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Miller, Carlyn (2012) *The 1948 Universal Declaration of Human Rights provides an account of entitlements which is universal, encompassing all humans. Does this correspond with a universal account of obligation?*
[MSc.]

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“The 1948 Universal Declaration of Human Rights provides an account of entitlements which is universal, encompassing all humans. Does this correspond with a universal account of obligation?”

**Presented in partial fulfilment of the requirements for the Degree of
[Msc International Politics and Human Rights]
University of Glasgow
September 2012**

Word Count 14,498

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Abstract

The 1948 Universal Declaration of Human Rights enshrined the belief that every individual, regardless of nationality, was entitled to a life of equality, dignity and worth. The prevailing language of rights obscured the need to be specific about who is obliged to respond. Nations, peoples, states and societies are all gestured to as agents against whom individuals may have rights. However, little is said of any differences between these varying types of agents. In the face of global transformations, people's lives are affected by many different actors in global politics. The balance of power has changed and the adequacy of relying solely on the state as the primary agent of justice is called into question. A more promising approach, must involve the non-state actor, in particular, the multinational and transnational corporation. For human rights to be universal -encompassing all actors- we must find the legitimate normative basis on which to assign moral obligations to the collective agent.

Introduction

Rationale

The United Nations General Assembly adopted the Universal Declaration of Human Rights on 10th December 1948. This agreement enshrines human rights norms that must be respected and protected for each individual to live a dignified life. The document is universal in its aspirations, meaning human rights are inherent to all individuals, regardless of nationality. This is the first time a document proclaiming universal values has been adopted by an international institution. This dissertation asks whether these universal rights are matched and secured by universal obligations.

Each year 18 million individuals die from poverty related causes- that is 50,000 every day (Pogge 2002, p.1). These human beings are not living a life of liberty and security; instead they often live in fear and many die of malnourishment. The Universal Declaration of Human Rights proclaims each individual's entitlements. Yet, little is said of the allocation of obligations to correspond with these aspirations. We still do not know for whom the principles of the Declaration must ultimately be prescriptive. Who must be held responsible for remedying global injustice? May obligations be assigned universally –to all agents- irrespective of their connection to the problem? Poverty will not be eradicated without a dramatic change in behaviour, so it is crucial that we establish who is (or is not) obliged to take which sorts of action for whom. The title of this dissertation is therefore:

“The 1948 Universal Declaration of Human Rights provides an account of entitlements which is universal, encompassing all humans. Does this correspond with a universal account of obligation?”

Caveats

There is a need to clarify some important points. First of all, the kind of obligations I am referring to are, I believe, human rights obligations. If an individual is living in severe poverty which threatens one's life and health, then this individual is suffering a violation of his/her fundamental human rights to freedom and security: “Everyone has the rights to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care” (UDHR, Article 25). Thus, when discussing the obligations of actors in global politics I will be appealing to the language of

human rights. This assumption does not go unchallenged. Some may question whether human rights are the appropriate ethical analysis for a transnational economic effect like global poverty. Meckled-Garcia (2009, p.259) argues that poverty is the result of an accumulation of actions, there is no specific violator acting with harmful intent and therefore it is not a human rights issue. I argue that there does not need to be a Mugabe or a Pol Pot for a situation to be deemed a human rights violation. The role of human rights, is to grant people justified and urgent demands to a better life. For this reason, human rights are an essential starting point for elaborating on the obligations of non-state actors.

I have argued that the language of human rights is coherent with issues of global poverty. However, this does not mean that one can only appeal to human rights in search of a solution. I strongly disagree that different moral concepts must serve distinct moral purposes and throughout my dissertation, I also appeal to language of justice and morality. Again, there are readers who might accuse me of contradiction or confusion in my interchangeable use of human rights obligations with moral obligations or obligations of justice. To clarify, I will forward the rationale of John Stuart Mill (Mill 2001, cited in Wettstein 2009, p.123) who argues that obligations of justice are essentially rights based obligations: “a right in some person, correlative to the moral obligation- constitutes the specific difference between justice and generosity”. I am agreeing with Mill’s doctrine that people’s human rights come together with morality and obligations of justice. Justice is something which is not only right to do, and wrong not to do, but which can be morally claimed from us by another human being (Mill 2001, cited in Wettstein, p.123). Justice can be demanded when something is morally wrong. This could be a human rights violation, it could be inequality within a country or even the charge of an innocent man. When I speak of moral obligations, I use the term synonymously with both human rights obligations and obligations of justice. The justification being that “moral rights are rights which exist prior to or independent of legal laws and institutions” (Feinberg 1973, cited in Wettstein, p.131). In Feinberg’s terms, moral rights can be anything from a mutual agreement to the most fundamental human rights. These three terms compliment rather than contradict each other. People living in poverty and fear are living unprotected by human rights. It makes sense to appeal to justice and morality in search of a solution. It is valid to discuss different moral concepts in the same theory of obligation.

A final point I wish to clarify is the difference between positive and negative obligations. I use the term, ‘negative obligation’ to refer to a duty to protect human rights by

ensuring one is not unduly harmed through one's own conduct. I use 'positive obligation' to imply a duty to do all that you can to proactively realize human rights. Cosmopolitan thinker, Thomas Pogge (2002, p.6) represents popular thought in his argument that a man who actively harms someone is worse than a man who fails to do all he can to help or assist. My approach is to the contrary. I urge a new perspective which focuses on the importance of positive duty, the duty to contribute in some significant way to the improvement of unjust states of affairs.

Structure

My dissertation consists of three crucial parts. The first part involves choosing the correct research method. There are many different ways in which a scholar could approach this question and this chapter provides the justification for my decision to utilise normative theory. I will first of all explain why I am not engaging in legal positivism, empirical research or IR constructivism. Then I will discuss normative methodology and provide reasoning for why this is the correct approach. An explanation of this kind is imperative; it sets the scene for the kind of answer readers should expect. The purpose of my dissertation is not to provide a list of actors and their corresponding obligations. This chapter makes clear that my concern is with political principles. I will rely on factual statements about the world but my argument is essentially a moral one. Ultimately, I am making a normative statement about general principles or reasons to govern action, without predetermining the actions themselves. In other words, I do not consider what it is possible for agents to do in the context of a specific situation. My priority is with what ought to be and not what can be.

The second essential step is to conduct a literature review which examines how leading political thinkers respond to questions of obligation. I will analyse a broad range of literature in an attempt to work out a more satisfactory international normative political theory. There are three distinct categories of thought: the agent-specific, the outcome-specific and the capability-specific. This chapter argues that common among all thinkers, is a latent assumption that actors in world politics are capable of moral deliberation and moral action. If this assumption is implicit, it must be recognised and explored. To state that a collective is capable of the same moral reasoning as an individual is a rather daring theoretical leap, but it is a leap that is of profound importance in practice. The literature review ends on the unique work of Toni Erskine (2001), who recognises the need to open up this normative assumption

for questioning. However, in putting her theory into practice Erskine evaluates only the state and quasi-state, an approach which the following chapter will prove inadequate.

After a critique of current political thought, it is evident that we need a new approach. Chapter three outlines my argument which consists of three parts. Part one explains that the political picture today is much more complex than it was in 1948. The state is no longer the only actor with the effective and legitimate power to assist in the proactive realisation of human rights. We need to broaden the sphere of responsibility from the state to the non-state actor, specifically to the multinational and transnational corporation, actors that exert considerable influence beyond the state's control. The argument is, that failure to extend moral agency to the non-state actor, in a world characterised by wide-scale problems presents serious limitation. The second part of my argument draws extensively from the literature of Peter French (1984) and provides the foundation on which to argue that these actors have qualities constitutive of moral agency. If we can prove that large corporations are capable of the moral action traditionally associated with the individual, then we have a way to theorize these powerful actors as agents of justice. As such, these actors can be assigned moral responsibility to exert positive influence in the contemporary world. Part three of my argument puts this theory into practice in an evaluation of Apple, the most valuable corporation today. This exercise proves that Apple, a multinational corporation, renowned for its success in the business sector, has the decision making power and ability to reach overarching goals, needed to qualify as a moral agent. Operating according to French's criteria provides the legitimate normative grounds for treating corporations (and others) as moral actors.

