

Poverty as a violation of human rights: Inhumanity or injustice?

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The proposal that poverty ought to be regarded as a violation of human rights and therefore as a condition that ought to be abolished is presented as ‘a new paradigm in the fight against poverty’ that has the potential to galvanise an effective strategy for ending poverty through an international human rights framework.. In the words of Pierre Sane, Assistant Director-General Social and Human Sciences Sector UNESCO:

If, however, poverty were declared to be abolished, as it should with regard to its status as a massive, systematic and continuous violation of human rights, its persistence would no longer be a regrettable feature of the nature of things. It would become a denial of justice. The burden of proof would shift. The poor, once recognized as the injured party, would acquire a right to reparation for which governments, the international community and, ultimately, each citizen would be jointly liable. A strong interest would thus be established in eliminating, as a matter of urgency, the grounds of liability, which might be expected to unleash much stronger forces than compassion, charity, or even

concern for one's own security, are likely to mobilize for the benefit of others.¹

In this essay explore this proposal from a philosophical standpoint, examining how the proposal may be interpreted and how it might be morally and politically justified. I suggest that the basis for the proposal would be strengthened rather than weakened by including compassion or humanitarianism as part of its moral basis and that this can be done without diluting either the moral force or the radical implications of regarding poverty as a violation of human rights.

In the first part of the paper I outline the possible practical implications of regarding poverty as a violation of human rights. I then argue the case for including a principle of humanity as one basis for such a proposal, bring out the possible distortions of over-emphasising justice as the moral basis for the obligation to relieve poverty and deal with some misunderstandings that get in the way of acknowledging and drawing on the thesis that, in the case of dealing with extreme poverty, it is usually the case that we should put 'humanity before justice'.²

I

Before going into the moral foundations of the thesis that poverty is a violation of human rights the context of the debate may be clarified by identifying some of the possible implications or foreshadowed political agenda of the proposal.

The categorisation of poverty as a violation of human rights and talk of the abolition (rather than the eradication) of poverty may be seen at the very least as attempts to give a higher priority to the elimination of poverty as an economic and political goal.³ As such it will be applauded and encouraged by everyone who recognises the horrendous realities of widespread extreme poverty of the sort experienced by over a quarter of the world's population. Approaching poverty through the prism of human rights is to lift it from the status of a social problem to that of an unavoidable imperative. To talk of poverty in terms of human rights violations is to endorse the parity and inter-connection of basic social and economic rights with fundamental civil and political rights. Currently, while official cognisance is given to the equal importance of economic and social rights on the one hand and civil and political rights on the other,⁴ there is no doubt that, for one reason or another, social and economic

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¹ Pierre Sane, 'Poverty, the next frontier in the struggle for human rights' Paper presented to an International Seminar on 'Poverty and Inequality in Brazil', Brasilia, 8-9 May 2003, p.4..

² The provocative title of a paper written at a time when it was being asserted without contradiction that justice is, by definition, the overriding moral consideration with respect to the distribution of the benefits and burdens of social cooperation: T.D.Campbell, 'Humanity before Justice' 4 *British Journal of Political Science* 1974, 1-16.

³ UNESCO, 'Abolishing Poverty Through the International Human Rights Framework: An Integrated Strategy (Working Paper' 2003; Thomas Pogge, 'Severe Poverty as a Human Rights Violation' (Unpublished ms, March 2003).

⁴ Preamble to the International Covenant of Economic, Social and Cultural Rights (ICESCR): 'the ideal of free human beings enjoying freedom from fear and want can only be achieved if

rights are in practice relatively neglected. Torture is held to be unacceptable, poverty merely unfortunate. The idea of poverty as a human rights violation is clearly intended to send a powerful moral message that this bifurcation of human rights is a thing of the past.

The categorisation of poverty as a violation of human rights may also be seen as a move towards bringing new mechanisms to bear on the elimination of poverty.⁵ In addition to more stringent and forcefully expressed UN monitoring of state performance with respect to social and economic rights,⁶ we may contemplate extending such surveillance to the activities of non-state actors, such as multinational corporations,⁷ and bringing the focus of human rights NGOs more on to issues of poverty.⁸

A further implication may be that we should further developing legal remedies that empower the poor to obtain their rights. Poverty cannot be abolished in the sense of eliminated simply by passing laws making its persistence illegal even if people try their best to conform with such laws. If the analogy is with the abolition of slavery, for instance, it is not easy to see what is the equivalent in relation to poverty of withdrawing the legal endorsement of treating people as property. However, possibilities range from withdrawing the legal recognition of debts incurred by poor people to the enactment of a positive duty on specified individuals or organisations to provide material support for those who lack the necessities of life.

Additionally, in both domestic and international law, such as civil liability for behaviour negligently fostering poverty, or criminal penalties for knowingly implementing policies and practices, both in government and business, that avoidably increase, or fail to decrease, poverty. Giving individuals or groups the right to sue for reparations on the grounds of poverty is certainly one of the principal outcomes that is anticipated from adopting the new paradigm.

