Pogg'es Institutional Cosmopolitanism

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Recommended Citation
doi: https://doi.org/10.57709/1329427

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In his landmark work *World Poverty and Human Rights*, Thomas Pogge offers a novel approach to understanding the nature and extent of the obligations that citizens of wealthy states owe to their less fortunate counterparts in poor states. Pogge argues that the wealthy have weighty obligations to aid the global poor because the wealthy coercively impose institutions on the poor that leave their human rights, particularly their subsistence rights, avoidably unfulfilled. Thus, Pogge claims that the wealthy states' obligations to the poor are ultimately generated by their negative duties, that is, their duties to refrain from harming. In this essay, I argue that Pogge cannot successfully appeal to negative duties in a way that would appease his critics because his notion of a negative duty is seriously indeterminate, so much so as to compromise his ability to plausibly appeal to it.
2010

Georgia State University

In the College of Arts and Sciences

Master of Arts

A Thesis Submitted in Partial Fulfillment of the Requirements for the Degree of

SCOTT P. NEES

by

POGGE'S INSTITUTIONAL COSMOPOLITANISM
<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>2. MINIMALIST AND MAXIMALIST CONCEPTIONS OF DUTIES</td>
<td>5</td>
</tr>
<tr>
<td>2.1 Introduction</td>
<td>5</td>
</tr>
<tr>
<td>2.2 Maximalist Conceptions</td>
<td>7</td>
</tr>
<tr>
<td>2.3 Minimalist Conceptions</td>
<td>10</td>
</tr>
<tr>
<td>3. POGGE'S INSTITUTIONAL TURN</td>
<td>11</td>
</tr>
<tr>
<td>3.1 Introduction</td>
<td>11</td>
</tr>
<tr>
<td>3.2 Interactional Versus Institutional Paradigms</td>
<td>12</td>
</tr>
<tr>
<td>3.3 How the Rich Harm the Poor</td>
<td>17</td>
</tr>
<tr>
<td>4. NEGATIVE DUTIES AND INSTITUTIONAL COSMOPOLITANISM</td>
<td>19</td>
</tr>
<tr>
<td>4.1 Introduction</td>
<td>19</td>
</tr>
<tr>
<td>4.2 The Indeterminacy of Poggean Negative Duties</td>
<td>20</td>
</tr>
<tr>
<td>5. CONCLUSION</td>
<td>34</td>
</tr>
</tbody>
</table>

WORKS CITED | 35
Chapter 1.

**INTRODUCTION**

In his book *World Poverty and Human Rights*, Thomas Pogge develops a novel approach to understanding the nature and extent of the obligations that the citizens of the world’s wealthiest states owe to their less fortunate counterparts in the world’s poorest states. Pogge’s work has recently generated a significant amount of scholarly discussion on the topic of international distributive justice and human rights because it seeks to reconcile the views of those who, like Peter Singer, believe that we (citizens of wealthy states) have extensive moral obligations to assist the global poor with the libertarian view that we have such moral obligations only if we have more or less directly caused the impoverishment of the poor. Pogge’s project marks the fortunate marriage of an otherwise exceedingly odd couple.

...
Pogge’s strategy is to introduce a new framework for understanding human rights that he hopes will allow him plausibly to claim that the wealthy and powerful’s participation in social institutions through, for instance, their political and economic activity, is sufficient to activate their negative duties to refrain from harming others (in this case, the global poor). His view, which he dubs “institutional cosmopolitanism,” is motivated by the fact that global institutional structures (such as the global economy, international law, and, in general, the shared practices of a society, such as the ways in which the main political and social institutions of society help generate and sustain social institutions of society in ways that ensure that the “basic structure” of society is consonant with the Rawlsian understanding of justice as pertaining to the institutional framework, or “basic structure,” of society (cf. Rawls, 2001, 10-12). Rawls defines the “basic structure” as the framework of political and social institutions that are the result of the initial distribution of primary goods, such as freedom and wealth, that are necessary for the maintenance of a society. Pogge’s rejection of institutional cosmopolitanism is consonant with the Rawlsian understanding of justice as pertaining to the institutional framework, or “basic structure,” of society, given that Rawlsian cosmopolitanism might enable citizens of wealthy states to thereby excuse their political activity (and consumption) from responsibility for the massive famine and poverty-related deprivations that are the scourge of much of the world’s population today.

Hence, if this is the case, then it follows that the wealthy states of the world are largely responsible for the massive famine and poverty-related deprivations that are the scourge of much of the world’s population today.

Moreover, Pogge argues that these structures determine in large measure whether or not the human rights of the world’s poor are fulfilled.

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Pogge’s explicit focus on institutions is consonant with the Rawlsian understanding of justice as pertaining to the institutional framework, or “basic structure,” of society (cf. Rawls, 2001, 10-12). Rawls defines the “basic structure” as the framework of political and social institutions that are the result of the initial distribution of primary goods, such as freedom and wealth, that are necessary for the maintenance of a society. Pogge’s rejection of institutional cosmopolitanism is consonant with the Rawlsian understanding of justice as pertaining to the institutional framework, or “basic structure,” of society, given that Rawlsian cosmopolitanism might enable citizens of wealthy states to thereby excuse their political activity (and consumption) from responsibility for the massive famine and poverty-related deprivations that are the scourge of much of the world’s population today.

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The duties that individuals—particularly human rights—owe to one another. In chapter three, I explain the differences between what Pogge calls "minimalist" and "maximalist" views of I have divided the body of this essay into four chapters. In the next chapter, I explain the way that our participation in the global institutional order is sufficient to activate negative duties to refrain from harming others and also thereby generates obligations on our part to participate in the global institutional order in a way that would be convincing to someone who did not already believe as much.

The outcome, on my view, is that Pogge does not accomplish what he initially sets out to do. He does not, in other words, show that we have strong duties to assist the global poor in a situation in which our participation in institutions generates obligations to refrain from harming others through our participation. The libertarian notion that the duty to refrain from harming others is the foundation for rights debate much much becomes insufferable. I argue that Pogge's view becomes insufferable from a normative appeal. Specifically, I argue that Pogge's view becomes insufferable from a normative appeal.

