor countries are four times higher than those on imports from other rich countries.<sup>38</sup>

These protectionist policies have a significant impact on the economic options developing countries are faced with. It is estimated that they could export around \$ 700 billions a year more were the developed countries to open their markets.

In addition, when it comes to negotiating the legal framework of WTO policies many underdeveloped countries lack the expertise to successfully put forward their positions. The wealthy states' governments abuse this additional asymmetry in order to maximize the negotiation's output to their, and eventually their citizens', economic advantage. With regards to financial means and access to information most

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resources. According to Pogge the fact that millions are not able to satisfy their most basic needs shows that the new WTO regime cannot be justified when we take this Lockean baseline as the reference point. Pogge focuses more on the practical baseline that evaluates the effects of the new WTO framework in comparison to a world in which the old regime had prevailed. (Pogge 2002, p. 16)

<sup>37</sup> Pogge 2002, p. 17.

<sup>38</sup> *The Economist* quoted in Pogge 2002, p. 17.

underdeveloped countries cannot compete with the bargaining power of the negotiators representing the highly developed states.

Even if the new WTO regime has reduced the number of poverty related deaths overall, it still inflicts severe and avoidable harm on the global poor, so Pogge claims. This harm is avoidable because it is up to the big global players to change the rules of the global economic order in a way that secures fair competition and open markets. Pogge and other critics of the so-called “neo-liberal paradigm” are not arguing in favour of isolationism (as did the “Dependencia” theorists in the 1970’s); what Pogge claims is that the global economy must expose more free-trade and less conservative protectionist policies than it currently does. The introduction of an international economic order based on liberal principles – in the classical sense of the word – would be a much less burdensome alternative for the developing countries than the current one.

The second line of empirical argument in support of Pogge’s thesis that we share a responsibility for global poverty and deprivation focuses on reasons for underdevelopment that are ordinarily ascribed to local economic failures and corrupted domestic policies. Civil wars, *coups d’etats* and severe domestic inequalities are exclusively explained with reference to corrupt local elites and democratic immaturity on parts of the local populations. In order to show that these instances of “explanatory nationalism” are misguided Pogge discusses the “international borrowing and resource privileges.”<sup>39</sup>

These two privileges are features of the international order that provide incentives for authoritarian rulers to overthrow fragile democratic regimes in developing countries. I cannot deal here with Pogge’s proposals of how these privileges should be reformed so that they eventually even support democratic and more egalitarian policies. What I want to do in the following is to show how these two structural features of the global order contribute to local events that are often used to show that it is exclusively the responsibility of underdeveloped states that they are not able to leave a vicious circle of violence, war and severe poverty.

It is true that many of the world’s poorest countries are ruled by authoritarian dictators and many of them came into power by means of overthrowing democratically elected governments. Others stay in power by violently oppressing

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<sup>39</sup> Pogge 2002, pp. 146.

democratic movements among their citizenry. A first thing Pogge draws our attention to is the fact that these authoritarian regimes spend much more of the national income on armed forces and weaponry (in most cases bought from willing Western companies) than into satisfying the basic needs of the suppressed. This point leads to the “international resource privilege”. It is often regarded as puzzling that many resource rich developing countries are exhibiting such a significant degree of mass-poverty. It is also regarded as a typical example of democratic immaturity that a small corrupt elite is profiting from exporting these resources to affluent countries.

The current economic order is marked by assigning a legal privilege to dispose over a country’s natural resources to whoever succeeds in conquering the power in this state. Due to their dependence on natural resources rich country’s governments and companies assign this privilege to democratic as well as authoritarian rulers alike. To gain this privilege is therefore a strong incentive for corrupt elements in a fledgling and fragile democracy to seize power by whatever means.

A related problem is caused by the so-called international borrowing privilege. It is too lucrative to potential authoritarian predators to obtain the internationally recognized status of being a state’s official government since this status brings with it the permission to borrow large sums from foreign banks and to receive official development assistance. It is the responsibility of the powerful global actors to change the related legal norms in a way that makes the assignment of the two privileges conditional on good governance, respect for human rights and the basic needs of all segments of the population.

In respect of these empirical observations Pogge’s conclusion claims two things reemphasising his point about the better-off’s responsibilities outlined above: 1. Especially the dependence of rich societies on cheap natural resources often sustains undemocratic regimes and poverty. National causes for underdevelopment are ultimately caused by the global political and economic framework. 2. It is basically us and the poor countries’ corrupt elites that profit from this unjust global order. Pogge’s radical claim is that Western governments and their citizens share a responsibility for humanitarian catastrophes that are often exclusively explained by pointing at tribe-structures, nepotism and a culture of barbarian violence.<sup>40</sup> There are

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<sup>40</sup> I am indebted to Tim Mulgan for pointing out that the question of whether the better-off have benefited from the actions that harm the global poor or not is a morally relevant factor in determining the stringency of the obligation to assist others. In the text I do not consider this interesting question. I



many additional empirical and historical considerations Pogge discusses in his essays. Here I wanted to present his most plausible explanations for global poverty that involve responsibility on the better-off's part.

Even Pogge's most plausible empirical claims are contentious. His claims about the global economic and political order's unjust condition and the better-off's individual responsibility have been under attack by philosophers as well as by economists.<sup>41</sup> I put to one side the task of defending those empirical claims. The remainder of this essay accepts, for the sake of argument, Pogge's claims that the current global political and economic institutional arrangements harm the poor and that these arrangements could be re-structured by the better-off in order to alleviate global poverty. The next chapter examines in more detail the impact these claims have on the extent, content, and stringency of the better-off's obligations to take care of the basic needs of the global poor.

### **I.III. Conclusion: Perfect Obligations and More-Than-Imperfect Obligations to Help**

We have now reached the endpoint of our examination of the most prominent approaches of grounding and explaining the claim according to which affluent citizens and their governments have an obligation not to remain inactive in the face of the prevailing instances of severe poverty world-wide. In concluding this first chapter

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am rather inclined to support a negative answer. Concerning the blameworthiness that results from not compensating the victims of one's wrongdoing I see no reason to differentiate between someone who profits from the imposition of the global order and someone who is *equally implicated* in this imposition but profits less. Profiting less from the imposition than others does not imply that this person is less responsible for this imposition. The question of whether or not the better-off have profited from their global wrongdoing might play, however, a role in determining practical realisations of compensation. If the global order is imposed by the better-off but at the end of the day the better-off and the global poor are both badly-off, the global poor's (well-justified) claims to get compensated might not be realisable.

<sup>41</sup> One of the most explicit criticisms of Pogge's empirical arguments was recently presented by Mathias Risse in Risse 2005a, Risse 2005b, and Risse 2005c. His major claim in all three essays is: "I seek to show that the global order not only does not harm the poor but can plausibly be credited with the considerable improvements in human well-being that have been achieved over the last 200 years. Much of what Pogge says about our duties towards developing countries is therefore false." (Risse 2005a, p. 9) For a reply to the quoted paper see Pogge 2005a, pp. 55-59. In a nutshell Pogge's reply is that even if it were true that due to the new WTO regime less people die than if the old regime would have prevailed that fact would not render the current order into an acceptable one because it still foreseeably inflicts avoidable harm on a large portion of the world's population. The discussion focuses a) on whether this infliction is in fact as easily avoidable as Pogge claims it to be and b) on whether it is the global order or local factors that are responsible for underdevelopment. Pogge and Risse quote a large number of statistics to support their irreconcilable answers to these two questions.

I want to present some thoughts that are supposed to introduce a synthesis of these approaches. I try to extract the strongest arguments put forward so far and argue that in the current state of the world our obligation to help the global poor is in fact more than an obligation of beneficence. In fact, within a certain context of preceding wrongdoing the obligation to do something about global poverty is a matter of justice-based compensation and not of beneficence-based aid.

In short my point is that the categorisation of the obligation to do something about global poverty is not fixed. My idea is a “context-sensitive” approach to the categorization of moral obligations. The status of a specific moral obligation must not be determined in isolation but is dependent on its position within the network of the other obligations a moral agent is asked to discharge in a particular situation or was asked to discharge in past situations related to the current situation. In addition, the stringency of a particular obligation is conditional on the preceding acts that led to bringing about the obligation in question by establishing a morally relevant relationship between obligation-bearer and the party for which the obligation has to be fulfilled. This is, I believe, the case when we are asked to discharge a supposedly imperfect obligation and the situation that has led to the demand for discharging this obligation has been brought about by someone’s violation of a perfect negative obligation.

Let me try to make this account clearer by applying my account to our project of confronting the sceptical argument of our fellow affluent citizen. Assuming the adequacy of Pogge’s empirical story I agree with the claim that the global poor (the *helpees*) are to a significant part in their dire straits because of the wealthy societies’ (the *helpers*) violation of stringent perfect negative obligations. This violation is in most cases due to quite an indirect relationship and maybe this degree of indirectness should be mirrored in the *extent* the wealthy have to give in order to compensate the poor – I will consider this question at end of this essay. Nevertheless, in order to challenge our fellow citizen’s popular belief it is enough to show that all of us and our democratically legitimised politicians are responsible for harming people abroad. Even on the strict O’Neillian reading of Kant this is the violation of a perfect obligation. Both, obligation bearers and rights holders can be identified.

In case the global poor’s poverty is the result of this violation of the perfect negative obligation not to harm (or other such obligations such as the ones not to coerce or deceive) *then and only then* is the positive obligation to do something about

global poverty more than an imperfect one. The severity of violating a perfect obligation carries over on the *related* positive obligation to compensate for this violation. O’Neill’s Kantian framework with its characteristic polarity of perfect and imperfect obligations cannot assign a proper place for this specific obligation to compensate the poor. It is located somewhere between these two poles. Moreover, my approach avoids the problem with rights concerning the assignment of corresponding obligation-holders, strongly insisted on by O’Neill: a right to get help can now be assigned to the poor because when a perfect obligation (noncoercion, nondeception, nonharming) is violated it is possible to identify the violator(s). These violators, in our example the wealthy governments and their citizens, are then at the same time the obligation-holders of the positive obligation to help. I therefore agree with Pogge’s criticism of O’Neill’s argument according to which there can never be a right corresponding to the imperfect and positive obligation to help.<sup>42</sup> It is the characteristic, two-sided “latitude” of the imperfect obligation to help others, i.e. “whom one helps, how and how often”, that makes it, according to O’Neill, impossible to clearly match obligation bearers and rights holders.<sup>43</sup> Pogge is right that, depending on how the poor’s need for help came about, it is possible to identify obligation bearers and rights holders – this is the reason why I sometimes want to label, depending on this causal context, the positive obligation to do something about world poverty a “more-than-imperfect” obligation, a classificatory space missing in Kantian categorisations of positive obligations.

The poor have legitimate claims against the wealthy, not because of the fact that they are in dire straits – this fact *by itself* only allows them to appeal to imperfect obligations of the wealthy.<sup>44</sup> The poor have these rights-based claims because it is due to the acts and policies of the wealthy that they are in need for help. It is therefore crucial to consider *how* the unfortunate current state of the world came into existence. My reading of consequentialist and Kantian theories suggested that these two theories pay too little attention to this causal-historical factors of obligation-genesis.

When we are asked to help someone we normally take into consideration whether we share some responsibility for getting this person into her needy situation or not. Let me try to strengthen my argument by adapting Singer’s drowning child

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<sup>42</sup> Pogge 1992 and O’Neill 1986.

<sup>43</sup> On this characteristic latitude of Kantian imperfect obligations see Baron 1997, p. 16.

<sup>44</sup> The coordinate grid, presented in the introduction, identifies this obligation to help the poor in dire straits as belonging to category C.

example. Imagine you own a holiday bungalow next to a pond. In between the bungalow and the pond is a narrow path. Since it is winter and snow fell and the path is part of your property you are obligated to clean the path of the snow as all your disciplined neighbours do. However, you are lazy, or you simply forget to clean the pathway. A child passes by your bungalow, slips on the ice and falls into the pond. You witness this accident and at the same moment another child is falling into the pond just a few houses away from yours. I think, when you are fully aware that the first child fell into the pond because of your carelessness, it will, all other things being equal, be the first one you rescue. Your causal contribution to the first child's falling into the pond has *some* moral weight. It might sound harsh to a rights-theorist but only the first child has a moral right (I am not talking about legal rights here) to be saved. The second child's falling into the pond only triggers a very strong obligation of beneficence on my part but not an obligation of justice.

According to my contextualist approach to moral obligations it is therefore incorrect to assign a global universal right to development assistance *unconditionally* and *a priori* (in the sense of "before any empirical evaluations") as rights-theorists claim.<sup>45</sup> The condition that must be fulfilled in order to assign such a right is that obligations of justice have been violated.<sup>46</sup> We can now confront our wealthy Western citizen's sceptical objection: "The current global economic order violates the perfect obligation not to harm by rendering the satisfaction of the global poor's basic needs difficult or impossible. You are upholding (by means of paying taxes and democratically legitimizing your powerful government) and profiting from this international order. Your moral obligation to help the victims of this order is therefore not an obligation of beneficence or a purely imperfect duty that gives your donations the status of aid and assistance. You cannot reject giving unless you are prepared to violate a moral right of the poor. In addition, as long as the global order works as it does, you have an obligation of justice to put pressure on your government to end the collective imposition of an unjust global order."

In the following sections I want to assume that we have successfully completed our job of persuading our affluent fellow citizen to accept that she has a

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<sup>45</sup> Aiken 1977.

<sup>46</sup> That a rationale for social and economic rights must be very different in the domestic case is shown by Blake 2001 and Nagel 2005. It is important to keep in mind that my rather unorthodox account of global social and economic human rights is compatible with more ambitious egalitarian policies in the domestic case, assigning, for example, an unconditional right to have one's most basic needs met to all citizens. See also Anderson 1999.

strong moral obligation to do something about global poverty. In addition she understands that she has this obligation because she shares some responsibility for bringing about the poor's desperate situation. Does this acceptance on parts of the wealthy, however, answer all the moral questions that arise in the context of global justice? Rather not. This essay's second part is dedicated to the question of what exactly the better-off states and their citizens should do about global poverty. An answer to this question is only possible when the standard for judging the global order as an unjust one is spelled out more clearly. In adapting Pogge's recent writings I have been claiming that the global order counts as unjust when it harms the poor. This is the case when the latter's most basic human needs go unmet because of other's conduct. Depending on what counts as such "basic needs", the global order will be identified as a just or as an unjust one. A wide definition of basic needs will make it more difficult for an institutional order not to count as unjust than does a very rudimentary list of basic needs. The notion of "basic needs" must be spelled out more fully – always with the attitude in mind of finding a list of basic needs that is as comprehensive as possible but still of cross-cultural appeal. To be more precise, basic needs will be derived from a particular version of the capability approach.