The conclusions of this piece of work are two-fold. I will have argued that given the changing balance of power in international relations, it is imperative to assign positive human rights obligations to powerful actors like the multinational or transnational corporation. I will also have put forward a way in which this can legitimately be achieved through discernible criteria. I will conclude that, in order for human rights obligations to be universal, a normative account of the collective as a moral actor can and must be built. We need to develop a new perspective in which the corporation is understood as an instrument for human beings rather than an end in itself. Ultimately, my intention is to stimulate debate and encourage intellectual focus on this question of agent's obligations.

Chapter 1: Methodology: A Justification of Normative Theory.

Do universal human rights correspond with universal obligations? To answer this question I will utilise normative theory. This chapter will explain why. I will examine three alternative methods before explaining why a normative approach is best suited. Firstly, legal positivism, a way of answering the question based on what agent's obligations are in positive law terms. Secondly, empirical research, a method which involves gathering data, prior to conclusions about what is right or good. Thirdly, IR constructivism, the study of norms and their ability to create social change. I do not dismiss the validity of any of these approaches; simply argue that the focus of this dissertation is 'what should be' and not 'what the law says it is', 'what may work' or 'what lead to'. On finishing this chapter, the reader will have a detailed understanding of the approach I adopt in subsequent chapters.

Caveat

Before engaging in a discussion on the desirability of normative theory, it is necessary to explain why political theory itself is worth pursuing. This cannot be taken for granted as there are some who dismiss the role of political theory in any form. These people tend to argue one of two things: either that the only valid explanation in international relations is one based on factual knowledge or that moral argument is irrelevant against power and influence (Cochran 1999, p.5). I will address both critiques separately. Firstly, in the words of Mervyn Frost (Cochran 1999, p.5) "fact and value cannot be distinguished". One has to first answer value questions before deciding which factual observation to study; even this choice will be discerned from what the researcher deems to be important in the world. Secondly, international relations cannot be an amoral realm as long as the actors involved continue to make claims for themselves (Cochran 1999, p.5). Accepting the world as a Hobbesian state of nature involves neglecting crucial social problems like inequality and global poverty, the focus of this piece of the work. Acting in this world requires that we think about what we want to achieve and how we ought to achieve it. This is why political theory is so important; it gives us the possibility of choice in political affairs (Beitz 1979, p.4). Theory allows us to criticise the established order and describe a goal toward which efforts at political change should aim.

Legal Positivism

From a legal perspective, the Universal Declaration of Human Rights (UDHR) is not legally binding. There is no monitoring body in a position to enforce the Declaration's provisions and individuals have no capacity to hold the state to account for failing to assist in the realisation of their human rights. From a positive law point of view then, the 1948 Declaration does not create rights and obligations. Instead it is meant as a guide, a more or less universally accepted account of the entitlements all human beings need in order to live a life of dignity and worth. A lawyer might argue that in 1976 this changed, and the vast majority of rights under the Declaration were reproduced in the legally binding International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). There are now, in other words, a series of international treaties and regional instruments which make up international human rights law. By becoming parties to international treaties, states are legally bound by the human rights obligations therein. However, as I will explain in later chapters, international human rights law was developed for an international society in which the only relevant and powerful players were seen to be national governments. As a result, direct human rights obligations are assigned exclusively to states. Non-state actors are obliged to comply only indirectly through national law. They are obliged only when duties are institutionalised and assigned by the state (Wettstein 2009, p.157). No longer is the state the only dominant player and this opens up a series of questions regarding the effectiveness of international human rights law. However, I will leave the formal issues of law-making to the international lawyer. I do not aspire to explain the world from a legal perspective but instead through the theory underpinning the law. The world needs legal accountability but we must first of all establish moral standards. Standards will allow us to theorize the powerful non-state actor as more than a business entity under the control of the state.

Empirical Research

Another way in which this research question could be answered would be through empirical research. Empirical scholars believe that only knowledge gained through experience and study is acceptable (Sikkink 2008, p.93). An empirical study of this kind might involve research into the causes and effects of universal human rights obligations. For example, what causes people to act to fulfil duties of human rights? Or, do people accept that there is a global norm of human rights protection? Judith Lichtenberg (2004, p.75) takes an empirical

approach and argues that the work of normative thinkers, specifically Peter Singer's (1972) "Famine Affluence and Morality" -which discerns theoretical duties of obligation- is irrelevant without the backing of studies into what might make people more prone to giving. She states that Singer's (1972, p. 240) argument, "if it is in our power to prevent something bad from happening, without thereby sacrificing something of comparable moral importance, we ought morally to do it", should be deemed a failure. Singer's moral principle stimulated discussion but did not result in the readers acting any differently from their predecessors (Lichtenberg 2004, p.77).

Empirical research might be thought of as moving beyond asking 'what is right?' to engaging in research based on asking 'what may work?' (Sikkink 2008, p.85). Kathryn Sikkink (2008, p.85) explains the effect of these different methodological starting points with reference to the case of human rights trials. A normative thinker would ask, 'is it right or good to hold human rights trials?' The answer would be based on the importance of principles of justice and accountability. An empiricist would be more concerned with the impact that these trials have on the people involved than with underlying principles of what is right or wrong. Empirical research in the example of human rights trials, might involve a study into the effects of the trials on the lives of the participants. The outcome of this practical research, according to the empirical scholar, would provide the answer to the normative question, 'is it right or good to hold human rights trials?' The argument from this camp, is that empirical questions are crucial for making normative judgements about desirable policies.

I do not argue that empirical research is not valuable. I agree that ethical debates have the potential to be more fruitful if there is clear research and reasoning behind the principle. I understand that in the case of human rights trials, it makes sense to find out something about the consequences in order to judge their ethical desirability. However, universal human rights enshrined in the Universal Declaration were not arrived at without thought. They were drafted after exhaustive debate and consultation with delegates from diverse countries. Countries with different cultural, political and theological backgrounds showed support for the principles which were later translated into international law (Sikkink 2008, p.88). What I am arguing is that, because of the procedures through which these norms were developed, they provide a legitimate source of general principles (Sikkink 2008, p.101). People across the world agree on the desirability of human rights, therefore it is not an assumption which would require

empirical research. It is possible to have some basic principles which are deontological, human rights and their realisation, fall into this category. There is no need to open the debate, in this dissertation, about consequences of assigning obligations.

IR Constructivism

Finally I will examine IR constructivism. This method concerns the role norms play in political change. Norms, by definition, embody a quality of “oughtness” (Finnemore and Sikkink 1998, p.892). IR constructivists examine how agreements among a mass of people on a specific norm can create a tipping point, after which the idea becomes accepted: “the ought becomes the is” (Finnemore and Sikkink 1998, p.916). This kind of research documents the process by which people’s ideas, about how the world should be, are translated into reality. For example, Finnemore and Sikkink point to the abolition of slavery as an example of how norms and ideas lead to real world change. This kind of analysis is not without its critics however. Stephen Krasner (1999, p.4), for example, argues that norms are useless: the state will always manipulate norms in pursuit of self-interest. In other words, the logic of consequences will always result in the limited influence of the logic of appropriateness (Krasner 1999, p.6).

Krasner’s dismissal is not the reason I have discarded this method. I do believe that norms and ideas affect practical politics. I am not using IR constructivism because I am interested in the role of agents and this type of analysis is not appropriate to pursuing questions of that kind. The answer to my research question does not involve looking at human rights norms and asking how they came about, nor does it involve examining how it would be possible for my ideas of moral agency to become reality. Instead, it requires an exclusive focus on agency, on the obligations of agents in international relations. I am not interested in mapping out patterns of behaviour, I am interested in exploring the moral principles which govern the action of powerful agents.