Other less radical but actually more ambitious implications may be providing a justification for some form of global taxation earmarked for human development, with respect to eliminating poverty, such as the Tobin tax on international financial transactions,⁹ or Thomas Pogge's Global Resources Dividend,¹⁰ or, more appropriately in my view, a Global Humanitarian Levy paid by those who are sufficiently affluent to make a small contribution to poverty relief without any hardship to themselves.

conditions are created whereby everyone can enjoy his economic, social and cultural rights, as well as his civil and political rights'.

⁵ Danilo Turk, 'The Realization of Economic, Social and Cultural Rights' UN Sub-Commission on Prevention of Discrimination and the Protection of Minorities, E/CN4/Sub2/1992/16' para 184: 'the issue of whether economic, social and cultural rights can be violated in a legal sense has been answered convincingly in the affirmative', quoted in Paul Hunt, *Reclaiming Social Rights*, Aldershot: Dartmouth, 1996, p.27.,

⁶ Currently carried out principally by the UN Human Rights Committee.

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⁸ Thus Amnesty International

⁹ James Tobin, 'A Proposal for International Monetary Reform' 4 *Eastern Economic Journal* 1978, 153-159.

¹⁰ Thomas Pogge, 'Eradicating Systemic Poverty: Brief for a Global Resources Dividend' 2.1 *Journal of Human Development* 2001, 59-77.

Or it may be that by seeing poverty as a violation of human rights we are in effect encouraging the constitutionalisation of social and economic rights,¹¹ so that courts, not governments will be given the task of setting minimum standards in these areas, voiding legislation that they consider increases or fails to decrease the incidence and degree of poverty in that jurisdiction, or requiring specified resources to be provided by governments or employers or intervening when governments fail to contribute adequately to international poverty relief.

Finally, an implication of seeing poverty as a violation of human rights might be that economic sanctions, loss of access to loans, or even armed intervention may be envisaged at least to the extent that these methods are utilised with respect to the protection of civil and political rights.

Once we have in view what might be the implications of the proposal we can turn to the issue of its justification. Here we come up against the initial difficulty that the implied scenarios may be more problematic in the case of social and economic rights, than with civil and political ones, not because widespread and severe poverty is less significant morally than deprivation of the right to vote or systematic torture, but because the causes and cures of poverty are much more elusive, much more controversial, much more challenging than many other human rights deficits.

Experts disagree about the factors that produce or sustain poverty and about the economic policies and that offer most hope of poverty elimination. It is generally accepted that eradicating poverty requires more than redistribution of income. If the more that is required is enabling poor people to be able to provide for their own material necessities then there may be considerable controversy over how to bring this about. Further, mechanisms do not exist for the systematic redistribution of resources throughout the world. This affects not only the problem of identifying precise human rights obligations with respect to the reduction and eradication of poverty, but also the prospect of establishing legal claims against those who are alleged to be responsible for the poverty in question.

Then, with respect to the constitutionalisation of social and economic rights, courts may lack the expertise to know which laws they should void in the interests of poverty reduction and what it is proper for them to require governments to provide by way of welfare policies and economic strategy. And the more they intervene in this sphere the more there will be democratic issues raised as to their legitimacy to determine economic and social policy.

In these circumstances it may be unjust, ineffectual and sometimes counter-productive to contemplate legal remedies and international sanctions in order to deal with alleged violations of human poverty rights or to legally ‘abolish poverty’.¹²

These familiar objections to treating social and economic rights on a par with civil and political rights are far from conclusive, but they do require clear and considered

¹¹ As, to some extent, is currently the case in the constitutions of India, South Africa and Finland.

¹² For an exposition and response to such critiques, see Martha Jackman, ‘Constitutional Rhetoric and Social Justice: Reflections on the Justiciability Debate’ in Joel Bakan and D. Schneiderman (eds.) *Social Justice and the Constitution: Perspectives on a Social Union for Canada*, 1992.

responses. The rhetoric of ‘violation’ and ‘abolition’ may be given the clarity and precision that is required to enable us to scrutinise the proposal and there may be powerful considerations in favour of one or more of the alternative implications of seeing poverty as a human rights violation.

Certainly there is no reason to exclude endorsement of some version of the tenet of the human rights movements that social and economic rights are in a mutually supportive relationship to civil and political rights. It is now well established that the logical and practical differences between justiciable and non-justiciable rights, between costless and costly rights, and between negative and positive rights has been greatly exaggerated, perhaps for ideological reasons.¹³ Social and economic rights cannot be left in the aspirational basket.

But we do have to work very hard to make clear the meaning and implications of regarding poverty as a violation of human rights and providing the sort of clear and convincing arguments that will be needed to give wide credibility to this thesis.

In carrying out this task we must first step back and think not so much of regarding poverty as a violation of human rights and consider the precise location of the violation in question. If poverty is a violation of human rights precisely what does the violation consist of? This in turn requires some clarification of what we mean by poverty in this context.

With respect to the latter question, there often seems to be a confusion of poverty with either its causes or its effects or both. In asserting that poverty is a violation of human rights we may be taken to that when other (non-poverty) rights are violated then this causes poverty, as when in violation of a person’s civil rights they are held in confinement without justification and their family is reduced to poverty. Generalising the assumption here, the assertion is that violation of human rights in general causes poverty. That fits with the now standard view that human rights are inter-dependent.