## II. Basic Needs Cosmopolitanism

In this chapter I want to answer the second part of this essay's major question. Our overall project is to develop a theoretical account of what citizens and governments of better-off states and societies ought, morally speaking, to do about global inequality and poverty. The first sub-question concerning the existence of global obligations was answered affirmatively by evaluating Pogge's analysis of the better-off's contribution to an unjust global economic framework. In the last section of chapter one I re-interpreted Pogge's recent ideas and replaced his emphasis on social and economic human rights with the vocabulary of basic needs and capabilities. I adopted that strategy because Pogge's project of identifying a global economic and political order as unjust on the least controversial premises can be better achieved by means of employing the notion of "basic needs" and its inherent connection to the conception of "harm". An imposed global order counts as unjust, I claim, when it harms the poor, and this is the case when the poor are not able to access the means necessary to meet their most basic needs due to the better-off's conduct and policies. The most important conclusion I borrow from Pogge's analysis is the moral-philosophical idea that contributing to other people's dire straits and basic needs shortcomings renders the obligation to help them an extremely stringent one. In fact, it renders the better-off's obligation to help poor societies and assist their development into a form of compensation for past and present injustices.

In what follows I will present my answer to the question of *what* exactly better-off societies are required to do about global poverty and assume that Pogge's empirical examples are correct. I therefore assume that better-off and powerful democracies and their citizens have been actually contributing to the phenomenon of global poverty and inequality. The answer to the question of what better-off societies are required to do about global poverty is the consequence of the method of identifying the global order as an unjust one, presented in the last section of chapter one. On grounds of justice the better-off are required to transfer compensation in proportion to their responsibility for the poor's basic needs shortfalls. If we accept my reinterpretation of Pogge's account, and the obligation to assist the poor is at least to this extent justice-based, then the better-off *must* focus their assistance on securing the material and non-material prerequisites for satisfying basic needs and, consequently,

basic capabilities. It is this obligation of justice, being of highest urgency and strongest stringency, I am concerned with in this essay. My focus lies on distributive obligations that result from the better-off's imposition of a global economic and political order that renders the satisfaction of basic needs difficult or impossible.

I address these issues and introduce Martha Nussbaum's capability approach in order to flesh out my account of basic needs. At the end of the previous chapter I simply followed the common idea among basic-needs theoreticians and stated that the identifying feature of basic needs is that harm results if they go unmet. I commence the introduction of my basic needs cosmopolitanism with a discussion of Nussbaum's substantial list of ten central human functional capabilities and her defence of the list's universal and global appeal. I then apply Nussbaum's theory to the issue central to this dissertation, neglected by her though, namely the definition of an unjust global order in terms of these capabilities. In the final step of my argument I derive the contents of global obligations of distributive justice from them. Basic needs remain connected to the notion of harm; in my picture they are so connected, however, via Nussbaum's central human functional capabilities. Basic needs are then defined as the need for the material and non-material prerequisites necessary to possess the most elementary items of Nussbaum's list of capabilities. Not possessing these capabilities constitutes harm, and being responsible for an unjust global order, which renders access to their material and immaterial prerequisites impossible, triggers demands of compensating transfers on grounds of justice.

### **II.I. Basic Needs as the Need for the Prerequisites for Central Capabilities**

When we answer the question of *what* the better-off and their governments should do about global poverty we can roughly distinguish two groups of responses: firstly the global economic and political order has to be changed in a way that allows the poorest countries to participate in the global system in a way that enables them to meet their basic needs. The paradigmatic example of this strategy of development is manifested in the developing countries' claim that protectionism, for example, in the agrarian sector on the part of the better-off states is the biggest obstacle in leaving their state of poverty behind.

The second group of responses focuses on the strategy of redistributing resources and basic necessities from better-off to poor countries. "Basic necessities"

are defined here, as the material means necessary to raise the standard of living of human beings to the level where they are able to meet their basic needs. It is claimed that this redistribution of basic necessities is a necessary, but not a sufficient, condition in successfully supporting developing countries in reaching a condition enabling them to meet their basic needs. In addition, being able to meet basic needs and, consequently, possessing central capabilities is itself a precondition to participate in global economic and political processes more successfully and in a less vulnerable way than is currently the case. Since the topic of this essay is global *distributive* justice my concern in the following sections is primarily with the first of the, equally stringent and important, two subgroups of basic needs, namely the one concerned with the material preconditions for possessing central capabilities.<sup>47</sup> Determining what counts as basic needs therefore crucially depends on what counts as central and basic capabilities. Only when we are able to identify some human “capabilities” – to clarify this notion will be another centre-piece of the following discussion – as “basic” ones we can in turn declare secured access to the related material and non-material preconditions for possessing these capabilities as an urgent and basic need. In what follows I will present this account of basic needs.

Concerning both groups of answers, but especially the second one concerned with redistribution, successfully discharging the obligation to help the poor is often regarded as being conditional on formulating specific goals of development assistance

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<sup>47</sup> I hope to make clear that a focus on the material, distributable preconditions of capabilities must not be taken as presenting a complete picture of all the preconditions necessary for possessing these capabilities. That is the reason why I distinguish two subgroups of basic needs, one for the material, the other for the non-material prerequisites for possessing central capabilities. The first subgroup comprises money, natural resources, medical devices, etc.. The second is concerned with the domestic political and social situation of a society and comprises, above many other things, a minimally egalitarian political and social regime that is committed to the goal of securing central capabilities for all citizens. Having secured access to the objects of only one of the two subgroups of basic needs is not sufficient to regard a society as being able to secure all its citizens’ basic needs. In particular, Pogge’s discussion of the negative effects of the “international borrowing” and “resource privileges”, discussed at the end of chapter one, shows that the better-off share a significant degree of responsibility for basic needs shortfalls within the second subgroup. This responsibility generates obligations of justice to support poor societies with establishing just domestic institutions. The availability of money, resources, and other basic necessities are only one out of two groups of necessary prerequisites for a country and its citizenry to possess central capabilities. Non-material preconditions such as stable and just domestic institutions are the other prerequisites. My concern in this essay is with global distributive justice and I therefore focus on the distributable material preconditions. The better-off’s obligation to support poor countries in developing democratic and human-rights-respecting domestic institutions is not the issue I am primarily dealing with here. This does not imply, however, that the better-off’s obligations of justice to take care of the poor’s basic needs for the non-material prerequisites for central capabilities are less stringent or less urgent than the obligations concerned with material transfers. I admit that basic needs cosmopolitanism must actually consist of two parts, and only the first, concerned with global material redistribution is spelled out fully here.



in the first place. In other words what we need, in order to answer the question of what exactly we shall do about global poverty, are certain results that we aim at in deciding what actions we and our governments have to take and what local policies and institutions should be the primary recipients of transfers and assistance. It has been a long-lasting idea that development can be achieved by lifting a society's GNP above a certain level. Another variety of this "end-state" approach to global development has been one more sensitive to distributive concern, namely social primary goods approaches.

In what follows I will express my sympathy with Nussbaum's (and Sen's) criticism of developmental approaches focusing on attaining a specific and inflexibly formulated "state of affairs". It is certainly true that my application of Nussbaum's capability metric to the question of global redistribution must aim at certain results, namely that all human beings possess central capabilities and have the related basic needs met. My approach does not, however, aim at one specific state of the world and does not exclude various realisations of the aforementioned goal. In addition, it is important to note that my presentation of basic needs cosmopolitanism is an exercise within "ideal theory". The desired result, following from applying the capability approach to the issue of global justice, might remain a "utopia" in the sense that it will not be fully realised in the real world. I agree with Rawls's remarks on a "realistic utopia" here.<sup>48</sup> A theory of global justice is "realistically utopian when it extends what are ordinarily thought to be the limits of practicable political possibility and, in so doing, reconciles us to our political and social condition."<sup>49</sup> Basic needs cosmopolitanism can serve as a regulative ideal, providing ambitious but nevertheless realistic goals consisting primarily of a global order that no longer renders the access to the material preconditions of central human capabilities for all impossible.

The idea to aim at a specific state of affairs is also undermined by basic needs cosmopolitanism (at least with regards to the justice-based variety of global obligations) for another reason. The central element of "basic needs obligations of distributive justice" is that the better-off are required on grounds of justice to transfer basic necessities in proportion to their responsibility for imposing an unjust global order on the poor. A global order counts as unjust, in turn, when it makes the satisfaction of basic needs difficult or impossible. This definition of an unjust global

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<sup>48</sup> Rawls 1999, pp. 11-23.

<sup>49</sup> Ibid., p. 11.

order renders plausible the resulting claim according to which the better-off do not have much of a justification in deciding for what purposes their transfers must be used by the receiving societies and/or their governments (this is very different in the case of the basic needs obligation based on beneficence).

This unconditional nature of the justice-based transfers points towards the incompleteness of basic needs cosmopolitanism: transferring compensation to poor countries in the form of basic necessities is not only a merely necessary (but insufficient) condition for the poor country's citizens being able to possess central capabilities; depending on the domestic political and social condition of the country to whom transfers are owed, transferring this compensation might even do more harm than good with regard to these capabilities. (In chapter one Pogge's "resource and borrowing privileges" were introduced in order to show that even with regards to apparently domestic causes for basic needs shortfalls such as corruption and local mismanagement responsibility on parts of the better-off is present.) The obligations to help poor countries with developing just domestic institutions that distribute the better-off's transfers in a way that all citizens' basic needs are met are, however, not my major concern here – these issues range from support for democratic movements to the disputed question of humanitarian intervention. It is important to keep in mind that this essay's subject is only a partial theory of global justice and it is primarily concerned with its aspects that generate demands on the better-off to redistribute basic material necessities.

Before we can address the question of how the better-off must discharge their justice-based distributive obligations by means of transfers of basic necessities we have to dedicate some space to examining Nussbaum's capability approach. This is not only necessary to determine what the better-off have to do about global poverty, but is necessary to flesh-out the idea presented at the end of chapter one, namely that a global order counts as unjust when it harms the poor which is the case when basic needs go unmet due to other persons' wrongdoing. Nussbaum has not intended her approach to be directly applied to questions of global distributive justice. Nussbaum's version of the capability approach is more normative than Sen's and she applies a universal list of ten central human functional capabilities to the issue of what social and political constitutional guarantees *domestic* governments must subscribe to. Nussbaum does not consider Pogge's and my point according to which better-off

societies share some responsibility for domestic governments not being able to live up to these constitutional guarantees.

This chapter is divided into two parts: I first present some internal criticisms of Nussbaum's capability approach. Even though I agree with Nussbaum's criticisms of utilitarian and primary goods approaches of comparing individual living standards I present some critical remarks concerning the relationship between capabilities and functionings and Nussbaum's claim according to which a liberal society must not be concerned with its citizens' actually achieved functionings. After discussing Nussbaum's own approach and the claim that her capability list is of cross-cultural appeal, I apply the capability approach to the issue of global distributive justice. The capability approach can be used to compare individual living conditions; the lack of some central capabilities can be regarded as instances of harm and as generating urgent demands on domestic institutions. In conjunction with my overall idea (i.e. why shared responsibility for a global order that makes possession of these capabilities impossible generates obligations of justice) the capability approach can also be used to formulate an answer to the better-off's question of *what* they must do about global poverty. At the end of this chapter I will introduce the notion of "potential functionings" in order to show that developmental policies must adopt a society-wide, instead of an individualist, point of view in order to determine whether a society can really provide all the material resources necessary to secure capabilities for all its members. If a global order renders potential functionings for all possible the demands of global distributive justice would disappear.<sup>50</sup>

In a nutshell then, I will combine the capability approach with a reinterpretation of Pogge's recent account of global responsibilities. If an imposed global economic and political order contributes to basic needs for the prerequisites of central capabilities going unmet then the parties responsible for upholding this order have an obligation of justice to stop imposing this order *and* an obligation of justice to transfer basic necessities required to meet these needs. The justice-based elements of basic needs cosmopolitanism concerned with global redistribution of basic necessities are therefore relevant for a transition-period only. Once the better-off have stopped imposing an unjust global order and the compensation for the previous imposition has

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<sup>50</sup> This only counts for obligations of distributive justice related to basic needs. Other obligations of justice, also asking for global transfers in form of compensation, are possible above the level of secured potential functionings for all. Coercive and deceptive behaviour on the global level generates the second group of obligations of justice. See my coordinate grid of global distributive obligations.

been transferred, only the negative obligation not to impose an unjust global order in the future remains. Positive action in form of transfers to meet the global poor's basic needs is then a matter of beneficence and no longer of justice.

## **II.II. Nussbaum's Conception of Central Human Functional Capabilities**

Whereas it had been Amartya Sen who introduced the capability approach to economic analysis it is Martha Nussbaum who, in recent years, has been contributing the most to the theoretical development of this position. In addition, Nussbaum has dedicated a lot of effort to empirical applications of the capability approach. In the course of a number of field studies she investigated the situation of women in India within the framework of her capability approach. It is also Nussbaum's impressive account of individual fates that highlights the advantages of an analysis of poverty and deprivation that focuses on what individual human beings are capable of doing and being over alternative approaches comparing individual living standards in terms of utility or social primary goods.

Let us begin by briefly introducing the capability approach's central conceptions "capability" and "functionings". Since this clarification is an aspect of the capability approach where Nussbaum strongly agrees with and heavily draws on Sen's influential account, the following exposition refers to Sen's writings.<sup>51</sup> What capability theorists initially proposed to present is a social-scientific metric for living standard assessments and comparisons that is located on the subjective-objective spectrum – on the subjective end utilitarian theories and on the objective end primary goods and resource metrics - in a well-balanced way. Since our major project is to answer the question of how policy-making agents and institutions ought to assess the global order's impact on individual levels of well-being and take these assessments as the basis of society- and world-wide redistributive action, we cannot take the extreme varieties of utility approaches as our starting point. These approaches are too subjective, and once redistribution comes into play, requiring others to transfer means to people cultivating expensive tastes to lift them to an equal level of well-being is hardly justifiable – on the domestic as well as the global level. Similarly, that

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<sup>51</sup> Both, Sen and Nussbaum, have presented their capability approaches in a large number of publications. The following exposition makes references primarily to Sen 1982 [1980]; Sen 1987; Sen 1993; Nussbaum 1993; Nussbaum 1998 [1990]; Nussbaum 2000.

supposedly many of the poor in African countries are regarding the prevailing high levels of infant mortality as a “normal” part of their living conditions is not a justification for inactivity on part of the better-off societies. The other extreme position, an objective list of social primary goods, is too inflexible a solution for our problem of finding a suitable way of comparing living standards. As Cohen summarizes with sympathising reference to Sen: “...differently constructed and situated people require different amounts of primary goods to satisfy the same needs, so that ‘judging advantage in terms of primary goods leads to a partially blind morality.’”<sup>52</sup>

Sen claims that examining an individual’s “capability set” is the most adequate way to compare living standards. The central concepts of “capability” and “functionings” are supposed to provide the theoretical foundation of welfare-comparisons that are sensitive enough to differences among individuals on the one hand and objective enough to justify redistributive policies and evaluate the moral justifiability of global political and social arrangements on the other – the second claim not explicitly stated by Sen and pointing towards my expansion of the capability approach to issues of global justice. Let us have a closer look at these concepts.