In chapter two, I attempt to show that Pogge's account of negative duties is subject to serious indeterminacy. So much so, I argue, that this view is essentially an appeal.

To what extent is Pogge's strategy successful? This is the question that I take up in this essay. In the first place, I attempt to show that Pogge's account of negative duties is subject to serious indeterminacy. So much so, I argue, that this view is essentially an appeal.

In chapter three, I explain the differences between what Pogge calls "minimalist" (i.e., libertarian) and "maximalist" views of human rights. In chapter four, I discuss the implications of Pogge's account of negative duties for our obligations to the poor. In chapter five, I discuss the implications of Pogge's account of negative duties for our obligations to promote institutional reform. In chapter six, I discuss the implications of Pogge's account of negative duties for our obligations to the poor.
my own arguments and respond to objections, and I offer some concluding remarks in chapter

Pogge, in short, hopes thereby to sidestep the impasse between minimalist and maximalist conceptions. By offering his institutional cosmopolitanism as an alternative to the different interactional cosmopolitanisms, Pogge hopes thereby to sidestep the impasse between minimalist and maximalist views of the duties that human rights entail. Pogge, in short, hopes to

4
Chapter 2.

MINIMALIST AND MAXIMALIST CONCEPTIONS OF DUTIES

2.1 Introduction

I begin this chapter by laying out some of the basic conceptual machinery that Pogge employs in the course of his argument. The distinction I shall outline here and discuss at greater length below is between two different understandings of the duties that human rights entail. Pogge lays out the basic distinction when he writes:

On one hand, then, are libertarian (what Pogge calls, and what I shall hereafter for convenience call, “minimalist”) conceptions, according to which rights entail negative duties (that is, duties to refrain from harming others or from violating others’ rights). On the minimalist view, our duties to protect and to assist others can be activated only insomuch as we have violated their rights to retain from harming others or from violating others’ rights. On the minimalists’ view, our negative duties (that is, duties to refrain from harming others) are to be activated only insomuch as we have violated their rights. On the other hand, there are libertarian (what Pogge calls, and what I shall hereafter for convenience call, “maximalist”) conceptions, according to which human rights anywhere on earth entail not only negative duties (to refrain from violating others’ rights) but also positive duties (to promote, provide, and protect; and positive duties of which all nations are entitled to enforce). On the other side are maximalists, according to whom human rights entail genuine duties (to social security, work, rest, and leisure, and to education, health care, a decent standard of living). Such a maximalist conception makes clear that human rights entail truly positive duties, which are said to impose obligations on us regardless of whether or not we are directly implicated in any rights violations.

The minimalist account disqualifies social and economic rights (such as the right to education, healthcare, social security, work, rest, and leisure) because these rights are thought to entail positive duties (that is, duties to aid and assist). On the minimalist view, our duties to protect and to assist others can be activated only insomuch as we have violated their rights. On the minimalist view, our duties to protect and to assist others can be activated only insomuch as we have violated their rights.

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What Pogge calls “maximalist” conceptions hold that rights entail both negative and positive duties; that is, rights entail duties both to refrain from harming others as well as duties to protect and to assist others whose rights are subject to being violated. Importantly, the maximalist position is as follows: the minimalistic account (I) entails duties that (1) entail negative duties (to refrain from violating others’ rights). The overarching aim of Pogge’s project, as we shall see, is to attempt to formulate a conception of human rights that, in some sense, squares the minimalist’s insistence that human rights entail only negative duties with the maximalist’s insistence that there are also social and economic human rights. If he is successful, Pogge hopes to show that citizens of wealthy states have strong moral obligations to assist their counterparts in impoverished states and that these obligations are grounded in a negative duty to refrain from harming others (in this case, the global poor). In what follows, I shall explain what I mean by all of this by discussing in greater detail what it is that distinguishes negative rights, as Shue describes them, from others. As Shue notes: “The position of negative rights requires provision for a police force and legal system to enforce my rights. The notion of a negative right is grounded in a regulatory role for government, which is understood as a duty to prevent violations of personal liberties. The end result of the positive preventative steps taken by the state to enforce negative rights is of course an enforced refraining from violations. The central core of the right is a right that others not act in certain ways” (Shue, 39). The upshot, on Shue’s account, is that to the extent that the differences between positive and negative rights is diminished in this way, “the distinction between negative [security] rights and positive subsistence rights, though not entirely illusory, are too fine to support any weighty conclusions” (ibid., 30).

For a more thorough treatment of the distinction between positive and negative rights, see Shue (1996, 35-65). In particular, Shue’s discussion brings to the fore some problems associated with making too sharp a distinction between positive and negative rights. The central problem is that securing negative rights (for instance, against violations of one’s physical security) often requires a host of positive actions in addition to what Shue calls “negative refraining” (39). Thus, my negative right against being attacked requires that others refrain from attacking me but in addition may require positive provision for a police force and legal system to enforce this right. As Shue notes: “The notion of a negative right is grounded in a regulatory role for government, which is understood as a duty to prevent violations of personal liberties. The end result of the positive preventative steps taken by the state to enforce negative rights is of course an enforced refraining from violations. The central core of the right is a right that others not act in certain ways” (Shue, 39). The upshot, on Shue’s account, is that to the extent that the differences between positive and negative rights is diminished in this way, “the distinction between negative [security] rights and positive subsistence rights, though not entirely illusory, are too fine to support any weighty conclusions” (ibid., 30).

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2.2 Maximalist Conceptions

The maximalist approach proceeds by arguing that in addition to negative duties, rights also entail positive duties that require us to assist those whose rights have been violated or remain unfulfilled, though it is being unfulfilled is not the result of some harm committed by an individual or collective agent. Yet, even when rights remain unfulfilled, the maximalist understands the minimal core of human rights as also entailing positive duties that include a series of actions such as donating to charities, providing aid directly to those in need, and ensuring that those who are subject to human rights violations or whose human rights happen to remain unfulfilled are also entitled to positive rights, regardless of whether or not those who are subject to human rights violations are also the agents who have violated those rights. The maximalist approach argues that such duties require us not only to refrain from causing harm but also to assist those who are subject to human rights violations or whose human rights remain unmet, even when those who are subject to human rights violations are not the agents who have violated those rights. The maximalist approach, therefore, asserts that we have a moral obligation to assist those who are subject to human rights violations or whose human rights remain unfulfilled, even when those who are subject to human rights violations are not the agents who have violated those rights.