Or we may take the violation to occur when as a result of being poor people are then despised and disrespected and discriminated against, so that poverty leads to a violation of their human rights in general. This assumption is frequently associated with the view that the poor are systematically excluded from society.

These two themes are enough in themselves to make poverty a human rights issue, and there is no reason to doubt that they have considerable factual foundations.

There is another possible interpretation of the proposition that poverty is a violation of human rights, namely that all or very many human rights violations can be classified as poverty violations, since almost all human rights violations can be read as reducing the capacities of the right holders to lead a truly human life so making them impoverished. This is an approach which may be encouraged by conceiving all human rights as deriving from the existence of certain human needs or, in more positive terminology, the capabilities whose absence indicates the existence of a need. Thus a human life requires the capability to communicate, generating a right to freedom of speech. In this way all human rights violations can be seen as causing deprivations

¹³ See Henry Shue, *Basic Rights*, Princeton University Press 1980.

that are classifiable as impoverishments since they involve the lack of something required to live a truly human life.

However, I assume that the proposal is directed primarily at least at the idea that the condition of poverty is to be viewed as a distinct violation of specific human rights, such as the right to subsistence or the right to a tolerable standard of living. Such rights assume that poverty is a matter of severe material deprivation reducing below an acceptable level a person's diet, accommodation, physical comfort and health. At base what we are talking about here is what is referred to as extreme poverty, something for which international organisations, such as the World Bank, seek to define in economic terms, such as a minimum income but which may be more directly identified with malnutrition, homelessness and resultant ill-health and premature death.

But what is the violation when such extreme material poverty of this sort occurs? Two possibilities suggest themselves. The first is that the violation occurs when the poverty is caused. More particularly, the analysis might be that poverty is a condition that is brought about by the conduct of other people, and that conduct is the violation.

Alternatively we may identify the violation not in the causation of harm but in the failure to act so as to enable those who are in extreme poverty to escape from that condition. The violation lies in the inactivity of those who are in a position to do something effective about it.

It seems to me that the choice between these two readings of what the violation of poverty oriented rights might be which is at the philosophical heart of the attempt to clarify what is at stake in adopting the proposition that poverty is a violation of human rights.

It is important to note here that the facts about global injustice feature in two rather distinct matters: the extent of poverty, and the degree of inequality involved. This is the familiar distinction between absolute and relative poverty. The latter concerns the facts of inequality, that one person or group has more or less than another. Relative poverty simply means being at the low end in the measure that is adopted to compare the holdings of those being studied. The former focuses on what it is to be poor, irrespective of any comparisons that may be drawn with others. Absolute poverty is defined as a deprivation of that which is required to live a life that is worse than that delineated by standards (stating basic needs, minimum capabilities etc) that apply irrespective of relative holdings. Conceptually, it allows that we may all be equally poor, or that, in some unequal societies, no one is actually poor.

I am concerned in this essay with both relative and absolute poverty, but the two interests have different foci. It is principally the existence of absolute poverty on which I concentrate as the problem. Relative poverty is something I take up, not in determining what is wrong with absolute poverty, but in the context of determining who has the obligation to remedy this undesirable state of affairs. That is, the basic problem is poverty not inequality as such, but inequality features in the articulation of a solution to the problem.

Putting the issue in terms of rights, the proposition to be analysed is that everyone has a right to the means of basic subsistence: the right to the material and social conditions necessary to remain alive, in normal health and in reasonable comfort.¹⁴ As this is a universal right (it applies to everyone everywhere), as it is undeniably an important (perhaps the most important) right, and as it is something that we can individually and collectively do something about, it is a clear candidate for being categorised as a human right.

On what grounds might we believe that such a right does or ought to exist? We have to be clear here whether we are dealing here with moral human rights or positive human rights. Moral human rights are claims that we believe ought to be recognised universally (either in morality or law). Positive human rights are rights that exist in actual systems of social norms (societal rights) or posited in human legal systems, such as the International Bill of Rights (that is the United Nations Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Social, Economic and Cultural Rights).

Positive legal human rights do include such a right to subsistence. Article 25.1 of the UN Declaration of Human Rights (which may be regarded as ‘soft law’) reads: ‘Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, housing and medical care and necessary social services and the right to security in the even of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control’. This is echoed in the International Covenant on Economic, Social and Cultural Rights Article 11.1: ‘The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living from himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.’ The positive right to a decent standard of living is therefore clear and by now authoritatively expressed in international law.

The normative question about moral human rights is whether positive human rights (societal or legal) ought to contain such a right. Few people would doubt that they should, but the question is: why?

II

My thesis is that the core violation of human rights that is properly associated with extreme material poverty is the failure to respond effectively to poverty by those who are able to do so. This is not an analytical but a moral thesis, but I hope to contribute philosophically to its support by examining its ingredients and its implications.

The contention is that, in relation to extreme poverty, our human rights obligations derive from duties of humanity (relating to benevolence, altruism and caring) rather than duties of justice (relating to fairness, desert and merit), and do not prioritise justice over humanity.

¹⁴ Poverty is sometimes defined as social exclusion. If this means exclusion from material powers then this is unproblematic. However, while social exclusion in a broader sense, including absence of discrimination and presence of political participation, is both a cause and a consequence of poverty it is misleading to identify it with poverty.