Human functionings are a) *actual* doings and actions a person is performing and b) *actual* states a person is in at the point of time of evaluating her condition and situation of living. Differentiating between these two groups will not always be an easy task as some of the following examples show. Functionings of the first group consist of things such as working, attending educational institutions, moving freely from location A to location B, practicing one’s religion, etc.. The second group of functionings can, to put it a little bit clumsily, be summarised under the heading “valuable states of being a person is in” and comprises things such as, being well-nourished, being in a stable mental condition as well as being adequately clothed, sheltered, and educated.

Whereas a person’s actual living conditions, what people actually do and are, are this person’s functionings, the same person’s ability to achieve various possible combinations of functionings is her “capabilities” or “capability set”. Remaining in

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<sup>52</sup> Cohen 1993, p. 16.

the framework of an example by Adam Smith<sup>53</sup> we can formulate Sen's critical distinction between functionings and capabilities the following way: actually appearing in public without shame is functioning properly (relative to the social and cultural standards of one's society). Having the ability to do so, which does not imply that one actually does dress oneself properly and appears in public in a way that the co-citizens do not find shameful, and having the freedom to choose between the two options of doing so and not doing so means that one has the capability to appear in public without shame.

One might object here, that the example of being adequately dressed, relative to a society's standards, is a particularly bad example with regard to this chapter's overall goal of establishing a category of universal capabilities (and derived from them, universal basic human needs) that provide a cross-culturally accessible standard for assessing the harmful effects of the current global institutional order on poor countries and their citizens. We can, however, easily apply Sen's conception to a much lesser disputed combination of functionings and capabilities. The difference between being well-nourished and having the capability to be well-nourished can also be illustrated by means of a helpful example. The example draws a distinction between a person starving because of a famine in Ethiopia and a religious believer, who abstains from being well-nourished over a certain amount of time because of his religious conviction and the related prescription to fast. What both have in common is that they have not achieved the actual functioning of being well-nourished and both are, presumably, suffering the same physical experience of hunger. From the perspective of some utilitarian approaches, the living standard of both would therefore have to be regarded as equally bad. Sen's approach, however, allows us to argue that the religious believer does in fact have a higher standard of living, at least with regards to her nutritional condition. The latter has the capability to achieve the state of being well-nourished, whereas the starving Ethiopian does not only lack the functioning but also the capability to do so.

With regard to many other essential capabilities and functionings Sen confronts the challenge of cultural relativism by stressing that the "commodity-requirements" for achieving these functionings may vary with social customs and cultural norms. The crucial point for Sen's overall approach is that the cross-cultural

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<sup>53</sup> Sen 1987, p. 17.

importance of the particular functionings themselves is culturally and historically invariant. Also with regard to Adam Smith's example of "being able to be adequately dressed so that one can appear in public without shame" Sen makes this point. Whereas different cultures and natural factors result in locally diverse requirements of what counts as being adequately dressed, the capability of "being able to dress in accordance with one's society's standards of adequacy" is a cross-culturally significant one. The gist of all this is Sen's claim that it is not only the income or objectively determinable amount of goods a person possesses that tells us what the standard of living of that person is; it is "the type of life one succeeds in living with the help of food and other commodities (...)." <sup>54</sup>

Nussbaum's capability approach differs in two important respects from Sen's, and this will be the focus of this section. Firstly, she introduces a list of ten "central human functional capabilities". This list is supposed to give an account of the capabilities and functionings that have to be present in every normal human life regardless of cultural background and subjective preferences. Nussbaum explicitly defends a variety of modest universalism and claims that her list is formulated in such a way that it is neither too parochial to achieve undivided global approval nor too general to be useless in practical processes of poverty-assessment. Secondly, Nussbaum's justification of her capability approach is philosophically deeper and more foundational than Sen's. This makes Nussbaum's approach more interesting for this essay's exercise in normative arguing but at the same time the danger of contested metaphysical and anthropological assumptions entering the picture increases.

Nussbaum has always been sensitive to these worries. Her noticeable shift from basing the justification of her list on an explicitly neo-Aristotelian conception of human flourishing towards a political conception of central human functional capabilities that provides the focus of a Rawlsian-style overlapping consensus bears witness to this sensitivity. As we will see below this move towards a more political interpretation of capabilities and functionings led Nussbaum to the confession that the capability approach has much more in common with Rawls's focus on social primary goods than initial formulations of the capability approach had admitted. I will express my agreement with this harmonisation and stress its importance for establishing the

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<sup>54</sup> Ibid., p. 16.

elements of universalism in basic needs cosmopolitanism and the identification of the requirements of global distributive justice.

In recent works Nussbaum initiates her justification of universal central human functional capabilities with an “intuitive conception of truly human functioning”<sup>55</sup>. The fact that her list can also be justified in an ancillary way by providing the focus of an overlapping consensus is of more political and practical significance than the justificatory power of the intuitive ideas themselves. Similar to the later Rawls and his concern for liberal neutrality, Nussbaum now defends her intuitive account of essential factors of a truly human life in terms of basic requirements that have to be present in each individual’s human life as general prerequisites *regardless* of what the particular life-plan of that individual is. Nussbaum’s intuitive argument for the universality of her list consists of two claims:

first, that certain functions are particularly central in human life, in the sense that their presence or absence is typically understood to be a mark of the presence or absence of human life; and second – this is what Marx found in Aristotle – that there is something that it is to do these functions in a truly human way, not a merely animal way.<sup>56</sup>

As we will see in discussing Nussbaum’s list, it is practical reason and social affiliation that are regarded as the two most central capabilities (I will argue that these two doings and states are better formulated in terms of actually achieved functionings than capabilities when it comes to establish them as standards of distributive justice). This point is especially relevant for Nussbaum’s Marxian refinement mentioned in the quote above. When it comes to the predicate “truly human” it is not enough that a human being just functions properly, e.g. is in a state of being well nourished. In order for that functioning to be truly human it has to be “infused by practical reason and sociability”, which are also introduced as the “two human powers”<sup>57</sup>. A person who starves and merely “consumes” rudimentary nourishments in order to prevent her death is functioning, so says Nussbaum in accordance with Marx, on the level of a mere animal and is not a human being in the full sense.

The fundamental idea of Nussbaum’s justification of the universality of some basic human functionings and capabilities is a picture of the human being as shaping

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<sup>55</sup> Nussbaum 2000, p. 76.

<sup>56</sup> Ibid, pp. 71-72.

<sup>57</sup> Ibid, p. 72.



its life by means of practical reason within a social context of interpersonal interaction. Nussbaum also uses the notion of “human freedom and dignity” in this context to point towards a comprehensive but nevertheless culturally invariant description of what minimal set of doings and states a human life has to exhibit. What it comes down to is an emphasis on the fact that, regardless of what cultural background we take as a starting point, human beings are recognised as individuals with their own will. This is not intended to ignore the countless instances of social, religious and political structures denying individuals the chance to live in accordance with the two human powers; it is exactly Nussbaum’s intention to show that structures denying a minimum of individual autonomy and sociability are unjust because they deny their members access to central human functionings and capabilities.

Even though Nussbaum’s intuitive idea, as presented in her later works, still resembles her earlier writings in which she heavily draws on Aristotle’s normative anthropology, she is now much more concerned with the question of whether this conception can be agreed upon by various cultures and traditions. Nussbaum’s strategy to strengthen the intuitive power of her picture of the dignified human being is unusual, at least from the perspective of the analytical philosopher. She makes references to literature, in particular myths and stories, from all over the world. When we get to know these tales about individual human fortune and tragedy we react in similar ways, independently of the cultural particulars that are present in these stories. There are universal patterns of life and universal elements of the human condition depicted in these works of art. The similar reception of these works by people across the world leads Nussbaum to the conclusion that the idea of human worth, dignity and agency has broad cross-cultural resonance and intuitive power.

Regardless of what religious or metaphysical assumptions people take as a starting point for reflecting upon the question of what makes a life truly human, Nussbaum claims, they will regard certain deprivations as curtailing the process of human lives. Her political conception of human capabilities (and functionings) is supposed to provide a list of aspects of human lives that are regarded as crucial without presupposing a particular religious or philosophical outlook. This is the point where Rawls’s political liberalism becomes relevant, and Nussbaum wants her list to be understood as a “freestanding conception” for political purposes that does not make reference to any contested metaphysical assumptions. Whereas Rawls takes the constitutional tradition and history of democratic societies as support for his political

conception of free and equal persons, Nussbaum makes references to the global history of literature. The underlying political rationale is the same, namely to create the basis for an “overlapping consensus”, in Nussbaum’s case, on a list of basic capabilities and functionings that are supposed to be the foundation of legitimate claims of individuals against their governments or, as I want to add, of a minimally just global economic and political order.<sup>58</sup> Nussbaum claims that not reaching a minimum level in one or more of the spheres of the central human functional capabilities should be regarded as *generating* moral, and constitutional, obligations that the individuals in question are lifted above this minimum.

At this point Nussbaum’s argument proceeds rather hastily. She is, I think, accurate in arguing for the universal appeal of her picture of the human being and its most fundamental needs. Her excursus into common human experiences and the way these experiences are depicted in the works of world literature, make it plausible to enumerate a number of fundamental and indispensable elements of every human life. It is also quite undeniable that the lack of one or more of these elements constitutes instances of severe damage and deprivations. The next step in Nussbaum’s argument is, however, made too quickly. She claims that the universal sympathising responses to characters in works of literature who, for example, are beaten down by the currents of chance and lack access to basic necessities “provide us with strong incentives for protecting that in persons that fills us with awe [i.e. the aspects of a human being indicating that she has her own will and actively shapes her life as an autonomous being].”<sup>59</sup>

In accordance with what I said in this essay’s first chapter I think we have to be careful here, especially when Nussbaum’s account is applied to the issue of global redistribution. Nussbaum seems to derive claims and corresponding obligations of distributive justice directly from her conception of universal central human functional capabilities. Our being impressed by how different human beings are from mere animals and our cognition of the specifically human functionings and capabilities taken by themselves, however, do not generate obligations of *justice* to protect these features of human lives. That does not imply, especially on my account of moral

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<sup>58</sup> At this point it is important to stress that Nussbaum’s project is to use the list of “central human functional capabilities” as a means to justify constitutional principles and guarantees within the traditional nation state. I will discuss Nussbaum’s emphasis on the nation state as the primary agent of redistribution and primary guarantor of basic capabilities below.

<sup>59</sup> Nussbaum 2000, p. 73.

obligations, that there are no alternative kinds of moral obligation, like the ones based on beneficence, asking us to help others with achieving a threshold level of basic functionings and capabilities. I have been arguing throughout this essay, however, that there has to be shown that there is a special relationship and responsibility between obligation bearer and claimant in order to let an obligation fall within the category of justice. Nussbaum's justification of the list of central human functional capabilities will be helpful for basic needs cosmopolitanism. When we identify the current global order as unjust and correspondingly the justice-based objectives of development policies, Nussbaum's capabilities list is the most plausible candidate. But when we want to answer the question of why and under what circumstances this list generates obligations of justice, Nussbaum's capability approach by itself leaves the critical questions unaddressed.

Nussbaum does not use my distinction between justice and beneficence. In *Women and Human Development* she applies the capability approach to the question of what social and political constitutional guarantees governments (of developed and developing countries) have to subscribe to in order to lift all citizens above a "threshold level of each capability beneath which it is held that truly human functioning is not available to citizens".<sup>60</sup> I use her approach of justifying the importance of these capabilities to show that profiting from and upholding an unjust global order is the violation of a negative obligation: This order is unjust in so far as it renders access to the material and/or non-material prerequisites for possessing these capabilities difficult or impossible. Continuous imposition of such an order results in obligations of justice to compensate and redistribute basic necessities in proportion to being responsible for the inaccessibility of these basic necessities.

Nussbaum, however, does not give any such justification for her obligations of distributive justice. She does not do so in the domestic, let alone the global case and rather adopts a strategy popular amongst basic needs theoreticians<sup>61</sup> – a strategy I disagree with. Nussbaum seems to embrace the idea that unmet basic needs *always* trigger society-wide *justice*-based obligations to meet them. I am myself convinced that such a justification can be given for the domestic case, a justification I cannot dedicate space to here. I also agree with Nagel and Blake that a justification for the global case must be of a very different kind than for the domestic case – one

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<sup>60</sup> Ibid., p. 6.

<sup>61</sup> See Brock 1998.

justification for global justice-based redistribution is presented in this essay. Nussbaum, however, fails to provide either of the two. With regard to the domestic case she simply assumes that the great importance that is cross-culturally assigned to her ten basic capabilities inherently carries with it the power to generate obligations of distributive justice to provide for their general possession. States, so she claims, must subscribe to and constitutionally guarantee the discharge of these obligations. I believe that such a rationale for the domestic case can be given but I cannot dedicate the space to justify it here. With regards to the global case Nussbaum simply does not address the question. Since, according to Nussbaum, the major actor concerned with distributive justice remains the traditional nation state it must be these states' domestic constitutional and institutional arrangements that are responsible for distributive justice and the provision of the prerequisites of central capabilities.<sup>62</sup>

Before I introduce her list of ten central human functional capabilities it is therefore important to summarise where I agree with Nussbaum and where I disagree with her or put a different emphasis than she does. The importance of Nussbaum's capability approach lies in her giving a convincing philosophical underpinning of the claim according to which ten capabilities are indispensable features of every human life. People all over the world and independent from sociological and cultural differences regard these ten aspects as important to lead a truly human life. Nussbaum derives from this point the conclusion that nation states' domestic institutions must constitutionally guarantee these central capabilities – a claim I agree with but I do not see sufficiently argued for in Nussbaum's writings. I transfer her story about the cross-cultural importance of the ten capabilities onto the global level and derive from

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<sup>62</sup> In *Women and Human Development* Nussbaum explicitly notes that she neglects questions of global distributive justice. There she writes: "The effective pursuit of many of the items on the list for many nations requires international cooperation; it will also require some transfers of wealth from richer nations to poorer nations. I have said nothing here about the *justification* for such transfers or the mechanisms governing them, but such further arguments will prove important as we strive to make a threshold level of capability available to all the world's people." But she concludes: "Nonetheless, even a highly moralized globalism [a globalism respecting the central capabilities of all human beings that sets limits to purely economic considerations of efficiency] needs nation states at its core, because transnational structures (at least the ones we know about so far) are insufficiently accountable to citizens and insufficiently representative of them. Thus the primary role for the capabilities account remains that of providing political principles that can underlie national constitutions; and this means that practical implementation must remain to a large extent the job of citizens in each nation." (Nussbaum 2000, pp. 104-105) My discussion of Nussbaum's approach accepts her arguments stressing the importance of her ten basic capabilities. Where I expand her approach is the issue of global justice and the violation of negative obligations when the global order impairs the possession of these capabilities in poor countries. Where I disagree with Nussbaum is the link between the importance of capabilities for every human life and the obligation to take care of humans abroad (and at home) so that they possess these capabilities.

this story the claim that a global order that renders access to the material and non-material prerequisites for these capabilities impossible *harms* the global poor and is therefore unjust. Nussbaum does not ask the Poggean question of whether it is to some extent the global order that can be blamed for the many instances of men and women not possessing even the most basic of her ten central capabilities. In addition, and this idea will be argued for in detail in the next section, imposing such an order results in obligations of distributive justice to compensate – not simply because people are not possessing basic capabilities (that fact, taken by itself, is only enough for beneficence-based obligations to help the poor) but because others have contributed to these dire straits. In a nutshell, I combine Pogge’s theory about the global order’s violation of negative duties with Nussbaum’s capability approach. Where Pogge regards the global order as unjust because it makes the fulfilment of basic social and economic human rights impossible I say that the global order is unjust because it impairs the possession of central capabilities for all.