A human right, for instance, to the basic necessities required to stay above the absolute poverty line, may remain unfulfilled, though the right may be no agent who violates the right in question. Subsistence rights are absolutely fulfilled. In such a case, there may be no agent who violates the right in question. Collectively and individually, however, there is a moral duty to ensure that the right is fulfilled. Hence, the need for some human rights to remain unfulfilled, though the right is being unfulfilled is not the result of some harm committed by an individual or collective agent. Yet, even when rights remain unfulfilled, the maximalist understands the minimal core of human rights as also entailing positive duties that include a series of actions such as donating to charities, providing aid directly to those in need, and ensuring that those who are subject to human rights violations or whose human rights remain unfulfilled are also entitled to positive rights, regardless of whether or not those who are subject to human rights violations are also the agents who have violated those rights. The maximalist approach argues that such duties require us not only to refrain from causing harm but also to assist those who are subject to human rights violations or whose human rights remain unfulfilled, even when those who are subject to human rights violations are not the agents who have violated those rights. The maximalist approach, therefore, asserts that we have a moral obligation to assist those who are subject to human rights violations or whose human rights remain unfulfilled, even when those who are subject to human rights violations are not the agents who have violated those rights.
The maximalist approach to moral obligations is typified by the work of Peter Singer, whose landmark essay, "Famine, Affluence, and Morality" (1972), did much to inaugurate the debate on the nature and extent of the obligations that the citizens of wealthy states owe to those living in poverty.

In the essay, Singer appeals to the following principle as justification for what amounts to a positive duty to help the impoverished: "If it is in our power to prevent some negative thing from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it" (1972, 231). The argument that Singer develops employs this principle by claiming, first, that extreme poverty is bad and, second, that it is well within the power of most citizens of wealthy states to assist those living in poverty without making a sacrifice of comparable moral importance.

I say "what amounts to" here because Singer does not explicitly invoke positive duties in the course of the essay, though he mentions them. I do not mean to suggest that Singer offers a rights-based approach; rather, his work typifies what Pogge calls a minimalistic understanding of moral obligations. The point I wish to highlight is how a maximalist approach to minimalistic understanding of moral obligations could provide the normative core of a more robust, rights-based approach. For example, the argument that Singer employs to support his minimalistic approach is based on considerations such as the following: Suppose you are walking near a shallow pond, and you see a child drowning, but there is no one else around to help. Singer contends that provided that you would be able to save the child without making a sacrifice of comparable moral importance, you have a moral obligation to save the child. To appreciate fully the intuition supporting Singer’s principle, consider the following counterfactual scenario that Singer famously develops in order to marshall support for his argument: Suppose you are walking near a shallow pond, and you see a child drowning, but there is no one else around to help. Singer contends that provided that you would be able to save the child without making a sacrifice of comparable moral importance, you have a moral obligation to save the child.

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Singer goes on to draw an analogy between the drowning-child scenario and the situation that obtains between the well-off citizens of wealthy states and their less fortunate counterparts in poor states. Like someone happening upon a drowning child in a pond, the world's well-off are in a position to prevent grave harm from befalling others without thereby sacrificing anything of comparable moral worth. All of the morally-salient features, then, of the drowning-child counterfactual case are also present in the very real situation with respect to the wealthy and global poverty, and accordingly, on Singer's view, the same principle that motivated our intuitions in the counterfactual case are also present in the very real situation with respect to the wealthy and global poverty. All of the morally-salient features, then, of the drowning-child are in a position to prevent grave harm from befalling others without thereby sacrificing anything in poor states. Like someone happening upon a drowning child in a pond, the world's well-off then, that obtains between the well-off citizens of wealthy states and their less fortunate counterparts are in a position to prevent grave harm from befalling others without thereby sacrificing anything.

Singer insists that the moral ramifications of inaction on the part of the wealthy in the face of widespread and severe world poverty are far-reaching; indeed, he claims that the consistent failure of the wealthy to discharge their positive duties to assist the poor is a symptom of a fundamentally flawed moral outlook. The implications of this view for the denizens of the wealthy states of the world are, according to Singer, quite stark: "The whole way we look at moral issues," he writes, "needs to be altered, and with it, the way of life of the wealthy that is based on minimal sacrifice. Failure of a passerby who allows a child to drown in a pond when he or she could have saved the child with minimal sacrifice is a failure to meet a weighty moral obligation, a failure that is comparable in its gravity to the moral failure of the wealthy to do anything to assist the world's poor. By extension, if the wealthy do not assist the poor in some respect, they are failing to discharge their positive duties to them. The world's wealthy ought to assist the world's poor because they can do so and can do so without sacrificing anything of comparable moral worth. By extension, if the wealthy do not assist the poor in some respect, they are failing to meet a weighty moral obligation, a failure that is comparable in its gravity to the moral failure of the wealthy to do anything to assist the world's poor. By extension, if the wealthy do not assist the poor in some respect, they are failing to discharge their positive duties to them.

Singer's concern in "Famine, Affluence, and Morality" is not explicitly to lay out and defend a conception of human rights, but his arguments lend support to the claims that he makes.
that there are stringent, positive duties to assist those living in extreme poverty and that these duties are largely unmet and, indeed, often ignored altogether.

2.3 Minimalist Conceptions

We can gather from the foregoing exposition of Peter Singer's line of argumentation that a maximalist account of human rights can be so construed as to provide support for a rather robust list of social and economic rights (e.g., rights to the material goods required for subsistence, to education, to healthcare, and so forth) and hence for a correspondingly robust list of stringent duties imposed on those who are in a position to promote and protect the rights of the world's poor. The minimalist's account, by contrast, denies that rights conceptually entail positive duties in the first place. Rather, the minimalist holds that rights in general—and, hence, human rights in particular—entail only negative duties (that is, duties to refrain from harming), and such duties in particular entail only negative duties (that is, duties to refrain from harming), and hence the minimalist's list of rights by and large includes only rights that prohibit harmful interference by others, whether “other” denotes both individual and collective entities (e.g., governments). As such, the minimalist's list of rights by and large includes only rights that prohibit harmful interference by others, whether “other” denotes both individual and collective entities (e.g., governments).