This is why, with respect to the idea that poverty is a violation of human rights, I interpret this as referring not primarily to the thesis that poverty is always the result of the culpable conduct of others (which is often the case) or that it is the abuse of human rights generally that leads to poverty (which it evidently routinely does) but that failure to deal effectively with the elimination of poverty when in a position so to do that is the violation. It is the failure to alleviate poverty rather than complicity or actually causing poverty that should be regarded as violating poverty related human rights.

If this is what we have in mind then the discourse of violation is advantageous in prioritising the alleviation of poverty in a way that focuses on failures to do something effective about eradicating poverty, and in the strategies it suggests we might adopt with respect to the failure to so act.

On the other hand, I do not think that it is a good idea to speak of poverty as a violation of human rights if this is linked to the thesis that poverty is primarily caused by culpable injustice requiring compensation and reparation and that this is the reason why we ought to do something about it. This approach has the unfortunate implication that the only poverty that we should prioritise is that which results from official action or the failures of unjust social and economic systems, rather than, for instance, the product of natural disasters or individual acts whose unforeseeable cumulative effects result in economic harms. We surely have an obligation to eradicate all poverty, whatever it causes and we do not want to make this eradication dependent on how that poverty comes about, and certainly not on establishing who or what is to blame in bringing it about.

(I also do not believe that constitutionalising a very abstract right to something like a decent standard of living is advisable if this is to be given applicable content by bodies other than the elected representatives of the people.)

It might, therefore, be argued that we can dispense with moral niceties of the sort presented in theories of international justice as to *why* the persistence of such inequalities are morally wrong and get on with the task of working out how to remedy what is agreed to be a morally unacceptable state of affairs, and then motivate ourselves and others to do something about it.

In some ways this is correct. It is the feasibility of different corrective measures that needs most urgent intellectual attention. It is not what is wrong, but how to put it right that is the prime issue. What we ought to be addressing is the lack of political will and moral commitment. The major practical questions are how to overcome the economic, cultural and political obstacles to the sustainable and effective relief of widespread and devastating unnecessary poverty.

However there is a further question that must be addressed, one which has a complex relationship to the issues of effective means and practical motivation. That question concerns *who* ought to be taking the lead or playing the major roles in doing what is necessary to correct the global imbalance of wealth. To put the matter in terms of rights. If those in remediable poverty have a right to sustenance who has the correlative duties, and what is the scope of those duties? Or, to put the matter in

utilitarian terms: if the sum total of human misery can be greatly reduced, who has the duty to bring this about and what is the specific content of these duties?

At least some of the inaction over global justice has to do with the absence of agreement as to responsibility for taking remedial action, and of what sort. Disquiet about who is responsible for doing something effective about global inequality is at the very least, a contributor to general inaction. Making headway on this issue may help to break this impasse and therefore have some indirect impact on resolving the problem. So it is an issue that is worth addressing. And it is an issue that cannot be addressed without having regard to the concept of global justice and in particular, why causing or acquiescing in the existence of extreme poverty is wrong, perhaps a grave wrong that should be conceptualised as a violation of human rights.)

There are two sorts of broad answer to this question. There is an approach which sees poverty as a grave evil experienced by those who are poor. The other looks at poverty as a grave injustice, in terms of the relationship between those who are poor and those who are not.

On the first approach, in seeking to identify what it is about poverty that is an evil to those who are poor, the most obvious answer, to which I adhere, is the suffering that lack of the means of subsistence causes: hunger, pain, misery, sickness and death. On a utilitarian scale of values pain and suffering are the great evils. That is why the most evident way of doing what is right is to reduce extreme forms of human suffering. The relief of misery for its own sake is an impulse whose justification is a core intuition not only of utilitarian ethics but of any plausible system of moral thought.¹⁵ That version of consequentialism called ‘negative utilitarianism’, perhaps better labelled ‘humanitarianism’, gives moral priority to the relief of pain, suffering and distress of each individual.

Perhaps equally obvious is that subsistence is necessary to survival and without survival it is not possible to carry out any activities or enjoy any experiences that are deemed to be morally desirable. Subsistence is a material precondition or causal prerequisite not only of happiness but of everything that is valued by human beings. One such necessary precondition is agency. On this view agents require to be alive and in a position to think rationally and choose effectively if they are to fulfil their nature as agents.¹⁶

Much human rights discourse rightly centres on the idea of moral agency, particularly moral agency: the ennobling model of genuinely human life as a life of deliberation, moral choice and the opportunity to act accordingly. This is sometimes held to constitute a unique and distinctively valuable aspect of genuine human existence on which the very notion of human rights is founded. It is a grounding that is said to explain why human life has such intrinsic value and marks it out as distinctive from

¹⁵ Thus, Adam Smith, *The Theory of Moral Sentiments*. The distinctive feature of utilitarianism as an ethical theory is that it makes the production of pleasure and pain the sole moral criteria.