We have clarified the justificatory foundations of Nussbaum’s capability approach. It is now time to introduce and discuss her list of central human functional capabilities that is supposed to find cross-cultural approval and can be used as a standard to assess the harmful effects of globally pervasive economic and political institutions and practices.

The list comprises ten capabilities:

1. **Life:** Here Nussbaum is concerned with the capability to live a life of “normal” length. She does not specify the amount of years that has to be regarded as constituting a normal span of life, but I think this is in fact a secondary issue. It seems obvious, for example, that a person dying before reaching sexual maturity and before being able to procreate and raise children has not even reached a biologically minimal duration of life.<sup>63</sup>

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<sup>63</sup> My interpretation of this capability does not imply that public concern for a normal human lifespan ends after one is not able to procreate any longer. It is simply a fact that it would be a non-universalisable state of affairs if *all* members of a society died before being able to procreate. Apart from this dissatisfying definition of a “normal” life expectancy I do not have a solution to the problem of finding a globally applicable standard. The “multiple realizability” of the capability list’s members would help Nussbaum in avoiding these troubles but not me. She claims that “the items on the list are to some extent differently constructed by different societies. (...) (the list’s) members can be more concretely specified in accordance with local beliefs and circumstances.” (Nussbaum 2000, p. 77) This multiple realizability would allow Nussbaum to give the notion “normal” in “a human life of normal length” a flexible spin. Depending on a country’s economic and scientific potential the average life

2. **Bodily health:** This capability comprises the functionings of having good health, being adequately nourished and having adequate shelter. I interpret Nussbaum as applying a broader definition of “good health” here, than just the absence of life-threatening diseases. The capability to have good health, so understood, consists also of the opportunity to live in accordance with a healthy life style and consuming unpolluted nourishments – a capability many people in developing countries lack.
3. **Bodily integrity:** Nussbaum’s emphasis here is the basic capability to have “one’s bodily boundaries treated as sovereign” and to be secure against bodily insult. As I will discuss after presenting the complete list these “capabilities” are difficult to distinguish from the desirability of actually achieved functionings. It seems odd to regard “security against bodily assault” as a mere opportunity one has, instead of formulating political goals aiming at actually securing each citizen’s bodily integrity, as far as possible in real-world circumstances. Nussbaum’s second group of doings and states falling under the heading of “bodily integrity”, sexual satisfaction and choice in matters of reproduction, seems to be a more plausible candidate for genuine capabilities.
4. **Senses, Imagination, and Thought:** At this point Nussbaum’s Marxian notion of functioning in a “truly human way” is of critical importance. She claims that an adequate education has to secure quite a high level of using ones senses and using ones capacity to reason. From this more general claim Nussbaum derives a rationale for freedom of speech, freedom of expression, and freedom of religion which are all necessary to render the capability to think critically possible. One might worry at this point whether or not Nussbaum introduces a too comprehensive, humanistic set of cultural and artistic capabilities (including “musical and literary expression”), a set that goes too far and cannot meet with cross-cultural approval concerning its urgency and harm-relatedness. With regard to my current project of adopting

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expectancy will be higher or lower and an individual’s age will count as “normal” with regards to the country’s potential and not with regard to an objective global standard. Since Nussbaum is concerned with principles of domestic justice securing a local threshold for a specific country’s citizens she might argue that this threshold varies between societies. Whatever one thinks about this possibility I cannot take that route because my application of the capability list to the issue of global justice only works when an objective threshold is employed. In the case of life expectancies this means that a global order is unjust when it can be blamed for a country having a lower average life-expectancy than the objective one. What this objective life expectancy should be is of course the difficult question I am not able to answer here.

Nussbaum's list as the crucial standard for assessing the just/unjust condition of the global order, one might worry whether the crucial link between basic capabilities/needs on the one hand and harm on the other can be upheld when such "advanced" capabilities<sup>64</sup> find their way on the list. Moreover, to what extent Nussbaum's insistence on the point according to which basic<sup>65</sup> education is a necessary good in order to achieve a minimal level of imagination and thought can be questioned. In order to apply this fourth central human functional capability to my harm-based theory of global justice I want to reformulate it in terms of basic education: a minimal level of society-guaranteed school education for all is necessary within a globalised political and economic system, making the need for a unified definition of what counts as a sufficient level of education an urgent requirement in order to decide whether the global order is only an imposed one, or one that is acceptable to all participating in it and affected by it.

5. **Emotions:** Here Nussbaum puts special emphasis on creating and maintaining social structures that enable individuals to cultivate their capabilities to have attachments to things and people. Nussbaum's qualification, according to which these capabilities are best understood as making negative demands on the state/society and compatriots is important. With regard to emotions it seems crucial not to interfere with the course of *normal* human development in a corrupting way. Nussbaum explicitly mentions the freedom from fear,

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<sup>64</sup> The same worry applies to other members on Nussbaum's list such as "other species" and "play". I will return to this discussion about what members on her capability list are related to "harm" below.

<sup>65</sup> The case of "basic" education is to some extent comparable to the life-expectancy-problems above. What counts as "adequately educated" is relative to a society's own standards. On the other hand one might argue that a very basic education is a universal and cross-culturally similar good. What really distinguishes the case of basic education from the case of comparing life-expectancies, however, is the following point concerning the harmful effects of lack of basic education on developing societies.

One strategy to determine whether or not a level of basic education is met within the context of the debate about global justice might be the following: part of the reason why the current global order counts as unjust is that the persisting basic needs shortfalls of poor populations are due to the lack of resources needed to provide basic schooling for its population. Education and schooling are necessary conditions for rendering citizens and, derived from that, the society in question into responsible and accountable actors on the global level. In addition, and here I come back to Onora O'Neill's account of why negative duties sometimes imply positive action, in order to render poor societies less vulnerable to deception, coercion and the imposition of an unjust global order, citizens and their governments must have access to information and certain intellectual resources and abilities. Currently poor countries are caught in a vicious circle: the imposed global order is responsible for these society's not being able to provide basic education for all; because these society's citizenry and their representatives are insufficiently educated and lack access to critical intellectual and scientific resources and knowledge it is easy to impose an unjust global order on them. (On this point see Pogge's quote in *The Economist* in Pogge 2002, p. 17)

traumatic events of abuse and neglect, and involuntary isolation. With regard to applying this capability to the project of using it as a standard for judging whether the global order harms the poor we can say that this capability results primarily in negative obligations of justice, i.e. in the obligation to stop imposing a global order that impairs the normal emotional development of human beings. Concerning this capability it is difficult to determine what material prerequisites are required to secure its possession. As a consequence of these difficulties I prefer to interpret and label Nussbaum's capability of emotions in a slightly different way. A focus on "mental health" seems to be more tightly related to the concept of "harm" and therefore seems to fit better with the project of basic needs cosmopolitanism and my focus on basic necessities: A global order that has negative effects on the poor societies' social environment with regard to basic mental health counts as unjust. I take it that a concern with basic mental health is more practical and less demanding than Nussbaum's quite advanced conception of "emotional capabilities". I also think that with regard to mental health a political concern with actually achieved functioning is a proper standard for evaluating the global order. This is a core idea of my criticisms of Sen and Nussbaum according to which their exclusive focus on capabilities and their failure to embrace some actually achieved functionings as political goals (because a state's concern for citizens' functionings conflicts with their conceptions of "liberal neutrality") is misconceived. It seems implausible to me to regard the importance of mental health only in the form of a mere capability and not as a functioning that has to be guaranteed for all members of society. How shall people make use of their other capabilities when they are not *actually achieving* a minimum level of mental health? More on that below.

6. **Practical Reason:** With practical reason Nussbaum basically means what Rawls defines as the second moral power of free and equal persons<sup>66</sup>, namely the ability to form and critically revise a conception of the good life including its specific normative standards. Especially with this "capability" my aforementioned criticism of an exclusive focus on capabilities as legitimate political goals applies. How shall people reflect upon the various options they

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<sup>66</sup> Rawls 1993, p. 19.



have and how shall they decide whether or not to transfer a specific capability into the corresponding actual functioning when they do not *actually* reason practically? There is an additional argument for why the actual performance of practical reasoning is of relevance for global justice.<sup>67</sup> Since my differentiation between obligations of justice and obligations of beneficence is critically dependent on identifying the moral agents who are responsible for the global poor's plight I must pay particular attention to whether the poor *actually* reason practically or not. Practical reasoning is a precondition for rational agency and responsible action. Agents who are impaired in reasoning practically cannot be held responsible for their current situation. If it is in fact the case that the poor are not actually reasoning practically then the better-off will always continue to be responsible for their miserable situation. Nussbaum, who is not primarily concerned with the question of what global factors contribute to the global poor's capability deficits, does not have to pay similar attention to this connection between actually functioning in accordance with standards of practical reason on the one hand and responsibility on the other.

7. **Affiliation:** **A.** The first part of this capability is concerned with engaging in rational discourse with other human beings, in order to develop one's rational capacities and one's critical potential. Political and social institutions as well as freedom of assembly and political speech have to be established and secured in order to provide the framework for this capability. **B.** Here Nussbaum establishes a connection between the social bases of self-respect and equality. Truly human affiliation is only possible when discrimination on the basis of race, sex, sexual orientation, religion, caste, ethnicity, or nationality is ruled out. The part of basic needs cosmopolitanism, presented in this essay, with its focus on the material prerequisites for this capability will not be primarily concerned with these questions of domestic institutional design.<sup>68</sup> It is, however, important to mention again Pogge's point that

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<sup>67</sup> I am indebted to Tim Mulgan for pointing out to me this interesting argument in support of my claim that practical reasoning cannot be a goal of global justice in the form of a mere capability people possess.

<sup>68</sup> This does not imply anything about the stringency and urgency of the better-off's obligations of justice to assist the poor with establishing just domestic institutions. Since the subject-matter of these obligations is of a very different kind than the one I am primarily concerned with here, i.e. material resources and financial means, I put the obligations concerned with the non-material prerequisites for

international practices such as the “resource” and “borrowing privileges” have a negative impact on the implementation of just domestic institutions mentioned by Nussbaum with regards to securing affiliation and critical discourse in poor societies. It is my idea to assume that better-off societies, as far as the global order has contributed to corrupt local political and social institutions, have an obligation of justice to assist poor societies with establishing just domestic institutions. This issue is not my primary concern here though. I admit that especially with regard to the capability of affiliation and the related social institutions the material prerequisites might actually play a less important role than the non-material prerequisites that cannot be redistributed from better-off to poor societies in a direct way.

8. **Other Species:** This capability emphasises the importance of our ability to live in a safe and protected environment, especially in a functioning biosphere with plants and animals.<sup>69</sup> As Nussbaum consents this is certainly the most disputed member of her list of basic human functionings. China’s ruling class, for example, gives priority to economic growth at the expense of this capability. This capability, especially when it is defined in Nussbaum’s more advanced sense, is also the one that is most problematic with regard to the harm-connection – crucial for my approach of identifying the current global order as unjust. Whether not being able to live in valuable relationships with animals and in accordance with an almost *romantic* – in the sense of the eighteenth century German movement – conception of valuing nature counts as a cross-culturally accepted instance of harm seems questionable.<sup>70</sup>

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central capabilities to one side. It is important to keep in mind that basic needs cosmopolitanism, as presented here, is not a complete theory of global justice.

<sup>69</sup> Nussbaum does not address the issue of biocentrism but her anthropocentric overall approach makes me inclined to say that other species and nature in general only have instrumental value in making a life a truly human one. Her approach certainly does not exclude biocentrism; but it does not imply it either. The problem is that also on a purely instrumental account of the value of nature and other species it is not obvious that relationships with other species must be on a list of basic needs or central human functional capabilities. Nussbaum’s argument clearly seems to work in cases of massive environmental damage that has harmful effects on human beings (this is important for me because only if environmental damage can be linked to human “harm” it becomes a matter of (global) justice). I do not see how curtailed relationships with other species constitute a matter of justice (if we exclude the cases where this curtailing results in harm).

<sup>70</sup> Nussbaum recognises this point: “In terms of cross-cultural development, this has been the most controversial item on the list (...). Norway, for example, places tremendous emphasis on this capability. In Oslo one may build only within five miles of the coast; past that ‘forest line,’ the inland mountainous region is kept free of habitation to preserve spaces for people to enjoy solitude in the forest, a central aspect of this capability, as Norwegians specify it.” (Nussbaum 2000, p. 80) These remarks provoke two response: Firstly, many people will regard the capability of enjoying solitude in

9. **Play:** the capability to laugh, play and perform recreational activities is important because of its relationship to affiliative activities and child development. The worry whether a shortfall within this capability constitutes an instance of harm also applies to this capability.
10. **Control over one's environment:** **A. Political:** Nussbaum connects basic human functional capabilities with the idea of democracy and political autonomy. The justification for this connection are the effects of political decisions on individual lives. To be in full control over one's life means to have the capability to participate in democratic decisions. **B. Material:** The ability to hold property and to have property rights on an equal basis with others are regarded as important elements of a society's basic structure protecting the capabilities for truly human functioning. As mentioned above in connection with affiliation basic needs cosmopolitanism can be concerned with this capability only indirectly. When the global order can be blamed for deficits of basic necessities that are the prerequisite for just domestic institutions and legal regimes the global order counts as unjust and as one generating obligations of distributive justice to compensate for these deficits. Other possible obligations of non-distributive justice such as an obligation to support (or even to initiate) local political movements that struggle for the establishment of just domestic institutions are not excluded by basic needs cosmopolitanism, however.