Normative Theory

The preceding text explains the reason why I am not adopting legal positivism, empirical research or IR constructivism. The following will explain why I am taking a normative approach to answering the question. Normative theorists argue that international politics is not an amoral realm, it has an unavoidable ethical dimension (Erskine 2010, p.37).

These are the theorists to whom I look in search of an answer, those who accept that some or all agents in global politics are obliged to help promote greater justice. Normative theorists, more than any other, aim to move beyond international relations as a “modus vivendi”, by analysing the moral bases of obligations which go beyond self-interest (Cochran 1999, p, 4). Given that my question hinges on the ethical analysis of moral agency, and given that the key insight of normative theory is that actors in world politics are moral actors, it makes sense to adopt and evaluate the work of normative thinkers. I am interested in asking on what basis ethical assumptions are made and normative theory addresses precisely these kinds of questions. A field of scholarship which focuses on questions of justice, duty and rights is exactly where my question, do universal human rights correspond with universal obligations, should fall.

Normative theory is deeply influenced by philosophical and ethical debate while still paying a great deal of attention to practical issues. For instance, Peter Singer, discussed above and throughout, writes about ethics and morality but links these to a real life situation in which people are dying of starvation. This is the lead I follow in discussing the ethics behind the obligations of non-state actors, in the context of diminishing state power and wide-scale inequality. I am taking a deontological stance, not only in relation to universal human rights as I explained above, but also to global inequality and severe poverty. The situation is immoral and must be remedied, regardless of the consequences (Sikkink 2008, p.93). In addition, I take an ‘ideal’ approach to answering the question, I am theorising about the perfect foundation on which to base obligations of justice. I do not consider the non-ideal, in other words, I do not attempt to discern what it is possible for agents to do in a specific situation but instead appeal to a set of ideals about how agents qualify as moral actors in the abstract (Sikkink 2008, p.106). The theoretical principles I discern can be used to make real world decisions about what should be, but they are not derived from an account of what is possible. With all of this in mind, readers should not expect my research to lead to a comprehensive list of the obligations of non-state actors. Instead, it is a normative statement about the moral principles upon which agents should act.

In conclusion, this methodology depicts the reasoning behind my decision to take a normative approach to this question of universal obligation. I have argued that there are three alternative approaches which could provide a valid answer- legal positivism, empirical

research or IR constructivism. However, I have analysed each individually and provided reasons for my decision not to use any of these approaches. Normative analysis is perfectly suited as its purpose, as a research technique, is to provide general principles, that is, reasons and justifications to guide action but without predetermining the actions themselves (Wettstein 2009, p.17). Taking a normative stance will allow me to devise a clear conceptual statement about the nature of the obligations of powerful agents. Without a guide to what is required, what actors should do and refrain from doing, we will continue to live in a world in which 34,000 children die every day (Pogge 2002, p.2). The following chapter analyses current political thought in order to come up with a more satisfactory international normative political theory.

Chapter 2: Literature Review: Moral Obligation between the Individual and the Collective in International Relations

Introduction

My purpose in this chapter is to examine how leading political thinkers respond to and problematise questions of obligation. As such, my analysis here lays the ground for the subsequent chapter in which I develop my own argument based on the gaps presented here. I aim to tease out the implications of different normative methods in order to decide whether influential theorists believe that universal human rights are matched by universal obligations. In order to do this, I have divided the large body of work devoted to this subject into three categories. After a brief review of each here, in subsequent sections I will examine each in turn.

Firstly, there are prominent thinkers who argue, or imply, that obligations are agent-specific. In other words, obligations should be assigned depending on the type of agent involved. Obligations are not universal, in that the individual and the state cannot be expected to assume the same duties of justice. This kind of obligation, which I have termed ‘agent-specific’, can be found in the writing of John Rawls (1971, 1999), Thomas Pogge (2002) and David Miller (2007). On the other side of the spectrum, there are famous thinkers such as Martha Nussbaum (2000), Henry Shue (1996) and Amartya Sen (2009) who believe that advancing a human rights relevant outcome is more important than strictly identifying the agents responsible for those outcomes in advance. For these theorists, we begin with a goal or desired state of affairs to be worked towards and decisions on how to reach it are decided afterwards. In this case, obligations are universal, there is no distinction between agents, all are called upon to assist in order to improve collective outcomes. Thirdly, I will review the work of Onora O’Neill (2000) and Peter Singer (1972) who argue that an agent has a moral obligation to help others if that agent is capable of doing so. Singer doesn’t distinguish between agents, but simply states that anyone who has more than required has a duty to help those in need. O’Neill is more specific, arguing that one must consider the diversity of agents in international relations. However, despite these differences, both ultimately believe that there can be a universal account of obligation based on capability and power.

At this point, I will argue that, of all the literature reviewed, O’Neill’s theory is the most convincing. Expanding the scope of responsible agents to encompass those beyond the

state is a crucial step in the right direction. However, O'Neill, along with all other theorists discussed so far, fails to explain the process by which "moral personality", being vulnerable to moral blame, praise and ascription of duties is transferred to the collective (Erskine 2001, p.67). To assume, without any explicit attempt to ground one's position in normative reasoning, that the collective is capable of action classically assigned to the individual is a rather daring theoretical leap. This brings me to the final and most important theorist, Toni Erskine (2001). Erskine recognises this gap in current political thought and attempts to fill it by transferring Peter French's (1984) theory from the field of business ethics. However, despite showing great promise, in the end, Erskine only addresses the duties of the state and quasi-state, leaving out the non-state actors O'Neil rightly argues represent significant moral agents. Thus, we are left with a pair of political theorists each of whom possesses one half of a jigsaw. What is needed now, therefore, is a way to bring these theories together and complete the puzzle – something which sets the stage for what I intend to do in the rest of this dissertation. As a first move towards establishing that bridge, I want to review the work of the theorists summarised above in turn before concluding with the agenda that underpins my work.

Agent-specific theories of obligation

I will begin with the work of John Rawls, specifically "Law of the Peoples" (1999), which I have categorised as 'agent-specific'. "Law of the Peoples" is founded on a recognition of the need to extend principles of justice from the domestic to the international sphere. Rawls' aim was to create a theory which would deliver the principles required to govern conduct between societies. He never refers to states, in adherence to the realist paradigm that states cannot be adequate agents of justice because, within that paradigm, states are seen as motivated by self-interest and not moral reasoning. As Rawls puts it: "What distinguishes peoples from states – and this is crucial – is that just peoples are fully prepared to grant the very same proper respect and recognition to other peoples as equal" (Rawls 1999, p.35). Rawls thus argues that duties of justice can only exist within a 'bounded society'; a scheme of cooperation between individuals. States cannot be assigned duties of justice because they are incapable of acting according to anything other than self-interest. Duties of justice, then, according to Rawls, must be agent specific as not all agents on the international scene can be assigned the same obligations.

There is more than one problem with Rawls' approach. A particular difficulty is that his description of a 'society' is extremely state-like: "Every society has in its population a sufficient array of human capabilities, each in sufficient number so that the society has enough potential human resources to realize just institutions" (Rawls 1999, p.119). He goes on to state that citizens enter only by birth and leave only by death (O'Neill 2005, p.43). Rawls writes of population, citizens, institutions and political autonomy leading many, including Onora O'Neill, to argue that he is in fact assigning duties to the state. He avoids explicitly saying this because he works under the assumption that the realist account of states is correct (O'Neill 2005, p.44): that it is unrealistic to expect states to act morally in an anarchic world. States are inspired by national interest, and we fail to understand international behaviour if we try to make states conform to moral standards appropriate to individuals.