¹⁶This neo-Kantian approach is exemplified in the work of Alan Gewirth. See Gewirth, *Human Rights*, University of Chicago Press 1982, pp 201ff: ‘..by virtue of being actual or prospective agents who have certain needs of agency, persons have moral rights to freedom and well-being. Since all humans are such agents, the generic rights to freedom and well-being are human rights...It is obvious that starvation is a basic harm, a deprivation of basic well-being.’

any other sort of worthwhile being. On this view, which is of obvious application to rights of freedom and democratic participation, is applied to the necessities of life by arguing that these are significant primarily as prerequisites for the exercise of moral agency.¹⁷

I have doubts about this way of identifying the prime evil of poverty. It seems to me to be an important but secondary matter compared with the suffering involved, although it is clearly relevant to how we go about helping to deal with poverty. This causal precondition approach makes the suffering involved in poverty incidental to the evil of poverty, something that is derivative (and may not actually eventuate) from the lack of such factors as agency capability. It is a different matter to rest the right to sustenance on the simple nastiness of the actual experience of living such a deprived life. When the emphasis is on the causal precondition aspect of poverty this detracts attention from the independent fact of the horrible experiences that it involves and this has the urgency of lessening the urgency of the moral demand for alleviating poverty. But there is no question that moral agency is on of the other values at risk when there is extreme poverty.

While these analyses (suffering per se and agency capability) appear to reinforce each other and would not appear to be in competition they are in fact rather different in content and implications. In terms of content, the former is a matter of the intrinsic undesirability of poverty as a form of suffering and the other is a matter of its causal consequences for human agency.¹⁸

So I go for a humanitarian rather than a Kantian interpretation of the intrinsic evil of poverty, but perhaps this is a family quarrel that we need not settle here.

The radically alternative approach, through the concept of justice, directs our attention to the responsibility that may be ascribed with respect to the production of poverty though an unfair social system or the wrongful conduct of others who have exploited or abused their superior economic power.

¹⁷ Thus article 22 of the UN Declaration of Human Rights : Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation ad in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

¹⁸ In terms of implications, the rationale for the evil of poverty we adopt or emphasise over the other affects the further question as to who is or should be responsible for meeting subsistence needs. Making the value of agency the core of human rights inevitably impacts not only on the issue of what is wrong with poverty but also on the issue of who is responsible for its eradication.

Thus, the focus on moral agency, inevitably raises questions about the responsibility of those living in poverty for their own condition. If someone is, even partly, held accountable for their own impoverishment, as it is reasonable to inquire into on the moral agency view of human rights, then the mere fact of privation may not be conclusive with respect to their right to alleviation. In this way the impact of the humanitarian impulse is blunted by apparently good moral reasons.

Further, the moral agency analysis of human rights tends to shield us from the more immediate moral implications arising from the facts of human suffering. for it points us in the direction of the assessment of moral responsibility for bringing that poverty about, sometimes to the point of holding that the duty to relieve suffering is dependent on being the culpable cause of that suffering.

Without denying that there are special duties that arise from the culpable causation of suffering and other related evils (duties that fit conceptually under the heading of justice a discourse in which relative merits is most at home¹⁹), it is important to emphasise the existence of other, desert-free foundations, of duties to relieve poverty that derive from humanity rather than justice. Such duties are not special but prima facie general in that they are founded on the morally uncomplicated relationship between the evil of suffering and the obligation to relieve it.

The principle of benevolence or 'humanity' (as in 'humanitarian') is based on the propriety of the elemental response of aiding another human being arising from seeing, imagining or knowing of the suffering of that being irrespective of who is suffering or why that suffering came about. Justice looks at the matter through a more complex prism, that always at least raises the question of whether the suffering in question is merited or deserved in some way and who if anyone may be responsible for its occurrence.

At the very least, both humanity and justice are relevant to the eradication of poverty. But, perhaps humanity in relation to extreme suffering has a certain priority over justice, a priority that comes into its own when refusing to accept exculpatory rationales used to excuse people from their obligations to do something about it, such as those based on the alleged moral failures of those in dire need or the property rights of those who are in a position to relieve that suffering and various other sorts of buck-passing.²⁰

It is important, therefore, that in exploring the idea that poverty may be a violation of human rights, we accept that, in some spheres at least, humanity comes before justice. In the case of extreme poverty, humanity renders some considerations of justice irrelevant and is certainly not dependent on it for triggering an obligation to act so as to eradicate it. Contra Rawls, justice is not by definition the overriding factor in the distribution of benefits and burdens.²¹ If poverty is a violation of human rights it is primarily because on the stringency of the demands arising from the existence of suffering, irrespective of the special characteristics or merits of those involved. On this view, poverty is the basis of a universal, unqualified claim based on the moral relationships between those who suffer and those who can do something about it.

So, the suggestion is that subsistence rights are grounded primarily in the universal humanitarian obligation to participate in the relief of extreme suffering. The universality of this obligation is relative to the capacity of the person or collective to contribute to the reduction of extreme poverty. The duty of relieving world poverty falls on everybody in proportion to their capacity to do so, although it may be enhanced by any role they may have in contributing to the existence of that poverty.

III

¹⁹ See Tom Campbell, *Justice*, London: Macmillan, 2nd edn. 2001.

²⁰ Tom Campbell, 'Humanity before Justice' 4 *British Journal of Political Science*, 1974, pp.1-16.

²¹ This often repeated assumption is simply stipulated in the early pages of *A Theory of Justice*, Oxford University Press, 1972.