The remainder of this section is dedicated to this essay's critical question of how the capability approach provides the most suitable standard in order to judge whether the current global economic practices and regimes harm the poor. Derived from this standard basic needs cosmopolitanism then determines what material (and non-material) prerequisites are necessary to secure these capabilities for all. In proportion to their responsibility for basic necessities shortfalls abroad the better-off are required on grounds of justice to compensate for the imposition of an unjust global order. This final step is done in the concluding section of this essay. Before doing that we have to get clearer about how the capability list provides a cross-cultural standard for

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the forest as not harm-related and parochial. Many cultural backgrounds are not prepared to put that much emphasis on individual retreat. Secondly, one might argue that the ten capabilities on Nussbaum's list do not have equal priority and that the other-species-capability has to give way to securing other, more basic, capabilities.

assessing the global order's negative impact on poor societies. In a nutshell the negative impact basic needs cosmopolitanism is concerned with is related to the material and non-material prerequisites for possessing the ten central capabilities, that must be present in every truly human life. My definition of "basic needs" is that the need for these prerequisites is one that must be fulfilled in order to avoid instances of severe harm and deprivation, rendering the quality of the lives in question unacceptable from a cross-cultural perspective. Without the right and sufficient material basic necessities and in the absence of minimally just domestic political and social institutions people do not live in circumstance enabling the possession of these capabilities (and, as I want to stress again in the next paragraphs, in some cases actually achieved functionings).

In order to address these issues I need to come back to my major point of internal criticism of the capability approach, namely the distinction between functionings and capabilities. Sen and Nussbaum claim that it is only capabilities and not actual functionings that are the proper objective of assessing the standard of living of individuals. Nussbaum stresses her agreement with Sen when she says, "for political purposes it is appropriate that we shoot for capabilities, and those alone."<sup>71</sup> The capability approach explains this stance with a commitment to pluralism and non-paternalism. Here Nussbaum explicitly adopts another idea of Rawlsian political liberalism. Social primary goods have to be assigned to each citizen on an equal basis by the state or whatever institution is responsible for this assignment. It is, however, not the state's business to enforce the actual use of these primary goods by each citizen. It is up to the individuals to decide, in light of their comprehensive conceptions of the good life, whether or not they make use of the distributed goods, liberties and opportunities.

Nussbaum claims that this Rawlsian approach suits well with the capability approach's political focus on capabilities, not functionings. I interpret Nussbaum to the effect that she regards capabilities as opportunities that must be at the citizens' disposal. A state guaranteeing the material and non-material prerequisites of the ten capabilities is a just state, at least from the political point of view of the "basic-structure of society". We can imagine a society where a large portion of the citizenry does not regard one or more of the ten capabilities as crucial and does not make use of

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<sup>71</sup> Ibid., p. 87.

the provided opportunities. This is no reason for condemning this society as long as the society's basic structure has provided the citizens with the full social basis of these capabilities, so Nussbaum's argument goes. Of course, Nussbaum believes that due to the strong and complex interrelation of the members of her capability list, it will not often be the case that a society provides all the prerequisites for central capabilities and at the same time citizens will not make use of these valuable opportunities. It is, however, important to stress that Nussbaum presents her version of the capability approach in a seemingly liberal spirit and this spirit must respect a society of the kind described in this paragraph.

When we take a closer look at the members of the list of central human capabilities we see, however, that an absolute exclusion of functionings as political goals is misguided and actually corrupts Nussbaum's (and Sen's) liberal ambitions. This becomes especially clear when we follow Nussbaum in identifying the two capabilities that have a special status, namely practical reason and affiliation. These are of special importance, "since they both organize and suffuse all the others, making their pursuit truly human."<sup>72</sup> The importance of practical reason and affiliation lies in them being indispensable prerequisites for planning a life and for critically reflecting on one's life plan. A society that secures the eight other capabilities but fails to provide the conditions for practical as well as discursive reasoning makes available to its citizens capabilities in a non-human, animal-like variety. Such a society does not express consideration for its members' basic standard of living.

Especially in Nussbaum's ("truly human functioning") and Sen's ("capability as freedom") versions of the capability approach the notion of choice is of critical importance – as is also implied by Nussbaum putting so much emphasis on the two capabilities of practical reason and affiliation. With at least these two capabilities, but also with mental and bodily health, the political goal must be actual functioning and not merely an option to function. I agree with Nussbaum that practical reason and critical reflection are the paramount important members of her list but I disagree with her justification for that. Nussbaum regards practical reason as important because it renders the execution of other capabilities "truly human". I claim that the special importance of practical reason lies in its fundamental role in making the other capabilities *real* capabilities and valuable options to *choose* from in the first place.

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<sup>72</sup> Ibid., p. 82.

When Nussbaum puts so much emphasis on her liberally minded anti-paternalism she can do that only when citizens are *actually* autonomous beings and are *actually performing* acts of practical reasoning. I find it very difficult to regard practical reason and affiliation as “capabilities”, as options to function in a particular way that someone can go for or not. It seems odd to utter the statement according to which one has the capability to function as an autonomous chooser but can also autonomously decline to function as such a chooser. The same counts for the capability of affiliation when it is in fact so important for adequately reflecting upon one’s life and one’s priorities. How can we regard an individual’s rejection to transform a provided capability into the corresponding functioning as justified when the same individual does not *actually* affiliate with others in order to participate in rational discourses? Hence, the importance of some capabilities lies exactly in the fact that the corresponding doings and states are only of value when they are actually achieved in the form of functionings. Their value lies in making the general notion of “capability” possible in the first place. Nussbaum (and Sen) do not pay enough attention to this aspect of the capability approach.

When the conception of the “autonomous chooser” and activities such as practical reasoning and participating in intersubjective discourse are prerequisites for Sen’s and Nussbaum’s capability approach then this has effects on other capabilities as well. Functioning in accordance with minimal standards of mental and physical health, actually being in a state of receiving or having received at least a similar basic level of education and knowledge, and being in a stable emotional condition now appear to be better conceived of as functionings which every normal citizen must actually execute or be in to lead a “truly human life”. These functionings are of high political priority and concern. Not executing them is an instance of severe damage and deprivation.

It would be unfair on my part to conceal that Nussbaum’s later writings have partly addressed these worries.<sup>73</sup> Not only does Nussbaum admit that from the theoretical point of view functionings are the more fundamental elements within the capability approach - first we have to determine what functionings are a) valuable and b) cross-cultural universal; Nussbaum also admits that, for example in the case of children, functionings and not capabilities are the adequate and justified political goal.

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<sup>73</sup> Ibid., pp. 86-96.

Still, she insists that “[W]here adult citizens are concerned, *capability, not functioning, is the appropriate political goal*. This is so because of the great importance the approach attaches to practical reason, as a good that both suffuses all the other functions, making them human rather than animal, and figures itself as a central function on the list.”<sup>74</sup> I have difficulties in following Nussbaum’s remarks concluding this passage, when she again claims that, even in the case of practical reason and the related functionings that make practical reason possible, only capabilities are the goal of political action and redistributive policies. Her emphasis on respecting moral persons and their free choices is, I claim, not reconcilable with excluding functionings *per se* from the domain of state-responsibilities and from the evaluation of domestic and global distributive institutions with regards to justice. With these remarks I finish the internal criticisms of the capability approach and conclude this section with finally introducing my argument tying together the concepts “capability”, “functionings”, “basic needs”, “harm” and “injustice”.

Concerning the evaluation of the current global order we can now bring the combination of my Poggean definition of an unjust global order in terms of avoidable harm with Nussbaum’s capability approach to an end. Possessing Nussbaum’s ten members of her list of central human functional capabilities is a cross-culturally acceptable precondition of every truly human life. I agree with Nussbaum’s argument in support of “capability-universalism” and am sympathetic with her unconventional method of using a combination of intuitions, reflective equilibrium and sources of world literature. She is successful in showing that people not possessing essential capabilities are deprived of a truly human life. In discussing her list I noted that some members of the list are more undisputed (bodily and mental health, practical reason, basic education) than others (other species, play). In order to establish the following conclusion concerning the relationship between needs and these capabilities we do not have to dedicate too much space to the issue of what basic capabilities and functionings are fully cross-culturally acceptable and which are not. I am confident that her list does not include too little – among her ten capabilities are certainly the most basic ones. The list might consist of too many capabilities but this is an issue not decidable by the philosopher alone in any event (remember the difficulties concerning defining a minimal average life expectancy etc.). In order to establish the first crucial

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<sup>74</sup> Ibid., p. 87. [Emphasis in the original.]

conclusion in support of basic needs cosmopolitanism it suffices to assume that the most basic capabilities on Nussbaum's list are harm-related – the harm-relation being the crucial link to the concept of “global injustice”.<sup>75</sup>

With regard to basic needs cosmopolitanism the important point about Nussbaum's central capabilities is the following: in order for individual citizens to possess capabilities their society must be able to provide specific material and non-material prerequisites in a specific quantity and quality. The central capabilities – again, in this case the actually functioning seems to be the more adequate goal to me – of physical and mental health for example require material prerequisites in the form of financial and technical resources, know-how, the necessary educational facilities to educate medical personal etc.. These material prerequisites are necessary but not sufficient preconditions for making the functioning of being in a healthy physical condition available to all. Non-material prerequisites such as a minimally egalitarian state-funded health system and non-discrimination<sup>76</sup>, when it comes to access to these state-funded services, are the other necessary preconditions to secure Nussbaum's capabilities and functionings for all. The presence of the threshold quantity and quality of these material and nonmaterial prerequisites taken together are sufficient to render a society into a just one – at least with regard to these central capabilities. I summarise the material prerequisites under the heading of “basic necessities”. A just society possesses enough basic necessities and these necessities are equally enough distributed within this society (this is a non-material prerequisite) so that all members possess the most basic central capabilities in question. Consequently, I define a basic human need as the individual need to have equal and secured access to this threshold quantity and quality of basic necessities. Without having access to these basic necessities individuals cannot possess the related basic capabilities and functionings.<sup>77</sup>

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<sup>75</sup> The injustice I am concerned with here is only one obligation-of-justice-related case. Coercion, deception, theft, etc. of course also generate obligations of justice and can be a very relevant issue in international relations. I am concerned with a particular kind of global injustice, related to deficits in the domain of basic needs caused by other moral agents.

<sup>76</sup> Nussbaum's *Women and Human Development* pays particular attention to the case of women in India. Nussbaum draws attention to research indicating the gender-biased obstacles women face in accessing health care facilities. The same counts for other capabilities and functionings, the most prominent one being basic education. (Nussbaum 2000, pp. 24)

<sup>77</sup> One must not ignore the corresponding case when an individual has secured access to basic necessities but not to the non-material prerequisites. A wealthy member of an ethnic minority can have the material resources available and the society she lives in can also have all the material resources at hand to secure the capability for all. The same society can, however, deny this person equal access to public services. In this case the material prerequisites are all present but due to the lack of non-material prerequisites (non-discriminatory institutions) some members do not possess the central capability in



Consequently, since not having these capabilities and functionings constitutes an instance of harm, not having access to basic necessities constitutes an instance of harm as well.

The Poggean element of basic needs cosmopolitanism enters the picture when the global economic order, its institutions and legal regimes, can be entirely or partly blamed for this shortage of basic necessities. At the end of chapter one I reinterpreted Pogge's definition of an unjust global order; where he takes the fulfilment of social and economic human rights as the standard for assessing the justice of the global order I prefer to employ the notion of meeting basic needs, a notion that can now be fully developed. If it is in fact the case that international trade- and tariff- regimes harm the poor by not making secure and equal access to basic necessities possible for all then an imposition of such an order by the better-off societies constitutes the violation of a negative obligation. In conjunction with other things I said in chapter one I derive a stringent obligation of distributive justice from this claim. If the imposed global order is unjust then the better-off are required on grounds of justice to stop imposing that order *and* are required to compensate for past and continuing injustices in proportion to their responsibility for the resulting basic needs shortfalls.

The next and final section of this essay is intended to refine this approach by introducing the notion of "potential functionings" – which must not be confused with my criticisms of Sen's and Nussbaum's exclusion of actually achieved functionings from the group of legitimate political goals. The notion of "potential functionings" is supposed to give an account of when a poor society can be regarded as having *sufficient* basic necessities at hand in order to discharge its obligations towards its own citizens and guarantee their capabilities and functionings. Only when a society possesses the basic necessities required to secure potential functionings it can secure its citizens capabilities.<sup>78</sup> And only when the global order allows poor societies to

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question. In most real-world cases today poor societies are confronted with a deficit in both spheres – basic necessities and non-material prerequisites for securing capabilities – and there is reason to believe that both factors are at least mutually reinforcing. This fact suffices to make the part of basic needs cosmopolitanism presented in this essay, with its emphasis on basic necessities only, work.

<sup>78</sup> As a matter of fact, the institution with most "distributive authority" (still) is the traditional nation state. The state - its political and social institutions - is responsible for structuring the distribution of basic necessities. Even a very libertarian society, allowing only a small amount of redistributive schemes, still assigns the final say about how much redistribution is permissible to the state. That the (democratically legitimized) state is the ultimate authority with regards to distributive arrangements is a central and indispensable element of modern state-sovereignty. All this does not, however, diminish the adequacy of this essay's argument. The global order has a significant impact on a) the quality of

have this quantity and quality of basic necessities at hand (and is governed by domestic social and political institutions committed to securing central capabilities for all) can it count as a minimally just one. To this complex notion of potential functionings I now turn.

### II.III. “Potential Functionings” and the Obligation to Meet Others’ Basic Needs

Let us summarise the features of Sen’s and Nussbaum’s capability approach that I employ in order to answer the question of how to discharge the obligation of justice to assist the global poor in confronting severe poverty; poverty to which, following Pogge’s empirical claims, better-off societies and the global political and economic order have contributed to. Sen and Nussbaum convincingly argue that in order to determine levels of poverty one has to find a cross-culturally accessible balance between subjective and objective ways of measuring and comparing living standards. In particular, Sen points to the various difficulties that go along with positions such as utilitarian and commodity-focused approaches. He claims that comparing individuals’ capability sets – the various combinations of functionings individuals are able to achieve - is the best way to determine who is better and who is worse-off.