This interpretation gains weight when one compares Rawls' "Law of the Peoples" with his previous influential work, "A Theory of Justice" (1971). "A Theory of Justice" focuses on the duties of individuals within a society and argues for a form of distribution in which no individual is to be advantaged or disadvantaged by arbitrary social circumstance. Individuals must therefore be taxed to ensure the well-being of the worst off members of society (Singer 2004, p.24). When discussing the individual, Rawls argues that talents, native endowments and social, cultural or economic starting points are out with the control and hence responsibility of those who are born with them – as a consequence they cannot provide a secure basis for justice. Wealth and success is so conditioned by social and natural factors that one cannot claim additional reward justly, simply because one comes into the world with talents, endowments or a favourable societal position. However, when discussing the 'society' in "Law of the Peoples", Rawls advocates choice and self-determination. He argues that if two societies start off equal – both poor and with similar history – and one society makes decisions which enable it to prosper while the other wastes money on the unnecessary, the first bears no duty of assistance to the latter society. It "seems unacceptable" to tax the wealthier society, societies must determine the path to their own future (Rawls 1999, p.117). This is very like the argument of Robert Nozick (1974) in "Anarchy, State and Utopia". Nozick is renowned for his fierce critic of Rawls' 1971 work arguing that Rawls' theory leaves no role for autonomous choice by individuals if one regards the way we develop as a product of nature and nurture (Plant 1991, p.105).

This comparison between his earlier and later work demonstrates that Rawls views the way individuals should treat each other and the way states do interact in radically different terms. Individuals, it seems, are endowed with moral reason and compassion, states are not. However, as this position rests on a descriptive claim, questions arise as to whether states really act with no concern for moral values. What is missing from Rawls' theory, and this is crucial, is any framework for assessing (and so any basis for concluding) whether or not the state is capable of moral action.

Rawls is not the only thinker who takes an agent-specific approach to obligation. David Miller (2007) also offers an interesting alternative to the cosmopolitan belief that justice is universal. In "National Responsibility and Global Justice" (2007, p.12), Miller argues that one cannot assume that global justice is simply social justice on a wider scale. Principles of justice are conditional; we decide what is owed to a person by looking at their case in the context of their situation. What Miller is trying to do is define the scope of justice, in other words, determine the universe of people to whom obligations are owed. Miller, like Rawls, uses the language of 'responsible agents' to argue that the individuals who make up a nation must take responsibility for their own future (Miller 2007, p.161). Individuals are members of collectives whose practices and decisions may have profound effects on the life chances of others: "National identity entails national responsibility" (Miller 2007, p.265). For Miller, our obligations to those less fortunate carry different weight depending on what part any given individual may have played in their own misfortune (Miller 2007, p.201). Both Rawls and Miller, then, defend the idea that obligations are conditional and case-specific. For Rawls, they depend on the characteristics of the agents in question and for Miller they depend on determinations concerning which agent is to blame.

As in the case of Rawls agent centric theory, there are, once again, serious problems with Miller's reasoning. He echoes Rawls when he speaks of an international order in which all states are granted self-determination; these states can then choose paths to development which will lift them out of poverty. If states fail to make these decisions, they have only themselves to blame and neighbouring states have no obligation to assist. This reasoning ignores the reality of the international economic order. Within the international trade system, vulnerable countries are often exploited and forced to accept terms which lead them further into poverty. Will Martin, from the World Bank, speaking of the World Trade Organization Treaty stated, "Many had little knowledge of what they signed up to in the Uruguay Round ...

that ignorance is now costing them dear” (Pogge 2002, p.17). This quote accurately sums up the role of power in international trade, something which Miller’s theory does not consider. Representatives of poor countries suffer from a lack of knowledge which is heavily exploited by the rich when shaping each agreement. One could also argue that Miller is wrong to deny assistance to individuals within a country for decisions or actions taken by a select few in power. However, he does distinguish himself from Rawls here when he states that he is also referring to the decisions made by individuals themselves: “if they are starving because of crop failure, should they have planted different crops? If they are dying of aids, should they have changed their sexual behaviour?” (Miller 2007, p,237). This is one of the most contentious (and deliberately so) passages in his book but it illustrates his argument that obligations do not fall equally on each agent, but instead, to the agent who is already connected in some way. Thus, for Miller, there is no obligation to individuals or states who can be held responsible for their own deprivation.

Before I explain why assigning obligations based on blame and responsibility is problematic, conceptually and morally, I turn to the work of the final agent-specific theorist I have chosen to address here, Thomas Pogge (2002). Pogge’s work is relevant because, while he too seeks to apportion blame for world poverty, his argument takes him in a different direction to David Miller. In “World Poverty and Human Rights” (2002), Pogge argues that wealthy countries are responsible for the situation of the poor. Alleviating poverty is thus a negative duty: a duty to ensure persons are not unduly harmed through one’s own conduct (Pogge 2002, p.3). Pogge points to morally significant connections between wealthy and global poor states. The first, a shared history, is one in which social conditions have been shaped significantly by conquest and colonization. As these involved resource stripping, oppression, enslavement and (not infrequently) genocide (deliberate and inadvertent), Pogge argues the historic patterning of ‘connections’ between states lead to a situation where some were able to consolidate their wealth while others were reduced to poverty and dependency (Pogge 2002, p.6). As a consequence, Pogge argues that agents in the West have positive obligations to those overseas because they can be held partly responsible for the unequal situation today even where their actions do not further exacerbate it. Pogge’s argument, that we must not uphold extreme inequality in social starting positions when these positions were decided without regard to moral principles or legal rules, is credible. It makes sense to argue

that all states should be given equal opportunities to develop insofar as to argue otherwise would contravene central tenets of what we regard as a just settlement.

That said, the underlying principle of Pogge's theory, similar to that of David Miller, is that obligation can be decided based on who is responsible. However, the problem is that it is very rarely possible to arrive at definitive answers concerning responsibility: historical relationships are too complex, the scope, density and significance of connections run far ahead of our ability to adequately assess them. Both Pogge and Miller's theories, despite arguing from contrasting angles, would require case by case investigations to determine the chain of events which lead to a given situation and hence responsibility for it. Even in individual cases, this supposes we can somehow assume a standpoint outside of events from which to judge this. In response to Pogge, there is no way of knowing what the present would be had the past not been colonial. To Miller, I would point out that famine in Niger cannot simply be put down to failure to plant the correct crops. I understand that, in order to prevent tragedies reoccurring, it is necessary to identify the cause. However, the cause may well be a combination of various different factors, including some – such as drought – which can never be attributed to any agent, past or present. Amartya Sen (1999, p.31) contests causality around this. Droughts he argues are not the cause of famines. Famines are not failures of crop production, they are failures of entitlements to the crops being produced. Famines then belong to political-economy not nature.

Assigning obligations to agents based on degrees of responsibility is not simply imprecise, it is incoherent. It is impossible to pick out which agents are responsible for real life quandaries, such as the plight of malnourished Iraqi children. Nonetheless, in devising his responsibility thesis, Pogge makes a crucial point about the global economic order. The World Bank, the International Monetary Fund and the World Trade Organisation are all key players in the exploitation of the poor. Are these influential agents required to act morally? Again, this reasoning would benefit from a theory of moral agency. What is the role of powerful agents in international relations, are they required to help realize justice?