On Allen Buchanan's reconstruction of the argument (2004, 195-201), two reasons are commonly offered in support of the minimalist's claim that rights entail only negative duties. First, the minimalist claims that we have a “duty of charity” to support others' welfare, though this duty is not a requirement of justice. Thus, we ought to aid others, but our charity is not something we owe to them, and hence they have no right to it. Second, the minimalist denies that rights conceptually entail positive duties in the first place. Rather, the minimalist holds that rights in general—and, hence, human rights in particular—entail only negative duties (that is, duties to refrain from harming), and hence the minimalist's list of rights by and large includes only rights that prohibit harmful interference by others, whether “other” denotes both individual and collective entities (e.g., governments). As such, the minimalist's list of rights by and large includes only rights that prohibit harmful interference by others, whether “other” denotes both individual and collective entities (e.g., governments).

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Chapter 3.

POGGE'S INSTITUTIONAL TURN

3.1 Introduction

In the previous chapter, I laid out two different views on the duties that human rights entail. Both minimalist and maximalist conceptions typically fall within the broader rubric of what Pogge calls "interactionalism" or, alternatively, "interactional cosmopolitanism." Briefly, the latter view, says Pogge, "assigns direct responsibility for the fulfillment of human rights to other individuals or groups, or to the state, rather than to the broader community of which one is a member." (2008, 176). In this chapter, I begin by explaining how, on Pogge's view, interactional cosmopolitanism allows Pogge to go beyond the dispute between minimalist and maximalist understandings of human rights.

Pogge's view is "cosmopolitan" insofar as it includes three distinct elements: "First, individualism: the ultimate units of concern are human beings or persons--rather than, say, family lines, tribes, or states. The latter may be units of concern only indirectly, in virtue of their individual members or citizens. Second, universality: the status of ultimate unit of concern attaches to every living human being equally--not merely to some subset, such as men, aristocrats, Aryans, whites, or Muslims. Third, generality: this special status has global force. Persons are ultimate units of concern for everyone--not only for their compatriots, fellow religionists, or suchlike." (2008, 175).
our participation in institutional structures that we share with the poor is sufficient to ground our responsibility to them and is thus sufficient to activate our negative duties to refrain from harming them in the event that these institutional structures cause them harm. In the remainder of the chapter, I go on to highlight Pogge’s reasons for thinking that the global institutional order does actually cause harm to the poor.

3.1 Interactional Versus Institutional Paradigms

Pogge’s innovation lies largely in his rejection of the interactional paradigm in favor of institutional cosmopolitanism, which, as noted, claims that the responsibility for the fulfillment of human rights is assigned to other individual and collective agents, whereas the interactional paradigm assigns direct responsibility for evils such as global poverty to individuals and collective agents when they directly and negatively interfere with them. Likewise, maximalists believe that the latter must exercise restraint in their interactions with others and must compensate these agents because the latter must exercise restraint in their interactions with others and must compensate these agents for the responsibilities they fall directly on individual and collective agents. For the minimalist, responsibility falls directly on individual and collective agents. For the minimalists, responsibility falls directly on individual and collective agents. For the minimalists, responsibility falls directly on individual and collective agents.

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or nonfulfillment of human rights falls directly on institutional schemes, in the first place, and in individual and collective agents only indirectly, that is, only insofar as they contribute to the relevant institutional schemes. To understand precisely what it is that distinguishes institutional from interactional cosmopolitanism and how the two views yield different understandings of the duties that human rights entail, it is helpful here to understand that there are two distinct aspects of Pogge's institutional view that should be disaggregated: first, there is a definitional component that lays out how Pogge understands the concept of human rights, and second, there is a normative component, which generates prescriptions in light of his definition of human rights. I discuss each of these components in turn in the paragraphs to follow.

Pogge's understanding of the concept of human rights is perhaps most clearly and succinctly expressed in the following passage:

By postulating a human right to X, one is asserting that any society or other social system, insofar as this is reasonably possible, ought to be (re)organized so that all its members have secure access to X, with security always understood as especially sensitive to persons' risk of being denied X or deprived of X officially: by the government or its agents or officials. Human rights, then, are moral claims on the organization of one's society (2008, 70).

We can see immediately from this passage the most salient respect in which an institutional conception of human rights differs from an interactional conception: on the institutional view, human rights are a function of how social institutions are organized. This way of understanding the concept of human rights differs from what we might call the traditional understanding of human rights, which includes no conceptual tie to institutions and which defines human rights as a set of moral rights that attaches to persons qua their humanity (that is, not in virtue of their race, gender, religion, or nationality).

To say, for example, that I have a right to the market is to postulate that there is a right that all persons have to participate in the market, and thus to engage in economic transactions. This way of understanding the concept of human rights differs from an interactional conception on the institutional view, however.

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The critical step in Pogge’s argument comes about in virtue of the normative component of his view. According to the institutional view, the duty that arises from this does not require that X have directly violated Y’s rights. If Y’s rights are not met--reflected in a society’s human rights record--then, on the institutional view, because the institutional view does not require moral responsibility for individual human rights violations, moral responsibility for the human rights record of a given society--and hence moral culpability, if human rights are enshrined in institutional structures of that society. Although X may not have directly violated Y’s rights, if X is a member of a society that could have acted differently to meet the minimum subsistence threshold, X shares responsibility for official disrespect of human rights (i.e., human rights violations) in that society. The normative component, then, can be summed up in terms of a single principle: “Persons who in any way are causally responsible for sustaining the institutional structures within which human rights are met, are responsible for the protection of human rights” (Pogge 2008, 70). Or, on an alternative formulation: “Those ought not to cooperate in the imposition of a coercive institutional order that avoidably leaves human rights unfulfilled without making reasonable efforts to within any coercive institutional order they are involved in promoting” (Pogge 2008, 70). Of course, some share responsibility for official disrespect of human rights (i.e., human rights violations) in ways that are not through direct action. The general idea is that since human rights are moral claims on the institutional order, the critical step in Pogge’s argument comes about in virtue of the normative component of his view.