Nussbaum goes one step further and introduces a definite list of doings and states that are indispensable features of every truly human life. In addition, she gives a justification for the list’s universal and global applicability in analysing well-being and living standards. Moreover, the capabilities on the list are the foundation of citizens’ legitimate claims against their societies and states. Every citizen should be entitled to a constitutionally guaranteed support in order to attain the material and non-material prerequisites for possessing these capabilities. My criticisms have pointed out that in many cases it is actually achieved functionings and not the corresponding capabilities that should be the political goals of collective distributive and redistributive action. This counts especially for the doings and states defining the “rational and autonomous chooser” who must actually function as such in order to make the notions of “choice” and “capability” work in the first place.

Except for this criticism I regard the capability approach as the most promising starting point for establishing what I call “basic needs cosmopolitanism”. In fact, the differences between the capability approach and basic needs theories are diminishing especially when the capability approach is restricted to universal and central capabilities (and actual functionings), as it is done by Nussbaum’s studies on human development. The basic needs literature<sup>79</sup> is to a significant extent concerned with the question of how we can distinguish basic human needs from individuals’

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<sup>79</sup> An overview of the current debate is provided by Brock 1998.

preferences. Only needs are regarded as making special moral and political claims on others. Preferences are regarded as not generating “urgent” claims of aid, following Scanlon, because one *could have not* developed these interests.<sup>80</sup> Basic needs are unavoidable and inherent features of every truly human life and notions such as “choice” and “voluntariness” do not apply to them as they do in the case of preferences. Other basic needs theories claim that the lack of rational autonomy and that the unmet status of autonomy-enabling needs constitute a shortfall within the category of basic needs.<sup>81</sup> The basic needs theories I employ in order to judge the global economic and political order as just or unjust focus on what happens when needs, desires, and preferences are not met or satisfied. These theories identify only those needs, desires, and preferences as basic ones that result in instances of bodily and mental harm if they go unmet.<sup>82</sup> Subjective preferences lack this property. When preferences or non-basic needs go unmet what results is dissatisfaction or unhappiness but not harm, severe bodily and mentally damage, or injury.

My interpretation of Nussbaum’s and Sen’s capability approaches works in similar ways. Nussbaum’s list of central human functional capabilities is supposed to enumerate features of human lives that derive their special importance from what happens when individuals do not possess these capabilities and, as I wish to add in the most basic cases, do not function accordingly. The need for these capabilities’ and functionings’ material and non-material prerequisites, the access to which is a necessary condition for possessing these capabilities, I define as basic needs. Since not possessing these central capabilities constitutes instances of harm, not having access to the related basic necessities and not being governed by just domestic institutions counts as harm as well. Nussbaum’s excursions into world-literature are supposed to show that human beings of diverse cultural backgrounds react similarly

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<sup>80</sup> Scanlon 1975, p. 665. I cannot here dedicate the space to do justice to Scanlon’s complex theory of “Preference and Urgency”. For a criticism of Scanlon’s point according to which it is *not* the fact that an interest is voluntarily chosen that renders it into a non-urgent preference see Cohen 1989, pp. 935-941. Scanlon suggests that preferences do not generate claims of aid because of their *idiosyncratic* character, i.e. because they are interests that *could* have arisen. Since they might not have arisen Scanlon concludes that, from an objective perspective, these interests are of “peripheral importance” regardless of how strongly the individual in question desires their fulfilment.

<sup>81</sup> Copp 1998 [1992], pp. 115-123.

<sup>82</sup> Frankfurt 1998 [1984], pp. 23-26. Frankfurt introduces the “Principle of Precedence” establishing the claim that in case of conflict between needs and desires, meeting needs takes precedence over desires. Frankfurt, however, observes that only needs falling under two conditions deserve the protection of the principle of precedence. A need is morally important only if a) harm will result if the need is not met and b) when that harm is outside a person’s voluntary control. For a similar harm-based account of the concept of “needs” see Wiggins 1998 [1991], pp. 32-41.

when they are confronted with human fates and tragedies – when humans are deprived of central capabilities and hindered to live a fully human life - as they are depicted in works of art. Human beings have a need to possess central capabilities and to reach a level of minimal functioning in certain core areas of their existence in order to live a life on their own and according to their own conception of the good life. I try to find a place for basic needs in this picture by stressing that without secured access to their material and non-material prerequisites the possession of these capabilities and a truly human life are not possible.

In order to establish the final element of basic needs cosmopolitanism, namely the notion of “potential functionings”, I have to dedicate some more space to the relationship between the concept of “basic needs” on the one hand and capabilities and functionings on the other. In the preceding sections I have introduced and defended the claim that the global order counts as unjust insofar as it renders the possession of central human functional capabilities impossible or difficult. Possessing these capabilities is only possible when a society can secure the material and the non-material prerequisites necessary for its citizens in order to possess these capabilities. I now want to examine the question of when exactly a society can be regarded as sufficiently well-off, within this framework of central capabilities and the related basic needs, in order to count as not being harmed by the global order. Consistent with this dissertation’s overall focus on distributive justice I focus on the satisfaction of material basic needs, i.e. needs that must be satisfied so that all citizens have at least the material prerequisites for central capabilities secured.

The notion of “potential functionings” is supposed to answer the question of when a society is sufficiently well-off and is capable of securing the material prerequisites necessary for its citizens to possess Nussbaum’s universal central capabilities. I will argue that only when potential functionings are secured for all members of a society can we say that this society can meet all its citizens’ basic needs. I claim that a society cannot meet its citizens’ basic needs when its citizens do not have a choice between functioning and non-functioning in a fundamentally important domain of physical and psychological life due to the society-wide lack of the necessary quality and quantity of material prerequisites that *would* have to be available *if* all citizens *were* to transform their capability into the corresponding functioning. This is why I will emphasise the importance of *potential* functionings at this point.

The notion of potential functionings spells out in more detail the link between the capability approach and basic needs. The capability approach is generally associated with comparisons of individual levels of well-being and living standard assessments. In what follows I show that the advantages of the capability approach can be secured while accommodating at the same time the more common perspective adopted when issues of international development are discussed, namely the perspective of comparisons focusing on the overall economic and social situation of societies and states. The standard of potential functionings is concerned with specific individuals and their particular basic-needs-situation only indirectly, namely as far as they are members of particular societies. The perspective adopted in the remainder of this argument is a political, society-wide, one. The question of whether a country and their citizenry are able to satisfy their basic needs – and are sufficiently well-off to secure the possession of central capabilities – is addressed in terms of society-comparisons and not by assessing individual citizens' situations in isolation from each other. This perspective is not only preferable because it is the current practical political framework for discussing developmental issues; it is so also because whether an individual can meet her basic needs in a sustainable way depends to a large extent on the society she lives in; how well-off this society is overall and how the state distributes and redistributes available resources. This is the perspective better-off states are primarily concerned with when confronting the negative impact of the global order.

The perspective is “political” and “social” because the society-wide perspective is not satisfied with particular individual citizens having enough food, receiving basic education etc.. The political perspective wants to know whether the same threshold level within the sphere of basic capabilities can be achieved for all citizens of a poor society. Some members of a poor society may possess all central capabilities but many others do not. Without secured potential functionings for all members of a poor society, so I will argue below, one cannot say that all individuals possess the corresponding central capabilities and this is exactly the property that the global order must allow all societies to exhibit in order to count as minimally just.

In short the point I want to make with introducing the notion of “potential functionings” is that a society can only be regarded as consisting of members with complete central capabilities sets when in this society *all* citizens *would be* able to achieve full functioning in Nussbaum's ten categories of central doings and states *if*

all citizens *were* to transform their central capabilities into the corresponding functionings. The argument for this claim runs as follows: an individual only has the capability to X when there is also the actual functioning X *available* to her in the form of an achievable option. Without the actual functioning's availability the individual cannot be regarded as having a real choice between going for X and not going for X. To have this choice is, however, exactly what "having the capability to X" means.

Imagine a society consisting of one hundred members. The society has the basic necessities (the material prerequisites) available for securing functioning X for ninety-nine of its members. Suppose that eighty members actually want to achieve functioning X and twenty do not want functioning X and all are satisfied with that state of affairs (for example eighty want to be adequately nourished, twenty are fasting religious believers). Is this society in a material condition to secure *capability* X for *all* its citizens? The answer has to be no. In fact, especially if we suppose that this society meets its citizens' needs for the non-material prerequisites for central capabilities, i.e. is committed to a principle of equal respect and consideration (and this seems a plausible thing to suppose in the case of entitlements to basic necessities), then this society is not able to *secure* capability X for *a single one* of its members. For if all one hundred actually decided to transform their "capability" to X into the corresponding actual functioning X, not a single member could be sure that it will not be her who will be the *one* who does not achieve functioning X because of the lack of the material preconditions necessary to secure X for all, one hundred, members. The potential availability of functioning X for all members is what I call "potential functionings".

I have to confront weighty objections to my conception of "potential functionings".<sup>83</sup> One might claim that it is not necessary that a society can secure potential functionings for all in order to count as a society that secures the corresponding capabilities for all. With regard to my example, so the criticism goes, the answer has to be "yes" because as a matter of fact all citizens, the eighty who want to nourish themselves properly and the twenty fasting believers, have their capability to be well-nourished secured. An example that is supposed to strengthen this criticism is the capability to "take a walk on the beach". Even if it is true that not *all* citizens can transform this capability into the corresponding actually achieved

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<sup>83</sup> I am indebted to Tim Mulgan for introducing the two following examples and the related criticisms of potential functionings to me.

functioning at the same time, we are saying that all citizens are free to take a walk on the beach and possess the capability to do so. This example seems to weaken my argument from potential functionings that insists that a society must have at least enough and as good basic necessities at hand that would be necessary to secure the actually achieved functioning for all (if all decided to do so) in order to count as a society that secures the corresponding capability for all, i.e. that all have the option available to go for the functioning in question.

Concerning this counterexample I should say that my argument from potential functionings works best with a) central (basic, harm-related) capabilities and b) with the subgroup of central capabilities the securement of which is strongly dependent on the provision of (these capabilities') material prerequisites. The example of "possessing the capability to take a walk on the beach whenever one wants to do so" is neither a central one nor is its society-wide securement really dependent on the overall material situation of the society in question. The non-material prerequisites that have to be present in order to secure the capability to take a walk are certainly important ones. We can imagine an authoritarian regime that prohibits, let us say, citizens to take a walk on the beach on Thursdays. If the capability to take a walk on the beach whenever one wants to do so counted as a central, harm-related, one and if the global order could be blamed for fostering such unjust domestic regimes than the better-off, imposing this global order, would indeed have an obligation of justice to do something about this injustice and render the non-material prerequisites for this capability (i.e. just domestic institutions allowing all to take a walk whenever they want to do so) accessible. I have doubts, however, whether this capability is harm-related enough to count as a central one. What renders a capability into a central one is exactly the fact that all citizens must "activate" it within a similar time frame in order not to be deprived of human essentials such as bodily and mental health. This is the case with the capability to be well-nourished but not with the capability to take a walk on the beach.

A good like university education might be another example capable of showing that potential functionings for all cannot be the proper standard in order to judge that all society-members possess a particular capability. With regard to the capability to attend institutions of higher education, it is enough that everyone has a fair opportunity to attend a university; it cannot be the goal of a just society that it has so many material resources available that *all* citizens *could* attend universities at the



same time *if they wanted* to do so. This example is more relevant to my argument since it is in fact concerned with a capability that is strongly related to a society's material situation. Contrary to the capability of taking a walk, the capability to attend a university is conditional on the society in question having a certain quantity and quality of material resources at hand (financial means, competent educational and scientific personal, infrastructure, etc.). What makes the counterexample not work, however, is that the capability to attend universities is a non-basic one. A society that "only" has enough resources at hand to secure the actual functioning of "attending a university" for a certain number of qualified citizens does not fail the potential functionings test. It does not constitute an instance of severe bodily or mental harm if someone, having equal chances to prepare and apply for higher education, does not actually function on this level.<sup>84</sup>

Let me try to make this point clearer by contrasting the capability to attend a university with the central and basic capability to receive elementary education. In discussing Nussbaum's list of central capabilities I stressed that the lack of rudimentary school education in fact constitutes an instance of harm. This is so because not being able to read, write, and having a minimal level of mathematical skills renders the global poor into extremely vulnerable participants in the system of global politics and economics. Securing the potential functionings for all citizens of a poor society in this sphere is then in fact a minimal requirement for a just global order. A poor society can only be regarded as one that is well-off enough if it had all the basic necessities at hand that would be necessary to allow all citizens to receive basic education. In the case of the capability to receive basic education I therefore defend my demanding baseline of potential functionings. Also, and this is the crucial idea underlying the conception of "potential functionings", someone opting not to receive basic education only has the capability to do so secured if she has the option of actually receiving basic education available to her. It is my interpretation of the notion of "possessing a central capability" that one must live in a society that has the material prerequisites available that are necessary to transform the capability into the corresponding functioning.

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<sup>84</sup> A poor society that is not able to offer any higher education at all poses different questions though. In this case an argument applies that is similar to the one in favour of universal basic education. A society not being well-off enough to have any institutions of critical scientific research, not even ones that can participate within the global scientific community passively, is a vulnerable economic and political actor. Such a society, as far as its lack of scientific institutions is due to the global order's negative effects, is entitled to some compensation on grounds of justice.

This claim is consistent with individuals actually not making use of some of their central capabilities, i.e. not transforming their capabilities into the corresponding functionings. Again, imagine a society consisting of one hundred members. Not everyone in this society wants a basic education (again this is a problematic claim, especially with regard to children and the importance of having *actually* received basic education as a prerequisite for making the notions of “capability” and “informed choice” (the choice between making use of one’s capabilities or not) work). Let us suppose, for the sake of argument, that all one hundred individuals are mature adults when they decide whether to receive basic education or not. In addition, the following claims are true with regard to this society: (1) everyone who wants a basic education gets one; and (2), for each individual who does not want a basic education, it is the case that, if they had wanted a basic education, then they would have received one. In our case that could mean that there are one hundred places in school *available*, but only ninety-nine places are taken.