Outcome-based theories of obligation

In the previous section I critiqued agent-specific theories of international obligation, pointing to several shortcomings found in the work of those who adopt this position. In the following section, I will examine a contrasting body of work which prioritises outcome over

agent. Martha Nussbaum (2000), who argues that desired outcome is enough to form a political principle of obligation, is a prominent proponent of this type of approach. For Nussbaum, the outcome of adopting this position is a situation in which each person is respected as an end in their own right (Nussbaum 2000, p.69). Her argument is that obligations of justice need not be defined according to the agent but according to a universally desired end goal. Protecting or advancing a human rights relevant outcome is sufficient for an agent to be assigned a moral obligation (Meckled-Garcia 2009, p.267). While Nussbaum's theory is more often referred to as the 'capabilities approach', I have chosen to use the term 'outcome' to describe it as I believe it better explains the nature of the obligation which falls on the agent. When Nussbaum speaks of 'capability' she is referring to the capacity of the recipient and not the agent. She believes that we should not base obligations on resources, as John Rawls (1971) argued, but on what individuals are actually able to do and to be (Nussbaum 2000, p.70). The intuitive idea is that beneath a certain level of capability, an individual is not able to live a life of worth. Everyone, no matter where they live and what their conception of the good life is, can understand ideas of activity and ability (Nussbaum 2000, p.100). Nussbaum's theory, then, is that obligations are universal and can be defined based on quality of life, taken in its widest sense as a form of well-being. According to Nussbaum, if an agent has the ability to improve the life chances of another then that agent has an obligation to do so.

Nussbaum's capabilities approach influenced the Human Development Reports published annually by the United Nations (Pressman and Summerfield 2002, p.440). By assessing capabilities instead of rights, Nussbaum makes it possible to understand how people actually live. For example, an individual might have the right to vote but without the ability to exercise that right in practice, perhaps because of violence or repression, we cannot treat the fact they do not vote as their moral failing. This concern with the development and quality of life, one structured by the social, political and economic contexts in which individuals live, is shared by many scholars. For instance, Nussbaum herself operationalises the work of Amartya Sen (1999, p.25) who argues that capabilities represent a person's real opportunities to do, and to be, in the context of a given society. Improving these capabilities is more important than strictly identifying responsible agents, with, on this alternative reading of the demands of justice, imperfect obligations "falling broadly on anyone who is in a position to help" (Sen 1999, cited in Kuper 2005, p.xi).

This recipient-centred approach is also found in the work of Henry Shue (1996, p.13). Shue doesn't speak of capabilities as such, but of 'basic rights': "to have a right is to be in a position to make demands of others". Basic rights are a shield for the defenceless against political and economic forces over which one has no control (Shue 1996, p.18). These rights include security and subsistence, and must be established before other rights can be enjoyed. The reason I have grouped Nussbaum, Sen and Shue in the same category is that all three (and others besides) focus on capability/rights before obligation. These thinkers concentrate on the recipient and what the recipient is owed and Nussbaum and Sen have been particularly influential in providing a theory which successfully explains the difference between rights and capabilities.

However, despite the strengths of their work, problems emerge when it comes to assigning obligations. Bringing about a certain state of affairs is not an obligation. It might be a shared goal: agents would probably agree that all people should have equal liberties and opportunities. However, this does not mean that these agents will agree on what their role in that process should be. Most people would agree on the desirability of a world in which no child would die from preventable disease. However, this does not explain why one agent rather than another is obliged to act. It is difficult to speak of obligation until one has a moral principle which defines the circumstances under which agents must meet obligations. Onora O'Neill makes this point throughout her work on poverty and justice. She argues that it is imperative to use the language of citizens and powerful agents rather than the "rancorous rhetoric of rights" (O'Neill 1986, p.123). If we focus solely on the passive recipient, we overlook implications for action. O'Neill's argument has much to commend it: if a citizen of Argentina has a right to food and is incapable of providing for herself, whose duty is it to ensure she receives her due? What are the principles that enable us to determine why and to what extent any particular agent ought to help remedy a morally unacceptable situation?

Capability theories of obligation

Having examined both agent-centred and outcome-oriented theories in turn, the final category of literature I am going to review is one which can be traced to the work of Singer and O'Neill and is named the 'capabilities approach'. In contrast to Nussbaum and Sen's 'capabilities', here capabilities relate to the agents on which obligations fall, not the recipient in need of assistance. Firstly, Peter Singer (1972), whose publication "Famine, Affluence and

Morality” not only made philosophers reassess their analyses of the situation of the world’s poor, but also offered an uncompromising answer to the question of obligation. We are obliged to give aid, Singer proposed, until giving any more would sacrifice something of comparable moral importance: obligation is derived from morality and capability. Affluent individuals are obliged to help relieve suffering elsewhere simply because they can. If it is in our power to prevent something bad from happening without sacrificing something of equal worth, then we ought morally to do it (Singer 1972, p.240). Singer devotes a large part of his text to discussing the obligations of the wealthy individual. However, he is clear that his theory is universal, in that it applies to any agent who commands more resources than is required for basic function. At the time he wrote the book, Singer criticised the British and Australian states for failing to provide refugees in what is now Bangladesh with enough aid to survive more than a couple of days. He writes with disapproval that Australia’s ‘aid to Bengal’ project amounted to just one twelfth of the cost of Sydney’s new Opera House (Singer 1972, p.240).

Singer’s principle is appealing, giving rise to the strong claim that wealth and privilege must come together with a moral obligation to help those who are less fortunate. However, his project raises problems in terms of how much wealthy agents are obliged to give. Singer speaks of giving until one reaches the level of ‘marginal utility’: whatever percentage of income would be spent on luxuries must be given away, until the agent giving the aid is in the same material circumstance of those receiving the aid. In this respect, his principle is extreme. This does not mean that Singer is wrong, perhaps morality is highly demanding. He successfully argues that an agent’s approach to world poverty should be based on what one is capable of doing to help others. Singer does not distinguish between the individual and the state, assuming that his principle can be applied to both. However, his theory has never been taken entirely seriously with regard to the duties of the state. More often than not, Singer’s theory is referred to as a theory of individual obligation and as such is seen as unrealistic. If only the individual is considered capable of moral action then we have a very limited vehicle for improving the situation of the poor. Charity from individuals can make a difference but reliance on this excludes other agents and agencies with the ability to help. We need a way of transferring the qualities of the individual agent to powerful actors.

It is here that Onora O’Neill’s theory of obligation becomes particularly relevant. Like Singer, O’Neill (2005, p.45) argues that when discussing obligations, one must be open-

mindful and look to capacity for action. An acceptable account of the responsibilities of agents of justice can be arrived at by attending solely to their powers. Indeed, “it is these [very] capacities that are constitutive of agency”. However, O’Neill diverges from Singer on the topic of universal obligation. What she suggests is not an abstract account of capabilities but a specific one relating to the obligations of specific agents relative to the situation. As O’Neill puts it: “Entitlements do not have to be secured in the same way for all, provided they are secured in some way for each” (O’Neill 2000, p.140). O’Neill recognises that in the face of global transformation, effective power and influence over the lives of individuals is no longer solely the province of the state. This is what makes her theory stand out from those discussed above. Justice must be secured by a wide-range of different and diverse agents who are capable of assisting. O’Neill argues that if a state is too weak to meet the needs of its citizens, ‘secondary agents’ who *are* capable of assistance become obligated to intervene. The moral status of these secondary agents, non-state actors who have the power and influence to create greater justice without restriction should not be disregarded (for instance, due to their profit-making activities) (O’Neill 2005, p.xi). Instead we should open our minds to the possibility that these agents too can meaningfully be said to have obligations.

This part of O’Neill’s theory has much promise. Given the relocation of power in the international sphere it is no longer adequate to dismiss non-state actors as ill-motivated or indifferent to the demands of justice. Finding a way to assign duties to these influential agents could be the key to achieving practical results. However, as with all the literature reviewed so far, something crucial is missing. O’Neill’s aim is to assign obligations to diverse agents in global politics. She understands that an up-to-date theory of justice must consider more than simply the individual and the state. However, it is conceptually problematic to begin to assign these obligations without first of all explaining whether or not these agents are capable of moral action in the first place. Non-state actors have the economic ability to create greater justice, this is true, but this is irrelevant if these actors are not capable of acting morally. To state that an individual is a moral agent is to state that he/she is capable of moral reasoning and, as a result, that they incur moral responsibilities (Erskine 2001, p.72). One cannot simply transfer this quality to other actors within the international sphere without explicit justification for doing so. Claiming that a collective or institution can hold the same moral status as an individual represents a theoretical leap, albeit a leap that is of profound

importance in practice. Without clear criteria of capable moral actors, the rhetoric of obligation itself lacks a coherent foundation.