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both X and Y live within and participate in the same social institutions, institutions which allow Y's human rights to remain unfulfilled, then X shares responsibility for Y's situation and must, on pain of violating a negative duty to refrain from harming Y, take measures to protect Y and to promote institutional reform such that Y has secure access to the objects of constitutional cosmopolitanism.

To illustrate how interactional and institutional views support different understandings of human rights:

1. **Interactional View:**

   - A moral right against enslavement places constraints on individual behavior by prohibiting ownership of slaves. For example, I do not have obligations to the enslaved arising from a positive duty to assist, so long as I do not personally own slaves or participate in slave trafficking. The right against enslavement also places constraints on the legal and economic institutions by requiring participation by all agents and individuals in eradicating slavery.

2. **Institutional View:**

   - On the institutional view, those involved in upholding the institutional order that authorizes and enforces slavery—those who own no slaves themselves—owe a duty to protect slaves or promote institutional reform.

A few words should be said here regarding the importance of institutional cosmopolitanism.
institutional cosmopolitanism, if correct, succeeds in implicating anyone who participates in an institutional framework in which human rights are unmet in the violation of a negative duty to refrain from harming. The strategic importance of this move lies in the invocation of the negative duty. Pogge seems, on my reading, to be agnostic on the question of whether or not rights entail both negative and positive duties, but he quite explicitly formulates his argument so as to appeal to the minimalists (who understand rights as entailing only negative duties), while simultaneously giving the maximalists much of what they want (strong duties to aid the global poor, for instance). As such, the novelty of Pogge’s institutional turn lies largely in how it allows him to invoke negative duties in a rather surprising way and to a rather surprising end. If successful, then, Pogge’s project strikes a nice balance, what he calls an “intermediate position,” between minimalist and maximalist understandings of human rights: “[I]nstitutional cosmopolitanism” can generate moral responsibilities derived solely from negative duties on the part of the wealthy for the plight of all relevant harms whatsoever, regardless of our causal relation to them (2008, 177).

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therefore have had no hand in shaping. I take up Pogge’s response to this sort of objection in the next section.

3.3 How the Rich Harm the Poor

As noted above, one might argue that my obligations to aid the poor cannot plausibly extend to those who live beyond the borders of the state in which I live, as the institutional structures of any given state are primarily determined by local, rather than global, factors. Neither do I think that the institutional structures of any given state are primarily determined by local, rather than global, factors. The primary institutional structures of any given state are primarily determined by local, rather than global, factors. The primary institutional structures of any given state are primarily determined by local, rather than global, factors. The primary institutional structures of any given state are primarily determined by local, rather than global, factors.

Thus, rather than being blame-free, wealthy states frequently have had no hand in shaping. Therefore, have had no hand in shaping. I take up Pogge’s response to this sort of objection in the next section.
engage in practices that encourage and sustain corrupt governments, and hence wealthy states are also implicated in the human rights deficits that are the result of such practices.

In addition, Pogge points to several ways in which the global economy is largely shaped by the wealthy, leaving the poor vulnerable to "exogenous shocks through decisions and policies made--without input from or concern for the poorer societies--in the US or EU (e.g. interest rates set by the US and EU central banks, speculation-induced moves on commodity and currency markets)" (2008, 122-123).
Chapter 4. NEGATIVE DUTIES AND INSTITUTIONAL COSMOPOLITANISM

4.1 Introduction

In this chapter, I begin my criticism of Pogge's argument by raising several questions pertaining to the nature and extent of our negative duties under institutional cosmopolitanism. I begin with the observation that the interactional paradigm seems much better equipped in the way it allows me to have some sense of when my obligation has been met in cases of which would constitute a significant loss for both you and your family. Finally, the family heirloom, in this example, is something that you have a strong emotional attachment to and I would be hard pressed to assign the loss of your family heirloom to my own selfish needs. The stringency of my obligation to you varies in proportion to the welfare setback I have caused you.

I appeal here to what I take to be roughly the commonsensical way of understanding compensation for harms brought upon others.

I ought to honor my negative duty to you by providing some kind of compensation to you that is roughly equivalent in value to that which I stole (plus perhaps some additional compensation for the trouble I have caused you). Likewise, providing some kind of compensation to you that is roughly equivalent in value to that which I stole (plus perhaps some additional compensation for the trouble I have caused you) is what I take to be roughly the commonsensical way of understanding compensation for harms brought upon others.

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The first claim that I shall defend in this section is that the interactional view of rights lends itself to a kind of precision and determinacy with respect to its requirements that is nearly absent under Pogge's institutional paradigm. Negative duties under institutional cosmopolitanism, I argue, are indeterminate insofar as they generate obligations that are compensatory (requiring that I compensate for harms I have produced), yet that are not tied in any clear way to my specific actions and decisions within the global institutional order. The result, I argue, is that it is unclear what I must do to satisfy my negative duties. A more demanding interpretation of Pogge's negative duties makes these duties look like positive human-rights minimalists, because it places Poggean negative duties in the familiar framework of positive human-rights minimalism, and it places Poggean positive duties in the familiar framework of positive human-rights minimalism. Indeed, the argument I develop in this chapter claims that the thoroughgoing minimalists would find Poggean negative duties unsatisfying because Poggean negative duties blur, if not obliterate, the distinction between positive and negative duties, or so I argue.

4.2 The Indeterminacy of Poggean Negative Duties

The first part of the argument that I develop here points to a peculiarity with respect to how negative duties are conceived under institutional cosmopolitanism. The peculiarity in question derives from the fact that most people living under a given institutional scheme cannot discharge their negative duties toward others within the same institutional scheme by meeting the obligations deriving from the fact that most people living under a given institutional scheme cannot discharge their negative duties toward others within the same institutional scheme.