The prime objections to drawing primarily on the principle of humanity with respect to the eradication of poverty is that this is assumed to be a morally weaker basis than that of justice. Humanity is thought of as 'mere charity', and dissociated in some minds from the discourse of rights and obligations. What is at issue here is to some extent a matter of moral judgment and to some extent a confusion as to the principle itself.

Here it is necessary to point out that what is being argued is that humanity is a basis for obligation, and not just the sort of moral obligations that are not legally enforceable but as a basis for the justification of having legal obligations. This means that my thesis is not subject to the criticism that to make the relief of poverty dependent on humanity is to rely on charity in the sense of the spasmodic benevolence of human beings. Rather the principle of humanity is proposed as an underlying justification for creating a means of dealing systematically with poverty.

This the principle of humanity could be used to justify adopting radical redistributive schemes through progressive domestic taxation regimes and coercive international measures of a sort that might be adopted through UN. One such proposal is for a Global Humanitarian Levy (GHL) which aims to capture the humanitarian basis for the alleviation of extreme poverty by instituting a universal obligation to participate in tackling poverty as a global issue through a mechanism that embodies rough proportionality with respect to capacity to assist. This might involve a 2% tax on all personal incomes over US\$50,000 per year, and a levy of 2% on personal wealth above US\$500,000, and equivalent corporate levies relating both to profits and wealth. These levies could be imposed via national governments but would be administered globally.

The legitimacy of such levies depend on the efficient use of the funds generated for the purpose of abolishing extreme poverty. This would mean that it could not be deployed solely through the medium of governments whose efficiency, morality and accountability are in question. Solving these political and administrative difficulties would be a precondition of the legitimacy of the scheme, as is the case with the implementation of all attempts at global redistribution and development.

Given the coercion and intervention required to establish such a universal humanitarian scheme, it fits well with the paradigm of extreme poverty in a world replete with resources as being a violation of human rights and that such poverty ought to be abolished as a matter of urgency. It has the merit of not tying this conception closely to the controversial and patchy thesis that this poverty is the outcome of the injustice, and of emphasising that the violation arises foremost because of the failure to eliminate that poverty rather than complicity in causing it. The violation occurs when those with the capacity to do so fail to respond. Leaving people in extreme poverty is the affront to humanity that could justify coercive intervention in support of a GHL.

We could identify as a prime rationale for a GHL the principle of humanity, that it is the obligation of those who can to relieve the extreme suffering of other human beings, an obligation that is not dependent on relative merits and demerits, or identifying those responsible for the causes of poverty or suffering generally except as part of a strategy for working out how to do something effective about the evils of

poverty. Such a scheme illustrates that considerations of humanity are no less stringent, or more discretionary or less demanding than those of justice.

Similarly there is no implication that justifying such obligations in terms of humanity means that what is being suggested is a paternalistic attitude to the poor, or render them subject to the discretionary choices of those who are better off. Rather it is the basis for asserting a moral right to poverty relief and a proper basis for the creation of legal rights to the same end.

Further, once it is accepted that there are such humanitarian obligations, then failure to fulfil these obligations does raise issues of justice. It becomes a matter of justice that such obligations are enforced and their neglect becomes a basis for civil liability and even criminal sanctions. Having justice rather than humanity as the grounds of the obligations in question does not mean that it is not a matter of justice that such obligations be implemented. The obligations are based on the inhumanity of neglecting poverty. Justice then requires that these obligations are performed or compensation paid. The humanitarian approach can therefore generate the sort of legal implications I outlined at the beginning of then paper. Indeed, they provide a basis for allocation of legal obligations and remedies on a much wider basis than is enabled by requiring some degree of complicity in the causation of the poverty in question.

Many remain doubtful about this, but I think it is the point at which moral progress needs to be made to provide the moral basis for effective action to deal with poverty. Charity is not to be 'mere charity' any more.

Thomas Pogge (Global Poverty and Human Rights) thinks this is a mistake. He contends that it is too weak (in that it is not forceful enough to make an impact on conduct).

Others argue that it is too strong and hence open-ended in that it puts us on a slippery slope to beggaring ourselves in the cause of helping others.

Pogge's analysis holds to the moral distinction between harming and not preventing harm, between killing and letting die. For him, therefore, the violation that grounds human rights obligations with respect to poverty must be a positive act of harming others in such a way as to cause their poverty in a culpable manner.

He holds that, once we have come to grips with the horrendous phenomenon of global poverty, the crucial factor is the degree to which we are all, government, citizens, and corporations, complicit in a system that causes such poverty. The evil is not so much the poverty itself as the fact that it is the result of human institutions and collective choices.²²

Once this is established then it may seem a relatively minor step to move from talking of human rights shortfalls to human rights violations. The easy assumption is that culpable causal responsibility, establishes that those so responsible have an obligation

²² Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*, Cambridge: Polity Press, 2002.

to compensate those who are in poverty as a result of that culpable conduct. A similar, if weaker, connection is made between those who have benefited (either unknowingly or unwillingly) as the result of an economic or political regime that has reduced or kept others in poverty.