O'Neill has succeeded in extending our idea of the scope of duties of justice to better represent the current global order. This is one part of the jigsaw. However, before assigning responsibilities to agents in global politics, one must first provide an explanation of why these agencies can be subject to moral blame. This is not an easy task, but it is imperative. Assigning a duty to an institution that is incapable of moral action is not only theoretically incoherent but also pointless. If we are to continue to argue that international relations is not an amoral realm, then it is essential that we identify the agents capable of responding to ethical guidelines. As has been made clear in the course of this chapter, no international relations theorist, no matter which theoretical approach they adopt, has yet proposed a way of determining which collectives are required to meet specifically moral obligations and so are open to charges of blame. Given the uncertainty which attends it, these pivotal questions are either neglected or fudged.

The second part of the jigsaw is needed and, I shall argue, it can be found in the work of Toni Erskine. In the absence of serious discussion within the field, Erskine (2001) is someone who moves outside international relations towards business ethics in search of an answer. Erskine explicitly recognises the problems discussed so far in this chapter: that for obligations to be assigned successfully there must be an understanding of what permits one to describe any agent as a moral actor. Her concern is the question of when, if ever, a collective can be assigned moral duties –something which has only rarely commanded the attention of international relations theorists. What she proposes to do, therefore, is to apply criteria written in business ethics to the field of international politics, a thoughtful proposal with the potential to change international relations theory. The criteria Erskine chooses to apply are those written by Peter French (1984) in “Collective and Corporate Responsibility” where French attempts to provide a way to legitimately extend moral agency from the individual to the collective. According to his theory, a “conglomerate collectivity” is a collective which qualifies as a moral agent. This collective will have an identity which is separate from its constitutive parts: in other words, the group must be more than the sum of the individuals who comprise it. This collectivity must exist over time as this will eliminate groups which are spurious. In addition, the group must have decision-making procedures: decisions must be made in unity after deliberation, a feature which is lacking in a crowd. Finally, for French, the

group must view themselves as a unit (French 1984, p.14). While this list draws out morally significant features of collectivities, it is neither exhaustive nor closed for debate so provides a useful guide which, if adopted by theorists of international relations, could be used to decipher which collectives are moral agents. What French proposes, and Erskine takes up, is a way of determining whether collective agents can be morally obligated and, hence, blamed when they fail to fulfil their duties.

Erskine is correct in arguing that this gap in political theory is of critical concern. She also offers much in her attempt to fill the void by transferring criteria from research into business ethics into theories of international politics. However, Erskine makes a fatal mistake in her theory of institutional moral agency by only applying these criteria to the state and quasi-state. In her 2001 article in “Ethics and International Affairs”, Erskine’s entire focus is on what kind of states are capable of moral action. She distinguishes between positive sovereignty and negative sovereignty in her quest to provide a guide to how responsibilities might be rationally distributed. She makes little mention of non-state actors and describes her theory as an initial step in determining appropriate moral burdens to the “various institutional moral agents that we call states” (Erskine 2001, p.85). Her theory has much promise: her application of French’s criteria offers the field of international relations a way of theorizing agents of justice which is invaluable. However, her work needs to be revised to reflect the changing balance of power between the state and non-state actors.

This is exactly what my dissertation aims to do. Having reviewed and critiqued the philosophical literature on the topic of agents and their corresponding obligations, it is clear what needs to be done to create a convincing, up-to-date, account of agents of justice. There are three parts to my argument. The first is to build on O’Neill’s argument that the state is no longer the only agent capable of creating greater justice. O’Neill is almost unique in stating that the non-state actor must not be overlooked when it comes to assigning duties of justice and I want to explain, using real-life examples, why this is indeed the case. The second part of my argument follows on from this point and involves applying Erskine’s theory with broader scope, specifically to the non-state actor. The third part involves putting this theory into practice in an evaluation of Apple, the multinational corporation. There is no need to start from scratch and devise a new account of agents of justice but there is a need to adapt and combine the ideas of theorists like O’Neill and Erskine. Where O’Neill falls short, Erskine fills the gap and where both fall short, I intend to offer new insights.

Introduction

In the last chapter I argued that there is a crucial gap in current political thought; that is, the lack of clear criteria for determining who can be assigned moral responsibilities. I ended it with a discussion of Toni Erskine's attempt to rectify this by transferring criteria from business ethics into the field of international relations. Erskine's approach is sound; she understands what many theorists do not, that we need a foundation on which we can legitimately attach moral obligations to influential actors. In other words, we need a way of theorising actors as agents of justice which is based on more than their ability and power. However, despite its clever logic, Erskine's theory falls short and in the end she evaluates only state and quasi-state actors, ignoring non-state actors. The purpose of this chapter is to show why this is insufficient: why in today's world one cannot discuss justice without taking into account influential non-state actors. This is less a critique of Erskine's work, than an attempt to pick up where she left off and extend the approach she developed. Erskine has successfully shown that the criteria which Peter French advances can be adopted and applied by the theorist of international relations, to assess which collectives qualify as moral agents. What I intend to do is take this further and apply French's theory to the powerful non-state actor. Firstly, I explain why we need to broaden the sphere of responsibility from the state to the non-state actor. Secondly, I suggest a way in which this can be done, a way in which one can legitimately theorize the collective as a moral agent. Thirdly, I put this argument into practice in an evaluation of Apple, the multinational corporation. The result, is a new way of theorizing the non-state actor and an opportunity to create better justice.

State and non-state actors

Within current political theory the assumption that states are the primary agents of justice is rarely challenged, the work of O'Neill aside. For advocates of this 'realist' worldview the state is the central actor in world politics: international institutions are mere instruments of state diplomacy. The term itself, 'non-state' actor, reflects the assumption that the state is primary and all other agents secondary - they can only be identified in terms of their relationship to the state (Wettstein 2009, p.156). As the most powerful actor, the state is therefore perceived as the sole bearer of moral obligation. This dominant state-centric view is reinforced by contemporary human rights legislation. International human rights law was

originally developed for an international society in which the only relevant and powerful players were seen to be national governments. As a result, direct human rights obligations are assigned exclusively to states. Non-state actors are obliged to comply only indirectly through national law, that is, only when duties are institutionalised and assigned by the state (Wettstein 2009, p.157). International human rights law sets in stone this 1945 assumption that the state is the pivotal agent around which all other entities revolve.

I shall not be arguing that the state is unimportant, nor do I endorse arguments suggesting that the state is dead. What I am arguing is that such a uni-dimensional view of the world is misleading. The world is a much more poly-centric place than it was half a century ago and if we continue to use this rhetoric, not only do we present a distorted image of international relations but many actors will continue to escape the net cast by international human rights norms and institutions. Only the most determined realist would today deny that the balance between states and non-state actors has shifted. Democratic states have progressively reduced barriers to cross-border trade, production, investment and provision of services. This deregulation of domestic economies combined with improved communication and the strengthening of the international economic regime has allowed for an explosion in the number of non-state actors operating transnationally. The modernist unity of territory, state and society is disintegrating and the roots of global poverty are now out with the border of the nation state (Wettstein 2009, p.158). The state, therefore, cannot tackle poverty alone. Even in cases where the cause appears to be internal, the global institutional order will have played a role (Pogge 2004, p.272). Decision making now often rests outside the country which is affected by the decisions made (Madeley 1999, p.6). Relying solely on the state to take responsibility for the improvement of social conditions is thus no longer reasonable. Given that a third of human deaths are caused by world poverty, it is imperative that we assign duties to other actors capable of assisting (Pogge 2003, p.118).