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I take the second premise of the argument to be no more controversial than the first. It

meant can be laid out as follows:

(2) Most people cannot meet the Harm-Avoidance Requirement with respect to harms

someone we must compensate them. For the harm we have caused, the first premise of the argument is not met. Cosmopolitanism is by necessity the secondary requirement that in the event that we harm

from harming others. Thus, the standard way of discharging negative duties under institutional

requirement is by meeting the secondary requirement that we reasonably must try to meet
duties because it asks us to protect the relevant victims of whatever institutional order we share
second, italicized, portion corresponds to what I call the Compensation Requirement of negative
coercively-imposed institutional structures that leave others' human rights unfulfilled. The
mean of negative duties because it asks us to avoid harming others through our participation in
second. The first, non-italicized, portion corresponds to what I call the Harm-Avoidance Requirement of negative duties because it asks us to avoid harming others through our participation in

institutioonal reform" (2008, 176, italics added). Pogge's formulation of the normative component
human rights unfulfilled without making reasonable efforts to protect the victims and to promote

Pogge's formulation of the normative component of institutional cosmopolitanism explicitly con-

I take this first premise to be uncontroversial. It

Negligence duties require (i) that we avoid harming others (the Harm-Avoidance

for the harm we have produced (the Compensation Requirement), and (ii) that if we do harm others, we must compensate them sufficiently

requirement that we meet, viz., the Requirement to Refrain
If the first two premises of the argument I have laid out thus far are true, then it follows that the primary requirement imposed by our negative duty to refrain from harming others is not merely to avoid institutional cosmopolitanism, but to meet the Harm-Avoidance requirement. Accordingly, most of us do not have control over the outcomes produced by the institutional order in which we participate, and thus are not responsible for those outcomes. In fact, even local outcomes are often beyond our control, as when our tax dollars support policies that harm the poor.

The implication here is that according to the normative component of institutional cosmopolitanism, most people must discharge their negative duties under institutional cosmopolitanism by meeting the Compensation Requirement. If the outcomes produced by the institutional order are not tied specifically to our actions, then we are not responsible for them. However, there are some notable exceptions to this rule, particularly in cases where powerful collective agents can influence outcomes through their actions. For example, the International Monetary Fund, by choosing which Structural Adjustment Package to implement, can significantly alter outcomes.

It's worth noting that even with respect to local effects of institutions in which we participate, these effects are often divorced from any particular decision we make. My tax dollars, for instance, may go toward a housing project that involves the demolition of low-income housing, thereby producing harm for the poor at a local level. However, this point still stands, even with respect to local effects of institutions in which I am a participant, that the outcomes of which I am a part are often beyond my control. I believe that this reflects the conclusion of the argument that I have made, which is that most of us cannot avoid harming others through our participation in social institutions.
Requirement to aid and protect the poor and to promote institutional reform. We can see, then, that institutional cosmopolitanism derives much of its normative force by exploiting this second-ary feature of negative duties. In other words, institutional cosmopolitanism is able to generate support for the view that we (individuals living in wealthy states) owe much to the global poor in the way of aid and assistance precisely because we cannot avoid harming them through the institutions that we collectively and coercively impose on them. In this way, institutional cosmopolitanism is able to satisfy the human-rights maximalists by generating more or less the same list of normative demands on the wealthy that they seek to justify through their ascription of positive duties.

The foregoing paragraph might raise some interesting questions regarding what the Compensation Requirement demands of us under institutional cosmopolitanism, and the fourth premise of my argument attempts roughly to articulate this:

(4) The Compensation Requirement does not say that we must compensate in kind for harms we have produced, but it does strongly suggest that whatever compensation we provide for harms we have committed requires us, I would even go so far as to say that the intuition embedded in premise four is something of a fixture of our moral reasonings.

Again, I understand this premise as attempting to make a rough, though uncontroversial, indication of what compensation for harms we have committed requires of us. I would even go so far as to say that the Compensation Requirement does not say that we must compensate in kind for harms we have committed, but it does strongly suggest that whatever compensation we provide for harms we have committed requires us, I would even go so far as to say that the Compensation Requirement does not say that we must compensate in kind for harms we have committed, but it does strongly suggest that whatever compensation we provide for harms we have committed requires us, I would even go so far as to say that the Compensation Requirement does not say that we must compensate in kind for harms we have committed, but it does strongly suggest that whatever compensation we provide for harms we have committed requires us, I would even go so far as to say that the Compensation Requirement does not say that we must compensate in kind for harms we have committed.
providing you with another car or, perhaps, something of equal or greater value than the car I have stolen. I should mention here that many examples of harms do not admit themselves so readily to an overly-simplistic calculus that allows us to determine precisely what constitutes adequate or proportionate compensation. How, for example, does one determine proportionality or adequacy with respect to compensation for intangible harms such as broken promises or offensive and insulting behavior, or for that matter, how does one determine proportionality with respect to certain tangible harms such as rape or kidnaping?

I submit, though, that the rough intuitive notion that compensation must be in some sense adequate to the harm is a sound one that finds its way into our moral reasoning in any number of cases. In addition, we might also add a corollary to premise four:

\(4a\) Once I have adequately compensated for some harm I have produced, I have met the demands of the Compensation Requirement (and hence have discharged my negative duty to the person(s) I have harmed).

This point is important because it clearly defines the extent of our obligations to atone for harms we have brought about. (4a), in other worlds, is one way of stating an intuitive moral principle that demands of the Compensation Requirement is not indefinite or open-ended, but rather ends once X has adequately met the demands of the Compensation Requirement.

In (4) and (4a), I have highlighted what I take to be some of the "normal" or intuitive ways that we tend to think about the how to satisfy the Compensation Requirement in order to equally meet the demands of the Compensation Requirement. This intuitive notion that compensation must be in some sense adequate to the harm is a sound one that leads me to my fifth premise:

Determining whether or not one has satisfied the Compensation Requirement under institutional cosmopolitanism, which leads me to my fifth premise:

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Poggean institutional cosmopolitanism is practically impossible. By this, I have two specific points in mind. First, institutional cosmopolitanism does not comport well with (4), which says, once again, that my compensation for some harm I have perpetuated ought to be adequate to or in some sense proportionate to the harm that I have committed. The reason for this is that, practically speaking, there is no way for me plausibly to match up my contribution to some harm-causing portion of the global institutional order with some definite harm caused at some other part of the institutional order that I play a part in shaping and sustaining.

I accordingly do not think that if the compensation requirement of (4a) were to be imposed on me, as Pogge is no doubt aware, I would have an unending negative duty to the global poor.

In anticipation of a potential objection here, I should note that this conclusion does nothing to damage Pogge's argument by itself, as Pogge is no doubt aware that institutional cosmopolitanism gives almost no helpful guidance whatsoever that could allow us to determine when the Compensation Requirement of (4) is met. Moreover, the negative duty as conceived under institutional cosmopolitanism is subject to serious indeterminacy with respect to what it requires of most of us.