That our hundred-members-society, as described in the preceding paragraph, is perfectly just (at least concerning the prerequisites for the capability of receiving basic education) is exactly the idea of potential functionings. In order for (1) and (2) to count as true properties of that society it must have sufficient material and adequate non-material prerequisites available for all, one hundred, members. In order to say that the one single member abstaining from attending school “would have been able to receive basic education if she had wanted to do so” (and that is exactly what it means to “have the capability”) her society must have been able to provide the hundredth place for her. If the society had not been able to do so, i.e. had been able to secure ninety nine places only, she would not have been able to take her place. Since “having the capability to receive basic education” means to have the choice between attending and not attending school, and we want all society-members to have this capability (not necessarily the actually achieved corresponding functioning – which is again problematic with regard to basic education), the notion of potential functionings enters the picture at this point. When the resources are available for one hundred school-places the society in question lives up to the idea of secured potential functionings regardless of whether ninety-nine students attend or one hundred. Things become problematic when a central capability such as “receiving basic education” cannot be secured for every member of a society and this is the case when our model-society can provide ninety-nine places only. Under these social circumstances the

hundredth individual cannot assent to the statement “if I had wanted a basic education, then I would have received one” and the society in question cannot be regarded as being able to secure her capability to do so. It is not necessary, at least not within the context of the example currently discussed, that all one hundred attend school and actually perform this functioning; it is necessary that all one hundred have the capability to do so and this is only the case when there are enough and as good prerequisites for this capability available for all. Only when the actual functioning is available as an obtainable option one can be regarded as possessing the related capability. That is the reason why, in cases such as the capabilities “to be well-nourished” and “to receive basic education”, I do not regard central capabilities as secured for all if a society does not have the quantity and quality of basic necessities at hand (and exhibits minimally just domestic institutions) that would be necessary if all were to actually function in these domains. Only if these material and non-material prerequisites are available, all citizens have the choice of whether they activate their capability or not.

The third example of capabilities, discussed above concerned with basic education, suggests another point worth discussing. For the sake of argument I assumed that the one hundred members are free to decide whether to transform their capability to attend school into the corresponding actual functioning or not. The more basic a specific capability is, however, the more important it becomes that citizens are not merely having the capability but actually function in the domain in question. It was one of my major criticisms of Nussbaum’s approach that it disallows central functionings as a political goal and focuses on capabilities only. With regard to our example of “receiving basic education” this criticism applies as well. Since, as I have assumed in discussing Nussbaum’s list of capabilities, having received a minimal level of basic education is a prerequisite for commanding one’s life properly it seems reasonable to require all citizens to actually go through a process of basic education. (The prime argument for compulsory school education is built around this idea.)

What does this imply for the role of potential functionings within basic needs cosmopolitanism? Since the most basic capabilities (nourishing, education, medical services, etc.) are so much an essential part of every normal human life they have in fact to be present in the form of actually achieved functionings. Take for example the capability of being adequately nourished: Since being adequately nourished is a prerequisite for an enduring and enjoyable life all human beings will have to transfer

this capability into the corresponding actual functioning. In this case it seems redundant to care about potential functionings. Since all humans have to eat properly in order to stay alive, the instances of human beings not nourishing themselves properly point directly to the absence of the capability to be well-nourished. The portion of people not actually functioning within this domain and the portion of people lacking the capability to be well nourished seem to be coextensive. What work does the idea of potential functionings do in such basic cases?

This is a strong criticism of my approach. I nevertheless think that potential functionings are crucially relevant from the perspective of better-off states asking whether the global order harms the poor or not. As my discussion of Nussbaum's list indicated "adaptive preferences" pose a problem for identifying universal standards for deciding when a society and their citizens count as being harmed by the global order. Consider the case of women in many poor countries who do not seem to "want" to receive basic education because of cultural and social circumstances peculiar to traditional patriarchal societies. Should better-off societies take these adaptive preferences into consideration when they examine the global order's effect on poor societies so that the minimal society-wide quality and quantity of resources, required to secure capabilities, becomes an extremely relative and flexible measure? Patriarchal country M and liberal country N, both having one hundred inhabitants (fifty male and fifty female), would then have a very different demand of resources necessary in order to secure basic education for all who actually "want" to receive it.

The idea of potential functionings ignores adaptive preferences. With the capability of being well-nourished this is evident. With other capabilities, such as basic education, things are more difficult as Nussbaum's extensive treatment of women in India shows. Better-off societies should not evaluate the capability-situation of India's women from the perspective of Indian society; when better-off states ask whether the global order harms the poor they should rather employ, as far as possible, standards similar to their own societies. The quality and quantity of the specific basic necessities that are required for basic (not higher!) education *for all citizens* that counts as an acceptable quality and quantity should be similar across the world.<sup>85</sup> This quality and quantity will be very different when this universal standard is employed in comparison to employing local standards that are themselves the result

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<sup>85</sup> For why egalitarian global standards are especially important with regard to basic education see footnote 65.

of long lasting deprivation and inequality. When it comes to basic education, health care, nutrition, etc. the standard of potential functionings, with its assumption that all members of society should have the bundle of material and non-material resources at hand that would be necessary if they actually all functioned in that domain, seems therefore adequate from the perspective adopted in this essay. This much paternalism is justified especially because, as long as we are debating transfers that are a matter of compensation and justice, the better-off have not much of a say in transferring their compensation conditionally. Of course, this is again the point where the non-material prerequisites for capabilities come into play. We do not want the material transfers to do more harm than good. This shows again the necessity for the better-off to take care of the non-material, social and political, situation of poor countries. The idea of potential functionings on its own is merely applied as a standard for determining how much harm is inflicted upon poor societies with regard to their material situation and assuming that the non-material prerequisites are already secured, i.e. a just domestic basic structure has been established. As will be shown below, the level of compensation that is required on grounds of justice mirrors the better-off's responsibility for the poor societies' material shortfall from the level of basic necessities that would be required to secure potential functionings for all. This standard taken by itself only determines the required transfers' quantity but not how the transfers should be spent by the receiving countries and their governments. The latter issue is, again, connected to a large extent to the non-material prerequisites for society-wide possession of central capabilities.

The idea of potential functionings is then not only helpful with identifying the detrimental effects of the current global order; derived from that, it can give an account of the better-off societies' resources they have to transfer to poor societies in order to discharge their obligations of distributive justice. The resulting requirement of these transfers is then, for example, that developing country R should receive the level of material resources necessary to lift all of its citizens above the threshold of possessing Nussbaum's capabilities (and, in some cases, functionings). On grounds of justice the better-off are required to transfer basic necessities in proportion to their and the global order's responsibility for R's lack of the material prerequisites. If the better-off cannot be blamed for a full, 100%, responsibility for this shortage – this “smaller-than-100%-responsibility” seems to be the likely one in real world applications – they are still asked on grounds of beneficence to transfer assistance to

help the poor with meeting their basic needs if they can do so without big sacrifices in addition to the justice-based compensation. I cannot give the separate justification for this beneficence-based portion of the global obligation to meet others' basic needs here. Some ideas were presented in this essay's first chapter.

So basic needs re-enter the picture when we ask at what point the people of R are sufficiently well-off so that they have the central capabilities on Nussbaum's list. I have argued that we can answer this question positively only when we consider R's "potential functionings" and can consent to the following statement: "If all people of R decided to actually function X then they would all have the necessary material prerequisites for functioning X at their disposal." Only when we can assent to this statement concerning potential functionings - i.e. R has enough material resources so that all citizens *could* actually achieve the central functionings - can we say in the same breath that all of R's citizens really possess the corresponding central capabilities. Their need for the material (and non-material) preconditions necessary to achieve central functionings are what I have been calling the basic needs of human beings. Since satisfying these needs is a precondition for possessing capabilities and for achieving functionings as presented on Nussbaum's list, we can also claim that these needs are of the same cross-cultural and universal significance as the related capabilities. Nussbaum's justificatory story for her list of central human functional capabilities carries over to my claim that there are corresponding basic needs that are of universal and global concern.

The obligation of justice to transfer funds etc. to the poor must therefore be discharged by compensating basic needs deficits that are due to the global order. Again, I regard the material preconditions as a necessary but not as a sufficient condition for providing all citizens of R with the guaranteed option to achieve actual functionings in core areas of human existence. Take for example Nussbaum's central human functional capability of "emotions". There are material conditions for a normal individual development in this essential sphere of human life. These material conditions, like shelter, a stable minimal income, and nourishments are necessary in order to develop the emotional aspects of one's personality normally in industrialized as well as in developing societies. These conditions are, however, not sufficient. Growing up in a family or a comparable caring institution, the experience of being loved by an attachment figure, having friends that support and influence each other in

their emotional development and process of maturation are other, non-material, ingredients of a normal emotional development.

Only a combination of the provision of these minimal material *and* non-material conditions allows a society to claim that it has all the resources at hand to secure its citizens' basic functionings and, derived from that, all central capabilities. What the better-off societies have an obligation to do is to compensate for their imposition of economic and political arrangements that impair this securement of functionings and capabilities and to support developing countries in this domestic project. Most plausibly, parts of this projects will be required of the better-off as a matter of justice-based compensation and parts will be a matter of beneficence-based aid. Since it is difficult to conceive of a literal redistribution of the non-material conditions for basic functionings the focus of discharging obligations of distributive justice lies on material basic necessities.<sup>86</sup> This redistribution is successful if R has the amount of material conditions for central functioning X at hand that would be required to allow all its citizens to actually execute functioning X. In this case we can say that better-off societies have compensated enough and have successfully helped to contribute to meeting the basic material needs of the people of R, even in the case where a considerably large portion of R's citizenry decides – again that implies that they already function as rational choosers, and all the material and non-material conditions for this set of functionings are secured – not to actually go for functioning X. Derived from R's ability to secure all the preconditions for its citizens to achieve the functionings incorporated on Nussbaum's list, we can claim that the better-off states' compliance with the part of basic needs cosmopolitanism that is concerned with material basic needs has successfully contributed to R's citizens possessing all central capabilities.

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<sup>86</sup> See footnote 62 for my reply to the objection that basic needs cosmopolitanism pays too little attention to the non-material prerequisites for central capabilities and to the related justice-based obligations. This essay's focus on the material, distributable, prerequisites does not imply that the poor's need for the non-material prerequisites is less urgent and does not absolve the better-off from worrying about the global order's effects on this dimension of capability-securement. It is also important to note that the material and the non-material dimensions of capabilities are significantly related with each other. One might object at this point that the better-off can affect the distribution of non-material conditions by redistributing material conditions. This is a fair criticism and it would in fact be problematic to simply "throw money at the problem" of global poverty without considering what use will be made of the redistributed material means in a particular society. Both elements of basic needs cosmopolitanism have to be pursued simultaneously. Just because this essay deals primarily with the one element concerned with material conditions this does not imply that the interdependence of the two spheres is not an issue.

<sup>89</sup> Nussbaum 2000, pp. 111.

#### **II.IV. Conclusion: Is Basic Needs Cosmopolitanism Overly Demanding?**

In concluding I want to summarise this essay's main arguments and address some objections against my theory. One might regard basic needs cosmopolitanism as an excessively demanding theory of global obligations. Applying Nussbaum's comprehensive list of basic functional capabilities as a standard for evaluating the moral acceptability of the effects of global institutional and legal regimes results in high demands on a just, or at least "non-unjust", global order. The more comprehensive the employed capability list the more difficult it will be for a global framework of trade regulations and political processes not to impair a society's access to basic necessities.

This is even more so because my approach is concerned with what I have called "potential functionings" for all, i.e. with aiming at a global distribution of basic necessities that allows poor societies to have at least as much and as good basic necessities at their disposal that are necessary to secure actually achieved functionings in central domains of human life. I defend this ambitious threshold because the idea of "possessing a central capability" only works when all members of a society really have the corresponding actual functioning *available* as an option they can go for. From the perspective of better-off societies the question of whether the current global political and economic order is an unjust one can be addressed when its effects on people's potential functionings and the related basic needs are evaluated. One advantage of basic needs cosmopolitanism is that it allows the establishment of a more objective baseline for assessing the global order's effects on poor societies' domestic situation with regard to basic necessities. We do not ask whether people are satisfied with the capability sets they currently hold; what we are concerned with is an objective limit of resources that is required to secure a cross-culturally attractive list of central capabilities. That many women in deprived societies do not seem to "want" to receive basic education is not accepted as justifying a worse off society's lower demand for education-related basic necessities. It is the central idea of potential functionings that we ask what amount and quality of basic necessities would be required if all children were to attend basic educational institutions and not what amount is required for the students who actually want to attend school. This much paternalism is part of basic needs cosmopolitanism.



This threshold of capabilities' material and non-material prerequisites also helps confronting the scepticism put forward by cultural relativists, claiming that any universal standard of well-being is a parochial expression of Western culture and values. One consequence of cultural relativism is that it becomes very difficult to find a universal standard in order to judge the justice of the global economic and political order. If "harm" were defined without any reference to universal categories (such as Nussbaum's "central human functional capabilities") it would be easy for better-off societies' to lean back and argue that many people in developing countries are actually quite satisfied with their deprived capability sets. Being illiterate because one's society cannot provide a state-funded educational system might count as an instance of severe deprivation in a highly developed society but not in most sub-Saharan states.

Here I agree again with Nussbaum's criticism of "adaptive preferences". Her examples of women in India show that a more objective standard is needed to judge whether a society can provide an environment allowing for the equal and general possession of central capabilities for all society members.<sup>89</sup> It remains, however, a challenge to capability approaches, as well as to my basic needs cosmopolitanism, to find a reasonable balance between universal basic requirements of what makes a life truly human and the capability list's "multiple realizability" allowing for local specifications. An answer to these questions cannot be given by the philosopher alone. What is important for philosophical approaches to development is to maintain an attitude of confidence that minimal requirements of what basic needs are can be formulated in the course of an interdisciplinary discourse. In the preceding sections on Nussbaum I admitted that her list might include too many controversial capabilities that cannot obtain global agreement. I have, however, also expressed my belief that her list includes the minimal elements of human lives that are of cross-cultural significance.

Basic needs cosmopolitanism starts from the assumption according to which such a core of universal basic needs can be identified. These needs are derived from a list of central human functional capabilities and from reflection upon the question of what overall social, economic and political condition a society must be in, in order to enable its citizens to possess these capabilities. My resulting theory of global obligations relies on the idea that global economic and political institutions and arrangements can be judged by examining what impact they have on these core needs

for basic necessities and just domestic institutions the satisfaction of which are the two necessary prerequisite for possessing the related central capabilities. The fact that a variant of Sen's capability approach is now successfully deployed in the United Nations' *Human Development Reports* as a respected method of comparing living standards is an additional incentive to take capabilities and functionings as the starting point when thinking about global distributive justice. My approach has tried to establish the link between "capabilities", "needs" and "justice" by means of the concept of "harm" and defends the claim that capabilities count as basic ones when not possessing them constitutes an instance of bodily or mental damage and cases of deprivation that have long-term effects on the agents rational agency. Since even libertarian sceptics about social and economic rights agree that actively harming someone is the violation of a universal negative obligation I hope to have shown that imposing a global order that harms people by rendering the satisfaction of basic needs impossible or difficult counts as an injustice and generates justice-based obligations of compensation.