With such relationships we can readily make sense of the discourse of compensation, perhaps enforced by courts, and criminal liability for those who deliberately or negligently take part in systems that benefit themselves unfairly to the impoverishment of others. If we take the analogy with slavery again, the thesis is that benefits that derive from such an institution are criminal. Outlawing such benefits may not immediately eradicate the phenomenon of slavery, but the violations approach does have the effect of removing official doubt as to the legitimacy of such an institution and opening the way for appropriate remedies against perpetrators, something that may not only be immediately justified but also in the long term more effective in eradicating the phenomenon.

On something like this basis Pogge proposes a Global Resources Dividend (GRD) to raise finance for the relief of poverty by taxing the proceeds of the extraction and sale of non-renewable resources as a way of rectifying the injustices involved in the global market, a scheme that has the welcome side-effect of slowing down the rate of depletion of such resources.²³

Without casting serious doubt on the thesis that the international economic system is unjust and or denying that it implicates all the developed world in the outrage of global poverty, tying the rhetoric of human rights violations to this culpability/complicit analysis of the grounding of the obligation to ‘abolish poverty’ may be questioned.

Part of that questioning goes back to the fundamental issue raised earlier about whether the moral imperatives here are exclusively those of justice to the exclusion of humanity. Other parts of the critique relate to the variety of ways in which the content and implications of Pogge’s thesis may be questioned. I would group these under the following heads (1) empirical controversiality (2) individual and collective responsibility (3) counter morality (4) conceptual constrictions.

(1) *Empirical controversiality*. The empirical controversiality critique focuses on Pogge’s thesis that failure to support and implement an economic and social system that would have better consequences for the poor is culpable. The objections here are not to the moral thesis but to the empirical difficulty of establishing what according to that there was or is an attainable more just system, where justice is taken to be partly dependent on the outcomes of the system.

Take the fairly crude question as to the economic benefits or harms resulting from the attempt to instantiate the libertarian ideology of minimal government and freedom of trade. Many horror stories can be told as to the poverty deriving from the implementation of such ‘economic rationalism’, as the recent history of Mexico and many South American economies amply demonstrates. But how can we hope to get agreement as to whether there were better options available, either by more rigorous

²³ Ibid, chapter.

implementation of the libertarian model or by adopting quite different policies. We all have our own views on these matters, but so much depends on speculation about counter-factual situations and their likely outcomes that we must be said to lack an agreed empirical consensus, even amongst people of good will, to found even a probabilistic basis for an assertion about human rights violations on which it would be safe to found coercive measures.

(2) *Individual and collective responsibility*. Supposing the facts are not in doubt, and that we can agree that there were and are feasible alternatives to past and present economic orders, is this sufficient to identify those who are responsible for that order and who therefore, on the basis of justice, ought to compensate those who have been harmed by it to the point of impoverishment? The problems that arise here relate to individual responsibility for collective arrangements, arrangement that must be in many respects the unintended outcomes of uncoordinated individual choices with unforeseen and often unforeseeable consequences on the part of people who are in any case powerless to change the existing order of things.

Of course that does not mean that the existing social and economic order is not seriously unjust or that unfair advantage does not accrue to the world's wealthy minority and the elites of some developing nations, but it does suggest that the vast majority of that wealthy minority cannot reasonably be held responsible for something that they did not create and which they cannot change, at least no to the extent that it can generate an obligation to correct the moral imbalance caused by their culpability.

This does not in itself rule out drawing on the existence of an unjust domestic and international economic order as the basis for policy changes that promote fairer distribution of wealth and more equitable trading arrangements between nations, but it does suggest that the main argument for such re-orderings should not be founded on an assertion of the grave moral guilt of those who have not striven to promote more just arrangements.

Considerations of moral guilt could, in principle, be more appropriately applied to those who taking a leading political and commercial role in knowingly perpetrating supporting such injustices for personal gain. Where the chain of moral responsibility is clear, and the evil of what is being done is not in serious dispute personal, and in the case of governments and corporations, collective liability both civil and criminal may be appropriate. Indeed this may be seen as the ultimate point of categorising much extreme poverty as a violation of human rights and even describing it as a crime against humanity. The danger is that such reasoning will be more broadly applied to persons whose moral guilt comes nowhere near that which would license the use of such terminology.

It response it may be argued that what is being claimed is not that those who benefit from the impoverishment of others are morally to blame, only that the situation is wrong and ought to be corrected. The receipt of unfair benefits may be wrong whether or not those who benefit are to blame for the situation. It may be right to coercively redistribute resources on this basis . But this is not to say that those who unwittingly or minimally contribute to this outcome are to be branded human rights violators, or that this is a sound basis for the use of sanctions against them.

(3) *Counter Morality*. One response to the dilution of moral responsibility that occurs in relation to political and economic systems is to rely, when seeking to establish the obligation to remedy unjust situations, on a very weak sense of ‘participation’ in such systems according to which all that is required to establish obligation is that there is a ‘system’ in the sense that decisions and actions taken in one place have systematic effects in another place. Thus my purchase of tea rather than coffee, together with similar choices by millions of others, may disadvantage coffee producers and advantage tea producers in different parts of the same economic system. This ‘system’ may be described as an ‘order’ either in the weak sense that it is patterned and therefore ‘orderly’, or because it is the product of ‘orders’ in the form of rules laid down and enforced by authorities, such as the intellectual property regime under the TRIPS agreement.