Therefore, the negative duty as conceived under institutional cosmopolitanism:

is indeterminate with respect to what we have to do to fulfill our negative duties to the world's poor.

For my compensation obligation has expired. Measured and hard to determine when the harm caused at some other part of the global institutional order as a result of my contribution to some harm-causing portion of the global institutional order with some definite harm caused at some other part of the institutional order that I play a part in shaping and sustaining.

The reason for this is that, practically speaking, there is no way for me plausibly to match up my contribution to some harm-causing portion of the global institutional order with some definite harm caused at some other part of the institutional order that I have committed.

By this, I have two specific points in mind. First, institutional cosmopolitanism does not comport well with (4), which says, once again, that my compensation for some harm I have perpetrated could allow us to determine when the Compensation Requirement of (4) is met. Moreover, the negative duty as conceived under institutional cosmopolitanism is subject to serious indeterminacy with respect to what it requires of most of us.
neighbors, and Congressional representatives in order to bring about reform. Presumably, both of these ways of approaching the Compensation Requirement would be unsatisfactory to Pogge, the former because it demands too little, and the latter because it demands too much. The Poggean optimum, then, would likely fall somewhere in the middle, but without further specification as to what negative duties require under institutional cosmopolitanism, we have no way of knowing. Institutional cosmopolitanism is conceptually compatible both with giving endlessly and with giving little. If my fifth premise is correct (and, hence, if we have no clear metric for determining when the Compensation Requirement is satisfied), then we have no way of knowing which pole we should aim for unless Pogge can give more guidance on this point.

Before I proceed to the final premise of my argument, I shall briefly rehearse some of the points that have been made thus far. To begin, recall that Pogge's objective is to offer a conception of human rights that squares the minimalist's insistence that rights entail only negative duties with the maximalist view that we have stringent obligations to aid the poor. Institutional cosmopolitanism, hence, attempts to provide support for the maximalists' list of social and economic rights without thereby entailing positive duties, and it hopes to do so in a way that will appeal to the rights minimalists that squares the minimalists' insistence that rights entail only negative duties.

Therefore, institutional cosmopolitanism is conceptually compatible with both positive and negative duties. Institutional cosmopolitanism, as Pogge describes it, is conceptually compatible both with giving endlessly and with giving little. If my fifth premise is correct (and, hence, if we have no clear metric for determining when the Compensation Requirement is satisfied), then we have no way of knowing which pole we should aim for unless Pogge can give more guidance on this point. The former because it demands too little, and the latter because it demands too much. The Poggean optimum, then, would likely fall somewhere in the middle, but without further specification of the ways of approaching the Compensation Requirement would be unsatisfactory to Pogge, presumably, both
For specificity, let the extend of our negative duties, then, it makes little difference whether we talk of
plausibly beyond what we would normally think of as negative duties. Without some criterion
seems that the class of negative duties can swell to include any number of duties that exceed im-
certainties of negative duties under Poggean institutional cosmopolitanism. Without further spe-
ifications of negative duties, their openness to interpretation and conseguent underdetermination

The point I hope to highlight here is that given the indeterminate character of Poggean negative
duties of institutional cosmopolitanism cannot determine whether Poggean view represents a maximalist or a minimalistic version
with respect to what it requires of us (in other words, it my premise six is true), there we
simultaneously relevant because I want, ultimately, to claim that
that I have drawn between minimalistic and maximalist conceptions of institutional cosmopolitan-
ism becomes relevant because I want, ultimately, to claim that

A minimalistic view of institutional cosmopolitanism

deeply secures anything of great moral significance (we might call this version "minimalism"
duties toward the poor that are generated by our being in a position to aid and assist them without
leaves their human rights avoidably unfulfilled, but in addition to this, we would have positive
wants the poor generated by our participation in a coercively-imposed institutional scheme that
that we have both positive and negative duties. In this case, we would have negative duties to

The former institutional cosmopolitanism and a maximalist institutional cosmopolitanism. The former

(7) If Pogge's account of institutional cosmopolitanism is subject to serious underdetermination,

Pogge's institutional cosmopolitanism as being a minimalist view, as Pogge intends his view to be understood, or a maximalist view, as both views would seem to generate similar—if not identical—obligations.

The upshot of this argument is that I do not think that a thoroughgoing minimalist would be satisfied with Pogge's invocation of the negative duty in the context of his institutional cosmopolitanism. While I do not deny that Pogge's argument highlights an important way in which the world's wealthy contribute to the poverty of the world's poor, I think that he stretches the notion of a negative duty nearly to the breaking point. Pogge's view, then, would be a profound departure from the minimalist view of global justice.

4.3 Making Negative Duties Concrete

Up to this point, I have not denied the main empirical premise of Pogge's argument, but I have argued that Pogge's account of the obligations that our negative duties toward the poor impose is unsatisfactory, given its aim of appealing to minimalists. In this section, I offer some positive suggestions as to how Pogge might circumvent this problem.

There is another, slightly different, way of thinking of the matter. Consider the following quote, in which Pogge distinguishes his view from minimalist and maximalist interactional views: "We see...how the institutional approach makes available an appealing intermediate position between two interactional extremes: it goes beyond simple libertarianism, according to which we may ignore harms that we do not directly bring about, without falling into a utilitarianism of rights, which commands us to take account of all relevant harms whatsoever, regardless of our causal relation to them" (2008, 177). We might begin by asking ourselves what exactly Pogge means when he calls his view an "intermediate position." A natural way of interpreting this passage would suggest that Pogge's view is "intermediate" in terms of the type of causal relation required to ground some duty. On the minimalist account, there must be a more or less direct connection between X's action and some harm produced by X's action in order to ground X's duty to atone for the harm committed.

In contrast, Pogge's view would be "intermediate" because it allows that indirect causal links (of the sort that come about through X's participation in social institutions) are sufficient to ground X's duty to those who are harmed by the resultant institutional structures in which X participates. The worry for the minimalist, then, might be that in claiming that indirect (and, indeed, often weak) causal links can ground duties, Pogge may have gone too far in collecting the causal direct (and indirect) traits (causal links can ground duties). Pogge's view, then, would be a profound departure from the minimalist view of global justice.