This essay has been concerned with this type of obligations of distributive justice only (type A). Compensation can be the result of other patterns of international conduct as well. My coordinate grid of global obligations, presented in the general introduction to this essay, is intended to remind us that coercion, deception, fraud etc. also generate justice-based obligations to compensate (type B) for violations of negative obligations ("not to coerce", "not to deceive", etc.). In addition, this essay has not addressed questions of what better-off societies are required to do about severe poverty (type C) and global inequality (type D) in case they have not contributed to these dire straits at all. I believe that a strong rationale can be construed for, at least, category C, i.e. beneficence-based obligations to meet basic needs. (But my opinion is, of course, not an argument.) I am more sceptical about applying ideals and principles of full-fledged egalitarianism, as we know it from theories of domestic social and economic justice, to the global level. I was not able to deal with these issues here, and their satisfying examination requires much philosophical work, especially on the arguments in favour of establishing a substantial difference between

what egalitarian justice demands in the case of liberal society's domestic institutions in contrast to a just global order.<sup>90</sup>

The demandingness of basic needs cosmopolitanism is restricted in two ways: firstly, the justice-based obligations of global redistribution - again, we are only considering category A of my coordinate grid - cannot ask the better-off for more compensation than mirrors their responsibility for basic needs deficits that are due to the global order or other multilateral arrangements. The highest possible transfers the obligation of justice to meet basic needs can ask the better-off to arrange are transfers in proportion to a 100% responsibility for these deficits in basic necessities. Secondly, since even Pogge admits that the problem of world poverty is a combination of global and local factors<sup>91</sup> the compensation the better-off are required to transfer to poor countries will not be in proportion to a maximum 100% responsibility. Instead they are asked to discharge a combination of compensation on grounds of justice and what is normally regarded as development assistance based on beneficence – if a proper rationale for beneficence-based moral obligations can be developed.

Obligations of beneficence are also moral requirements and their stringency depends on their underlying rationale, which I have not sketched in this essay. In the case of the combined picture of distributive obligations the question of excessive demandingness only applies to the second, beneficence-related, portion. I am making a normative, as opposed to a descriptive, claim here. As a matter of fact, the justice-based portion can be very demanding, i.e. asking the better-off for a huge quantity of compensatory transfers. The same can be true of the beneficence-based portion. The important difference is that considerations of demandingness should be allowed to play a role in the better-off's moral deliberations only within the context of beneficence. This is a corollary of the claim I established in chapter one: What distinguishes obligations of justice from obligations of beneficence is a different level of stringency. As long as we are debating transfers within the framework of justice the better-off's complaint about overly demanding sacrifices that result from

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<sup>90</sup> The current debate in response to Blake's (2001) and Nagel's (2005) essays are concerned with drawing this distinction between domestic egalitarianism and global sufficiency. For responses to Nagel see Cohen/Sabel 2006 and Julius 2006.

<sup>91</sup> Pogge 2002, p. 112. Even though Pogge accepts local factors such as a country's history, its culture and its environment as reasons for poverty he assigns a large responsibility for these "local" problems to the global order. These responsibilities have to be mirrored in the better-off's obligations towards poor societies. My focus in this dissertation has however been on the global order's effects caused by the institutional and legal arrangements structuring global trade and politics.

discharging this global obligation lacks the justificatory force we grant in the framework of obligations of beneficence. My discussion of Singer's consequentialist approach to global redistribution criticized his approach because of its mere focus on beneficence. Since consequentialism neglects the question of *why* the poor are in the dire straits they currently are, its focus on beneficence generates the worries about overly demanding sacrifices. It has been one of this essay's major objectives to depict the shortcomings of consequentialist and utilitarian approaches to global redistribution. A mere focus on the current state of the world and the resulting normative claim requiring the better-off to transfer as much as possible because it generates the highest aggregated level of well-being has been rejected because of the weight I assign to the question of whether and to what extent the better-off share some responsibility for the current state of the world and the desperate situation of the poor.<sup>92</sup>

It has been Pogge's achievement to direct the debates about global distributive justice into a direction that pays attention to the insight that global redistribution is not only a matter of beneficence, let alone mere supererogation and charity.<sup>93</sup> My "intuitions" about global justice and about the impact the better-off's responsibilities have on justifying global obligations, that I tried to transform into a theory, have been strongly influenced by Pogge's ideas. The major objective of this dissertation has to a large extent been to evaluate the impact of one of Pogge's major ideas on the categorisation of global obligations requiring the better-off to do something substantially about global poverty and inequality. This idea is that the better-off's imposing and upholding of an unjust global order constitutes the violation of the

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<sup>92</sup> It might well be that consequentialism turns out to provide the superior rationale for global obligations within categories C and D of my grid. My criticism remains valid though, because a mere consequentialist approach to the problem of global justice has difficulties in drawing a distinction between categories C and D on the one hand and categories A and B on the other. It has been this Poggean distinction that I have taken as one of the most important starting points for establishing basic needs cosmopolitanism.

<sup>93</sup> When reading my dissertation readers might be tempted to think that I use the term "beneficence" in an almost "amoral" way, i.e. as being located outside the realm of moral obligations altogether. This impression would be a misunderstanding of my project of drawing a sharp distinction between the spheres of justice and beneficence. Obligations of justice and obligations of beneficence are both moral obligations in the sense that people failing to discharge them are blameworthy. The same is not true in the case of supererogatory action. My aim has been to flesh out an intuition according to which the obligations of justice asking for positive action on the part of the obligation bearer gain their special moral stringency because of the preceding violation of negative obligations in Pogge's sense. The imposition of an unjust (because "harmful") global order is such a violation of a negative obligation. It generates obligations that are of a different stringency than other moral obligations asking better-off parties to help the worse-off if they can do so within a certain limit of sacrifices.

negative obligation, *not* to inflict avoidable harm on others. I have deviated from Pogge in determining what properties render the global order into an unjust one. I replaced his threshold of social and economic human rights with one of basic needs which were in turn identified by asking what the prerequisites for universally approved human functional capabilities are.

Pogge is right when he emphasises his theory's element asking better-off societies to stop the violation of a negative obligation. He convincingly argues that "a more poverty-avoiding *alternative* design of the global institutional order [is possible], [and] 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."<sup>94</sup> Actively working towards institutional reforms and imposing pressure on their democratically elected political representatives are only two options citizens of better-off societies can engage in to contribute to this process of stopping the continuation of living as part of a global system that contributes to people not being able to meet their most basic needs. Another criticism of Pogge's and my theories of global justice might be put forward at this point. It is problematic and implausible, the critic claims, to assign an equal degree of responsibility to each better-off state or even to each of its citizens. Why should democratic societies' ordinary citizens share the same amount of responsibility to compensate for global injustices as do their elected representatives and non-elected business executives? In addition, poverty is rare in High Income Countries but not completely eradicated. Moreover, these "wealthy poor" are often themselves victims of global economic developments.

This objection is not easily confronted. The reality is certainly more complex than my simplified percentage-style assignment of responsibilities suggests. Such an assignment will not be possible in the case of comparing societies and this will not be easier in the case of individual citizens within wealthy societies. Pogge is aware of these shortcomings of the responsibility-story as well.<sup>95</sup> It is certainly not possible to sharply assign responsibilities to the better-off on one side and declare the poor mere victims on the other. Within better-off societies many people, often women, suffer from the effects of global developments. Are these "better-off poor" imposing an unjust global order on themselves then; an order that is to their own disadvantage? Pogge is right when he reminds the critic that his approach to global responsibilities

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<sup>94</sup> Pogge 2005a, p. 55. My emphasis.

<sup>95</sup> Pogge replying at a conference in Edinburgh 5/2006.

does by no means imply that “a single jobless mother in Harlem”<sup>96</sup> shares the same level of responsibility for not doing anything about reforming the global order, and bringing to broader attention the current state of affairs, as does a globally acting top manager or politician.

I want to add, however, that the idea of democracy would become a very weak one if this relativising of responsibilities is done too extensively. Without being able to examine these issues here, I should claim that there must be something seriously wrong with democratic legitimacy if democratic citizens are so badly informed about public affairs and global injustices that they can be released from any responsibilities whatsoever for whom they vote for and therefore be declared absolute non-contributors in imposing an unjust global order. The better-off’s democracies would then be a *farce* and certainly not a political ideal worth fighting wars for, or worth being promoted in distant countries by military and diplomatic means. The critic is, however, right in pointing towards the importance of differentiating levels of responsibility and levels of what impact global obligations should be allowed to have on ordinary citizens’ lives.

In this essay my focus has been lying on one out of four categories of global obligations. This obligation of justice, based on basic needs deficits, can be regarded as another normative consequence resulting from Pogge’s theory of global justice, a consequence Pogge himself pays insufficient attention to. I should stress my agreement with Pogge’s main idea according to which stopping the imposition of an unjust global order is one major aspect of the better-off’s obligations. In addition, however, the past and continuing effects of harm-generating global institutions and arrangements ask the parties responsible for and profiting from them to do more than just stopping their imposition. One of Pogge’s major motivations for introducing the idea that the better-off in fact violate a negative obligation not to harm the poor has been to criticize the long lasting dominance of declaring debates about global justice to take place within the framework of positive obligations only. Pogge does not deny that there are such positive obligations to help the poor. My discussion of Peter Singer in chapter one showed that these positive obligations to help the poor can be very demanding. I agree with Pogge, however, that all these approaches have neglected the fact that the violation of the negative obligation not to harm someone carries with it

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<sup>96</sup> Ibid.

the moral stringency that, unfortunately, seems to be required to make better-off citizens and their politicians really think and do something about global poverty. Global justice is not so much about doing good but about not doing wrong.

My category of obligations of justice is what Pogge calls a “positive duty”. It asks better-off societies to do something, namely to transfer parts of their wealth to the poor. These transfers are, however, not a matter of charity. They are, as far as certain empirical claims about the global order’s negative effects are true, also not a matter of beneficence-based obligations. What I tried to show in this essay is that some “positive duties” can have the stringency Pogge thinks is only a property of negative duties. I establish this claim by assigning an obligation of distributive justice to preceding violations of negative obligations. If the better-off have been harming the poor then the stringency of the violated negative obligation spills over to the related requirements of compensation. I therefore argue in favour of a more evenly balanced picture concerning the two elements in Pogge’s theory: not imposing an unjust global order on the poor by inflicting harm on them (the negative duty) is a demand of justice. The compensation for this imposition, however, must not be neglected just because it is a positive obligation. In addition, this picture is attractive to extreme libertarians. Rectification for past and present failures to fulfil negative obligations is a demand of justice. What I want to emphasise is that this rectification requires the obligation bearers to “actively do something” and that this activity-feature renders the requirement to compensate into a “positive” obligation. In this restricted sense of “positive” also libertarians are (when certain empirical assumptions are true) committed to accepting some positive obligations on part of the better-off. This restricted sense of “positive” is, however, strong enough in order to support my conclusions about global distributive justice defended in this essay.

Critics of basic needs cosmopolitanism might point towards another shortcoming. Not only is basic needs cosmopolitanism an incomplete theory with regard to the four redistributive obligations distinguished at the outset of this essay - only the category of redistributive obligations of justice related to basic needs deficits is discussed here. Even the four categories taken together, the critic continues, do not give a complete and useful picture of what better-off societies should do about global injustice. Even worse, basic needs cosmopolitanism’s resemblance to traditional development approaches, focusing on financial- and resource-transfers, expresses its adherence to an outdated and unsuccessful, paradigm of international development.

Already the nineteen fifties' failure to stimulate third world economies' "take-off" by means of (half-hearted) financial transfers towards these countries' elites did not only not improve these countries' situation but rendered them worse-off overall. Capital transfers got stuck and were wasted with corrupt local elites, using these transfers to entertain militias or spending them on personal luxuries. No such thing as a "trickle down effect" took place. Basic needs cosmopolitanism commits the same mistake, asking the better-off to transfer compensation unconditionally to ruling elites thereby worsening the situation of the countries' poor citizens.

At this point it is important to point towards the incompleteness of basic needs cosmopolitanism. As mentioned above, transfers on grounds of justice are a necessary but certainly not a sufficient means to equip a poor society with an environment that allows its citizens to possess central human functional capabilities. I repeatedly stressed the importance of the capabilities' non-material prerequisites such as institutional reforms and democratization. It is in fact the case, as Pogge's empirical observations show, that better-off states are required on grounds of justice to assist poor societies with providing these political and social prerequisites. Justifying these obligations requires a lot more work than just applying the rationale for basic needs cosmopolitanism, as presented in this essay, to these issues. Support for poor countries' domestic institutional reforms broaches a number of intricate issues reaching from paternalism over the respect for national self-determination to the problem of military humanitarian intervention by the better-off states. At this point I can only stress that basic needs cosmopolitanism does not exclude stringent international obligations to assist in establishing just domestic institutions. Basic needs cosmopolitanism is definitely sensitive to the fact that material transfers alone cannot be the solution to the problems of global development.

Let us conclude with a final, realistic and honest, statement about this essay's objectives; a statement that might seem disappointing and provoke criticisms especially from people involved in more practical endeavours concerned with global development. Basic needs cosmopolitanism cannot be applied to the practices of developmental policies in the form of a master plan guiding political and economic action regardless of each particular case's special features. It would be naïve to believe that responsibilities and the corresponding extent of compensatory obligations can be determined within a percentage scale in real world cases. It might also turn out that the obligations to meet others' basic needs do in fact interfere with our affluent



lives so much that they cannot be implemented by means of democratic elections in which citizens vote primarily to protect their more immediate interests.

If it turned out that all this and other practical limitations are in fact the case this does not mean that basic needs cosmopolitanism is an ill-conceived moral-philosophical theory, however. The initial objective of this essay has been to get clearer about some important conceptual differentiations. The moral philosophical exercise performed here has examined the differences between and the relationship among moral obligations based on “justice” and the ones based on “beneficence”. It has tried to establish a standard for identifying the global order as “unjust” by means of the concept of “harm”. The latter was in turn related to “basic needs” which were derived from a list of universal human functional capabilities. I am confident that these adjustments on the conceptual level, however, do not generate consequences on a semantic level alone. That the academic debates about world poverty have been dominated by notions such as “charity” and “beneficence” was not only relevant for the theoretical discussions of global ethics. A shift towards the idea of “justice” is not only a re-labelling of this same old debate; it can be the starting point of a more widespread remodelling of the categorical framework within which affluent citizens and their politicians judge their acts, and the consequences of those acts. These, more fine-grained, normative judgments about our globally effective actions might well initiate a shift in our actual responses to these actions and consequently have an impact on the morality of our future actions. If this essay has contributed at least something to clarifying this framework of normative categories, it has achieved a lot.

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