What this dissertation argues is that the last 60 years have seen the emergence of a new constellation of power. Actors other than the state are shaping the lives of the world's people. Globalization means that the world is shrinking. There is a deepening impact of global interactions and processes resulting in inherently global issues which are beyond the capacity of the nation-state (Held 2005, p.187). The role of the primary agent of justice was traditionally monopolised by the state but recent transformations have created a shift in which non-state actors now play a larger role in the global political economy. The title 'non-state'

actor is used to refer to an exceptionally diverse group of agents in global politics, from terrorist groups, to transnational corporations, to the World Bank. The term defines actors by what they are not. This leads to an extremely broad ranging group of entities falling into the category (O'Neill 2005, p.49). The label is so wide that groups classified by international law as non-state actors (human rights NGO's), often devote their time to lobbying strongly against the recognition of other groups classified in the same way (Alston 2005, p.5). It is therefore an impossible task to treat the obligations of non-state actors in a unitary manner, instead one must discuss the different kinds of relevant agents separately. The actors I wish to examine are those able to exercise certain powers and so exert considerable influence beyond the state's control. As O'Neil (2004, p.250) argues, there is no point in relying on agents who lack the capabilities to make a difference. We must turn to those who have the capabilities needed to transform unjust situations. Among the growing number of institutions who have at least partially disentangled themselves from nation-state control, arguably the most prominent are multinational and transnational corporations.

MNCs and TNCs

The multinational corporation (MNC) is defined as a corporation that operates across borders, an enormous entity which replicates its activities in different regions of the global economy in search of profit. The transnational corporation (TNC) seeks to establish global operations using an international division of labour (Alston 2005, p.149). For the purpose of my argument, there is no need to draw too fine a distinction between these different entities, both are equally powerful and of basically the same nature. At present, the responsibilities of these non-state actors are confined to not doing harm. As direct human rights obligations are assigned to the state, non-state actors such as MNC'S and TNC's are only bound by moral duties indirectly. This failure to find the normative basis to assign positive obligations is problematic for a variety of reasons.

In the context of diminishing state power, corporations have become a major player in the global economy. In terms of economic might, according to the Institute for Public Policy Research, corporations make up 51 of the world's 100 most powerful economic entities, states only make up 49 (Kuper 2005, p.xx). The combined sales of the world's top 100 corporations are far greater than a quarter of the world's economic activity (Alston 2005, p.147). In addition, the United Nations Research Institute for Social Development, published figures in

1998 which demonstrated that the annual revenue of Toyota, one of the 10 biggest corporations at that time, was equivalent to the gross domestic product of Portugal (United Nations 1998, cited in Alston 2005, p.148). These figures show that the power of the corporation is often equivalent to the economic ability of a well-developed country. This far exceeds the output of most developing countries (Madeley 1999, p.2). Institutions have become, as Kenneth Goodpaster (1983, p.9) has put it: “the primary actors on the human stage.” Their influence on our lives is so pervasive that to release them of moral responsibility is to disrespect every individual whose life is dominated by deprivation.

The corporation as moral agent

The “liberal theory” that a corporation’s duty is solely to its shareholders or owners and that it is therefore exempt from moral bonds, is, I believe, void of normative authority. O’Neill famously argued that assuming the corporation thinks only of profit is equivalent to arguing that the state can only pursue national interest (O’Neill 2005, p.241). The current debate on business and human rights still largely focuses on negative duties. This means that the obligations which fall upon these influential actors mainly concern their potential to violate human rights. Multinational and transnational corporations are frequently criticised over their conduct, as the numerous documentaries on Nike sweatshops or Primark’s child labour attest. While such critique is important it is underpinned by the belief that it is not the task of these actors to actively try and remedy injustice, unless they can be held responsible for the situation. Evidence of this stance can be found in a 2008 report of the United Nations Special Representative of Business and Human Rights. This states that companies cannot be held responsible in cases of human rights violations “in which they were not a causal agent, direct or indirect, of the harm in question” (United Nations 2008, cited in Wettstein 2009, p.187).

O’Neill is unique in her attempt to try and change this way of thinking via her ‘capability theory’, discussed in the last chapter. To recap, O’Neill argues that one may look to secondary agents of justice in cases where a state is weak or defective. Positive obligations may, in this instance, fall on the corporation. Agents with the power and ability to work for greater justice at a time when the state is unable to do so (O’Neill 2005, p.49). Her argument, that we must look to a diverse range of agents and agencies in our quest for justice, is sound. Judging by the figures quoted above, corporations are almost always capable of assistance,

more so than a large number of states. *However*, their moral agency remains secondary. For O'Neill, these agents are a backup whose obligations only acquire urgency when the primary agent, the state, proves incapable. O'Neill does argue that in some cases TNC's operating in weak states might go further in their duties by refusing complicity with certain sorts of corruption or obeying other negative duties (O'Neill 2005, p. 46). However, the point being made here is that these corporations are capable of much more than being a stand-in for the state.

We need a new perspective in which business ethics is not regarded as an oxymoron. A perspective within which businesses will assess their human rights obligations without being forced to do so under external pressure. If we can demonstrate that multinational and transnational corporations are moral agents then we have the normative foundation with which to assign positive responsibilities for the world's poor. What I am trying to address, something which O'Neill failed to, is to establish a basis on which we can legitimately attach active moral obligations to these influential actors. Obligations which go further than negative duties and correspond with the actor's ability to contribute to alleviating poverty and deprivation. I am seeking to provide a foundation on which to theorise how corporations ought to serve as agents of justice.

A new approach to defining moral agency

To achieve this, I first show that corporations can be treated as moral actors. Moral actors who can assume the kinds of moral obligations traditionally associated with national governments. The problem with O'Neill's theory is that she skips forward and assesses conditions under which agents may exercise moral agency without addressing the sense in which agents qualify as moral actors. Western moral philosophy has traditionally ascribed moral responsibility predominantly to the individual. The underlying belief is that only individuals are capable of moral reasoning, with the capacity for moral reasoning treated as definitive of moral agency. While this may make sense intuitively, as I have argued throughout it is a position with serious limitations. The contemporary world is characterised by a number of wide-scale social problems such as global poverty, the focus of this piece of work, which cannot be remedied by the individual agent. The global situation means that it is now necessary to re-examine our assumptions and assign moral responsibilities not only to state but to the non-state actors, in particular the multinational/transnational corporation. Peter

French has provided the criteria necessary to critically evaluate the idea of collective moral agency. Toni Erskine has shown that these criteria can be transferred from business ethics into the field of politics without contradiction. What I am going to do is to apply French's theory with broader scope than Erskine to assess the multinational/transnational corporation.

French's theory will provide the foundation on which it is possible to theorise corporations as agents of justice, with his criteria the baseline against which agents can be assigned moral obligations. We are still a long way from realising the claims of human rights. I believe the first step in doing so is to expand the number of agents we deem responsible. We are required to expand the range to include the multinational player. If we understand human rights as moral entitlements enjoyed by all human beings, then claims must not be made solely against states but against all proven moral actors.

In undertaking this task, it is important to be clear from the start about what exactly is meant by 'moral agent'. Human individuals are generally thought to be the classic moral agent, with the capacity for moral deliberation and moral action. An individual understands moral requirements and has the capacity to act in reasoned accordance with them (Erskine 2001, p.69). Whether or not one does so is irrelevant on this definition. If a theorist wants to transfer this conception to a group or corporation, one must take time to explain why they should be deemed capable of reasoning and acting in a way that is comparable to that of (most) individual human beings. As I have argued, this kind of detailed account is absent from the discipline of international relations. The idea of collective moral agency is complex, incorporating some of the most difficult questions in contemporary political theory, something which explains its relative neglect. However, if by employing French's criteria, we can establish the normative conclusion that corporations are capable of moral action then we have the groundwork on which to build direct obligations for the proactive realisation of human rights.