I have already argued that those who act or are affected by the actions of other in such systems cannot be held to be responsible to a significant extent, if at all, for the systemic results of their actions unless we can identify them as key figures in any decisions or rule-making aspects that may be involved in them. This is true even if the results of the operations of such systems are clearly and extremely unjust. It can also be argued that such system require to be justified in an all things considered framework that takes into account all their origins and consequences.

Thus, in relation to poverty, evaluations of the market system, or particular forms of market system, have to see markets as economic and social mechanisms that may be necessary preconditions of the material improvements in human well-being. In this context, markets must be accepted as desirable if we accept that poverty is undesirable. As A.K.Sen points out, the moral status of markets must be high.²⁴ But if market systems are the most effective way of producing the wealth that takes people out of the realm of poverty and makes available resources that may be used to alleviate poverty, it follows that being ‘implicated’ or ‘participating’ in market systems has a positive value that may be used to counter the claim that those who are so participant are responsible for the poverty of those who suffer as a result of this particular market system. It follows that it is not reasonable to criticise people for acting in accordance with the market ‘order’ by, for instance, making their purchasing choices in the light of their preferences and their own priorities in spending their available resources. By so doing they contribute as they ought to the market system that generates the resources indispensable for many morally imperative ends.

This may not, of course, be intended, by those who regard current market arrangements, or perhaps all market-based economies, as involving violations of human rights either because they may leave vast numbers of people in poverty or and actually reduce almost as many to poverty. But if this is not intended, then it needs to be made clear that what is being called for is adaptations in market arrangements either to make them more fair or (and this is not necessarily the same thing) to ensure that they do not result in significant deprivations for some of those affected by it, for instance by a system of welfare redistribution. Such policy recommendations need not be based on any general criticism of market economic systems, or any culpability on the part of those involved in such systems. Indeed participation in such economic

²⁴ A.K.Sen, ‘The Moral Standing of the Market’, 2 *Social Philosophy and Policy*, 1985, pp.1-19at 1.

orders in accordance with their existing rules may have beneficial and laudable aspects.

Again, such considerations do not negate the morality of improving systems so that they have more and better distributed benefits, but they do suggest that identifying ordinary market players as complicit in human rights violations may be simplistic, misleading and counterproductive. Simplistic because it ignores the overall performance of such systems in relation to generating wealth, misleading because it misascribes responsibility for existing and doubtless highly imperfect systems, and counterproductive because the flaws in the argument enables people to doubt and thence avoid fulfilling obligations that are in effect better grounded in other (humanitarian) considerations.

(4) *Conceptual restrictions*. Finally by way of a critique of what may be called the culpability approach to the abolition of poverty, I would point to certain dubious assumptions about the discourse of human rights that are involved, at least in Pogge's version. I am referring here to the thesis that human rights relate solely to claims against social institutions, particularly the state.²⁵ Pogge's thesis is that not all wrongs count as human rights wrongs. If someone steals my car or locks me up that is not a violation of my human right to property or liberty, but if the state confiscates my car or locks me up, then it may be. As we have seen above there are powerful historical and practical arguments for seeing the state as the prime focus of human rights violations and as the prime focus for the obligations to protect and promote human rights, but to view all human rights violations through the medium of coercive institutions is to mistake the contingent instrument for the evil we are seeking to curb. Excluding the harms that are inflicted or left unassuaged by business organisations, criminal conduct of individuals and natural disasters, particularly at a time when the capacities of most states to remedy such harms has been dramatically reduced, is to underplay the potential relevance and impact of human rights discourse.

Certainly human rights harms call for organised and systematic responses. Indeed, personally I favour conceptual schemes that relate the idea of rights to the existence or desirability of establishing effective systems of rules that prevent and remedy human harms. But to confine the evils that call for such remedies to those perpetrated by coercive human organisations is to diminish the potential of human rights with respect to affecting private and natural harms. It also plays a background role, I suspect, in encouraging approaches that seek to found human rights obligations entirely on identifying those who bring about or benefit from unjust systems. Yet, as we have seen, while this is no doubt an important part of the picture, it is only a part.

I have residual worries over the issues of moral stringency associated with humanity and justice.

As to the too stringent view I take the line that we are obliged only to do or share of what would be required of us in a system where everyone contributed according to

²⁵ *World Poverty and Human Rights*, p. 44f: 'We should conceive human rights primarily as claims on coercive social institutions and secondarily as claims against those who uphold such institutions?.'

means. And that we can get out of that my saying that poverty will be eradicated long not very far down the slippery slope. But that seems rather ad hoc.

With respect to not stringent enough, is this not seen in the fact that we are happy to make those who cause poverty pay reparations way beyond what we expect in relation to obligations of humanity, where are relatively slight in content.

But maybe an obligation to do something that calls for only a small sacrifice can nevertheless be a very stringent obligation, indeed all the more so because it is not very costly to us.

And it certainly has the strength to override such justice-based objections that we are not seriously to blame for the situation we have an obligation to remedy, or that the poor person is to blame for their own condition.

And, of course, once the obligation is justified on the basis of humanity, it does then become a matter of justice to respond to the culpability of this failure with disapproval or sanctions, civil or criminal. In this sense I fully accept that the persistence of poverty in an affluent society involves injustice.