For a criticism that argues that the global institutional order has not harmed the poor, see Risse (2001).
The problem I have raised. The central point of the strategy that I outline here is that at the very least, Pogge needs to specify the requirements of negative duties under institutional cosmopolitanism in order to appease the minimalist critic. One way of doing this, I suggest, is by introducing what I shall call the Least Harm Principle. The least harm principle is in part that it seems to capture the situation that most ordinary citizens face with respect to their interaction with the global institutional order. The institutional structures in which we participate make available a finite range of choices across a number of different domains (e.g., the economic and political domains), and it is often the case that in our economic and political lives we must choose from among the options made available to us where any given choice will result in some harm elsewhere in the institutional order.

The import of the Least Harm Principle is in part that it seems to capture the situation that I face when I must purchase Y, suppose that I must purchase either X or Y. Indeed, the argument I hope to develop

when A has a moral obligation to choose the course of action that results in the least overall harm (and thereby satisfying the Least Harm Principle). Indeed, the argument I hope to develop

when A has some wayward honouring my negative duties in choosing the least harmful option.

when A cannot avoid choosing at least one of the options in each

available to us where any given choice will result in some harm elsewhere in the institutional order.

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in what follows claims that satisfying the Least Harm Principle with respect to my interaction with the global institutional order through, for instance, my consumption patterns and political activity is often sufficient for meeting my negative duty towards the global poor.

My understanding of how satisfying the Least Harm Principle can be thought also to satisfy our negative duties under Pogge's institutional paradigm draws its motivation in part from an objection laid out by Allen Buchanan against Pogge. Buchanan's concern is that our participation in the global institutional order is largely involuntary and that this makes it difficult for Pogge to claim that we are morally responsible for our participation. Buchanan writes, "[T]o the extent that the existing global basic structure is 'the only game in town' it may be misleading to say that the participation of ordinary people is voluntary; yet it would seem that voluntariness is a necessary condition for responsibility" (2004, 95). Buchanan's charge here seems to oversimplify the matter. Given that opting out of the global institutional order is not a viable option for most, there is a sense in which our participation in it is involuntary. However, there is still much room for choice with respect to the various different ways in which we interact with the global order, and hence there is a sense in which though our participation is involuntary in whole, we are left with a significant degree of voluntariness with respect to the choices we make within the context of our participation. Though I may not voluntarily participate in the global institutional order, there is a sense in which my choice for example, to purchase stocks in Goldman Sachs and Blackwater is still undertaken voluntarily. Thus, I hope here to stake out a middle ground between Buchanan's view, according to which our participation in the global institutional order is entirely involuntary.

The obvious objection here is that in committing the least harm, I am still committing some harm and therefore am still in violation of a negative duty. My response, as will hopefully become clear, is that some--indeed many--choices we make in our participation in the global institutional order are not really choices at all in any robust sense. Still in situations of a certain type, my responses are well within my purview. For instance, my consumption patterns and political activity are often sufficient for meeting the Least Harm Principle with respect to my interaction
On exercising significant discretion as to how I will meet those needs, I can buy Brand A rather than the needs that necessitate my participation in the global order in the first place, I can cut my comefort, and accordingly I must participate in institutions in order to obtain those things. Yet in situations where significant nonvoluntariness: I cannot go without food, clothing, and economic and political activity. There are indeed many aspects of our participation in the global institutional order that are significantly nonvoluntary. I have no choice but to participate in institutions in order to obtain the things I need. The idea here is a relatively simple one: that no matter how much we complain about the global institutional order's negative effects, the idea of not participating at all is not an option. How, then, can satisfying the Least Harm Principle be seen as sufficient to satisfy our negative duties? The idea is a relatively simple one: that no matter how much we complain about the global institutional order's negative effects, the idea of not participating at all is not an option.

The choices we make as consumers, voters, etc., are not sufficient to ground our moral responsibility for its harmful effects, and Pogge's view, according to which we are responsible for the effects of the global order notwithstanding the choices we make as consumers, is flawed. As a kind of intuition pump for the point I am making, consider the following counterfactual scenario. Suppose you are starving--on the brink of death--and you are locked in a room with a computer that has two buttons (say, Button A and Button B). You are told by your captors that if you push Button A, you will receive enough rice to keep you alive for some time but that in pushing Button A you will also cause $x$ amount of harm to some person(s). If you push Button B, you will receive a delicious three-course dinner, but you will also cause $x + y$ amount of harm to some person(s). How, then, can satisfying the Least Harm Principle be seen as sufficient to satisfy our negative duties? The idea here is a relatively simple one: that no matter how much we complain about the global institutional order's negative effects, the idea of not participating at all is not an option. How, then, can satisfying the Least Harm Principle be seen as sufficient to satisfy our negative duties? The idea here is a relatively simple one: that no matter how much we complain about the global institutional order's negative effects, the idea of not participating at all is not an option.
The interpretation I offer of negative duties under institutional cosmopolitanism is surely much more modest in what it demands of us than anything that Pogge has in mind. However, it has the virtue of tying my obligations to the global poor to the choices I make within the small corner of the global institutional order that I happen to occupy, and it can go some way toward fulfilling the Least Harm Principle with respect to the choices I make as a participant in the global institutional order of the global institutional order (in cases in which my participation is nonvoluntary). I am responsible for the choices that I make, and hence I cannot be held responsible for my nonparticipation per se in the global institutional order. The upshot of the view is that in a significant number of cases I can meet my negative duties under institutional cosmopolitanism simply by making within the context of my participation. The rough idea here is that Brand B, I can vote for Politician X over Politician Y, and so forth. The rough idea here is

\[ \text{negligible/minimalist.} \]
Chapter 5. CONCLUSION

In this thesis, I have attempted to call attention to certain aspects of their participation in the Global Insular.

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I have concluded the paper by offering a more modest interpretation of negative duties under Insular.

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In this thesis, I have attempted to call attention to one respect in which I believe that

CONCLUSION

Chapter 3.


Almahan, Andrew and Christopher H. Wellman. *A Liberal Theory of International Justice*. WORKS CITED