As a way of extending French's criteria, I am going to examine Apple, a multinational company this year named the most valuable of all time with a market value of £397 million (BBC News, 2012). The reason I have chosen Apple is because it is not the obvious choice. When people speak of corporations and human rights they tend to mention Shell or Nike, both renowned for human rights violations or dubious business practices. However, I want to move away from an examination of human rights *violation*, not because it is not of great importance but because I want to contribute to the development of a new approach which emphasises

human rights *realisation*. The first step, according to French, is to ask whether the company is a “conglomerate collectivity”. That is, to evaluate whether Apple is more than a group of individuals which you might find gathered at a protest or in a queue (French 1984, p.46). The answer is quite obviously yes. Apple, as a multinational corporation is much more than the sum of its constituent parts, it has a separate identity and is known all over the world. Secondly, French characterises moral actors as having “internal organisation and/or decision making procedures” (French 1984, p.13). That is, the agent in question must have the ability to deliberate, process information, make a decision and strive towards a predetermined goal. This is something which Apple succeeds in doing every time it creates and releases a new product. As a company, Apple makes decisions and coordinates action in order to achieve results. Thirdly, a moral actor must have an identity which exists over time. In other words the agent must have a past and a potential future, it must persist. Apple was incorporated in January 1977 and has been in continuous existence ever since (Apple Inc. 2012). As for a future, the company gets bigger and bigger every year and is very unlikely to disappear. The final criterion which French proposes is that the agent must have an identity which is not only external but also internal. In other words, the group must see itself as a unit (Erskine 2001, p.72). I do not believe anyone would argue that those involved in Apple do not sign up to the identity of the corporation, Apple is a brand devised from within and recognised by those outside.

This exercise provides the justification that the criteria which French advances can be usefully adopted – and adapted – by the theorist of international relations to assess which types of collectives should qualify as moral agents. French makes it possible to make initial decisions about who we can rule in or out. Apple is a multinational corporation, renowned for its success in the business sector. In terms of capability, the company’s economic gains are immense; no one would argue that Apple does not have the power to relieve a massive amount of suffering and deprivation. However, one might ask why a company driven by profit might be thought of as obliged to do so. French’s criteria provide the answer. Apple, along with similar multinational corporations, qualifies as a moral actor. The corporation, like most others, has the decision making power to reach overarching goals, it is capable of acting intentionally and for a common end. It is these qualities which are constitutive of moral agency. As moral actors, these corporations ought then to be assigned positive duties to help relieve poverty and suffering. Operating according to these criteria therefore adds a new

dimension to the debate around corporate legitimacy and the requirements of justice and morality.

To conclude, in the face of profound global transformations, the state-centred realist paradigm and its corresponding obligations look increasingly implausible. Given the new division of power in global politics, the adequacy of treating the state as the primary agent of justice is called into question. In this new transnational order it is necessary to revisit old ways of thinking when assigning obligations of justice. Proposals to remedy global injustice based solely on the individual and the state are out of date. A more promising approach would involve the non-state actor, in particular, actors which are increasingly difficult to exercise collective moral control over, the multinational and transnational corporation. I have argued throughout that before assigning obligations to these actors one must first of all explain why a collective of this kind should be regarded as capable of moral deliberation and moral action. Peter French has shown the way, outlining a set of criteria that can be used to make this theoretical leap. My evaluation of Apple depicts that, through French, we can establish conclusive normative grounds for treating corporations as moral actors and thus have the theoretical basis on which to then assign positive human rights obligations.

Conclusion

This dissertation has argued that severe poverty is a violation of the fundamental human rights of the millions who suffer. Article three of the Universal Declaration states: “Everyone has the right to life, liberty and security of person” (UDHR 1948, Article 3). People living in dire poverty live unprotected by these human rights. There does not need to be a specific violator for there to be a human rights violation. If we continue to act under the assumption that we need a Mugabe or a Pol Pot to justify a response, then global poverty will never be alleviated. This dissertation asked: who are the agents that must deliver on the realization of the rights of the deprived masses. The Universal Declaration proclaims human rights universally, but to whom are they prescriptive? May human rights obligations be assigned universally -to all agents- irrespective of their connection to the problem?

The first step in answering the question was to decide which research method would be most useful. Chapter one provides the justification for the use of normative theory. The aim was to devise a clear conceptual statement about the obligations of powerful actors in world politics. Without a guide as to what is required- what actors should do and refrain from doing- we will continue to live in a world characterized by inequality and injustice. This chapter outlined that my response to this question, rather than give a comprehensive list of agents and their obligations in specific situations, would instead describe a goal towards which efforts at political change should aim. Theorizing about human rights obligations is not policy making, nor should it be. The overall goal was to renew assumptions underlying mainstream thought, to provide a foundation for further debate and deliberation.

The second step was to engage in a critique of current political thought. Chapter two analysed how leading political thinkers respond to questions of obligation. Three distinct categories of thought emerged. There are those who argue that obligations are agent-specific. Obligations are not universal, in that they depend on the nature or role of the agent involved. Another group argued that obligations are outcome-based: advancing a human rights relevant outcome is more important than having strictly identifiable agents. For these theorists, obligations are universal, in that they fall on all agents capable of improving collective outcomes. Others described capability-based obligation. These theorists believe that there can be a universal account of obligation based on capability and power. In current political theory, there is little consensus over the obligations of actors in the international sphere. Of all of

literature reviewed, Onora O'Neill's capability theory proved the most convincing. O'Neill is unique in her recognition that the scope of responsibility must go beyond the state and encompass the non-state actor. But, O'Neill fails to explain the process by which these non-state actors qualify as moral agents. To assume, without any explicit attempt to ground one's position in normative reasoning, that a collective is capable of the same moral deliberation as the individual, is a rather daring theoretical leap. Toni Erskine makes this point in her literature and attempts to remedy it by transferring criteria of collective moral agency from business ethics to international politics. However, Erskine limits these criteria to state and quasi-state actors. Thus, chapter two argued that we are left with a pair of political theorists each of whom possess one half of a jigsaw. What is needed now is an attempt to bridge these two theories together and complete the puzzle.

After a critique of the philosophical literature on the topic of agents and their corresponding obligations, the final chapter demonstrated a new approach which extensively builds on the work of O'Neill and Erskine. The argument had three parts. First, that in the face of global transformation, we need a coherent distribution of responsibilities which considers more than the individual and the state. The sheer dimensions of inequality and injustice that characterize our global coexistence mean that it is no longer reasonable to rely solely on the state to step up and take responsibility. Second, that we require a way of theorizing the powerful non-state actor as a moral actor. A new insight is needed that moves away from negative duties, towards a positive account of human rights realization. The theory especially needs extended to the large corporation. We need to find the missing normative basis on which to formulate such responsibilities. This is what the final part of this argument provided. Through an adaptation of Peter French's 1984 model, we have the criteria on which to assess the collective's ability for moral deliberation and moral action. Following these criteria, it is possible to make initial inferences as to which groups in international relations qualify as moral actors. As moral actors, these agents are vulnerable to ascription of positive duties and assignments of blame (Erskine 2001, p.72). To put this theory into practice, I examined Apple, the most valuable corporation in 2012. This exercise provided the justification that the criteria which French advances can be usefully adopted by the international relations theorist.

This dissertation stated that universal human rights correspond with universal obligation. Using a new normative basis allows us to assign these obligations. Obligations can

never be universal if one assumes that powerful non-state actors, like the multinational corporation, are only mandated to maximise profit. Current political theory is lacking in any robust foundation on which to assign duties to the collective whilst contemporary proposals to remedy injustice are out of date. A more promising approach would involve the powerful non-state actor. This dissertation has built on the work of Erskine and O'Neill to create a more satisfactory basis on which we can attach obligations to diverse actors in global politics. This is crucial in the quest to create better justice. This dissertation has argued that in a world currently overcome by poverty and suffering, too many major players continue to escape their responsibilities and obligations.

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