Book Reviews

DOI: 10.1017/S0953820804211487

Jeff McMahan, *The Ethics of Killing: Problems at the Margins of Life*, New York, Oxford University Press, 2002, pp. vii + 540.

Applied philosophy has a bad reputation. It is often seen as a 'less worthy' field of philosophical study, characterized by superficial, poorly structured, badly argued opinions. Anyone who holds this kind of view would do well to read Jeff McMahan's *The Ethics of Killing*. This book is a most impressive, rigorously argued analysis of questions regarding the morality of killing. A large part of its appeal must surely derive from the author's competence with questions of metaphysics and his ability to apply his theoretical conclusions on personal identity, the wrongness of killing, etc. to practical questions of ethics.

The first chapter sets the foundation for the discussions of practical problems to come. McMahan begins with an account of personal identity, since if we cannot decide what we are, we cannot decide what interests we might have, whether we are due respect and in general how we should be treated. This early discussion of personal identity will also have implications for how we understand disputed entities, i.e. entities whose status is unclear such as foetuses, PVS patients, those suffering from dementia, etc.

McMahan develops an embodied mind theory, according to which the criterion for personal identity is the continued existence and functioning of the capacity for consciousness. He examines in detail Parfit's claim that the criterion of identity is psychological continuity, but finds it lacking because it cannot account for problematic cases, e.g. cases of Alzheimer's disease in which the psychological continuity ceases, but consciousness continues. Instead identity is based on physical and functional continuity in the areas of the brain where consciousness is realized. This physical and functional continuity of consciousness is what explains our egoistic concern about our future. Egoistic concern is a special kind of concern each of us has for his future: '[w]e anticipate our own future experiences, fearing future pains and looking forward to future pleasures, in a way that is different from our attitude to the future experiences of others' (p. 41). Unlike personal identity, egoistic concern can be a matter of degree and is thus affected by the degree of psychological unity of the individual.

Having given an account of what we are, one which crucially differentiates between the person and the organism, and an account of what concerns us, the book goes on to consider why death is bad and whether some deaths are worse than others. McMahan focuses on two different accounts of the badness of death. According to the Life Comparative Account, to evaluate the badness of the death we need to compare the value of the life if the death occurred with the value of the life if the death were not to occur. According to the

Time-Relative Interest Account the death is evaluated in terms of the individual's time-relative interests (interests an individual has an egoistic concern for at that time) rather than the life as a whole. These two accounts give different answers to practical questions. The Life Comparative Account would claim that the death of an early foetus is the worst possible death since it occurs so close to the start of the individual's existence and there is a huge amount of difference between this short life and the full human life we compare it with. By contrast the Time-Relative Interest Account, favoured by McMahan, would imply that the death of an early foetus is less bad because of the weak prudential unity relations that connect it to itself in the future. So, the death of beings who are psychologically distant or even entirely cut off from their own future selves, beings who have no consciously intended future goals, is less of a misfortune for those beings at that time. Conversely the death of a being who desires and values future goals at the time of his death, and who therefore has strong prudential unity relations to his future self, is worse.

Having given an account of the badness of death, based on his account of identity and egoistic concern, McMahan then goes on to consider what is wrong with killing. McMahan wants to avoid a position in which the wrongness of killing is linked to the amount of good in a person's life, as someone's interests can vary depending on arbitrary and uncontrollable factors. Killing, therefore, is equally wrong because it is the killing of a person for whom respect is owed. Respect is understood as accruing from 'the autonomous determinations of that person's will' (p. 260) and as there is no sharp cut-off point in the process of becoming autonomous, there is no sharp cut-off point in moral status. We have, then, a Two-Tiered Account of the morality of killing: On the one hand, we have beings who are due respect and whose lives are intrinsically worthy (so that it is wrong to kill even those who have weak time-relative interests) and beings who are below the threshold for respect and whose deaths are evaluated using the Time-Relative Interest Account.

Having developed such a detailed and thorough account of what we are, what matters in our lives, what is wrong with cutting our lives short, McMahan can now go on to apply the conclusions of his theory to practical problems. On abortion he comes to a number of different conclusions depending on the status of the foetus. Relying on his theory of personal identity he concludes that early abortions (before the development of consciousness) should not be seen as killings as there is no one to kill; they merely prevent someone from coming into existence. Relying on his thoughts on egoistic concern, he argues that late abortions do kill someone, but someone who only has weak time-relative interests. Developed foetuses and, controversially, newborn infants lack the cognitive capacity to be accorded moral status (therefore they come within the scope of the Time-Relative Interest Account) and have weak prudential relations with their future selves, so their deaths are not great misfortunes.

For decisions at the end of life, we need to recognize two concepts of death: death as the irreversible loss of consciousness, which can occur even if the organism remains alive, and death of the organism. This means that beings such as PVS patients are crucially dead. The bodies of beings who have died, but whose organisms remain alive, ought to be accorded respect (like the bodies of the dead), but this is based on what the beings were rather than what they are now. Thus, McMahan's view on the end of life mirrors his view on the beginning

of life and is dependent on the capacity to generate consciousness and mental activity. Finally, when discussing euthanasia, McMahan concludes that as there are no plausible arguments which condemn either suicide or euthanasia, respect for a person's worth should lead us to respect one's autonomous decision to end one's own life.

The above is a very brief overview of McMahan's project and cannot possibly do justice to the complexity, intricacy and thoroughness of this book. Perhaps some of its conclusions will seem counter-intuitive, but they are meticulously argued for, with a sensitivity to and awareness of their counter-intuitive implications. The practical conclusions are also consistent with the theoretical arguments which form the backdrop of the discussion, so if one wanted to reject them one would have to grapple with McMahan's account of identity as an embodied mind and his understanding of egoistic concern. I, for one, find the main thrust of the argument extremely convincing and I am happy to accept the conclusions it leads to. My main concern with this book is not with its main argument, but rather surprisingly with its style and presentation. The book aims to set out the main argument, but at the same time it serves as a literature review of anything and almost everything that has been written on the topic and a defence or attack on almost any position that has ever been held on these questions. For example, not content with a detailed and convincing defence of his own account of abortion, the author also considers potentiality, the sanctity of life, the replaceability of infants, parental responsibilities, the difference between killing and letting die, the mother's self-defence argument against the foetus, etc. Of course, being thorough and paying attention to detail is a philosophical virtue, but in this case it is carried to such an extreme that it impedes the main aim of the book. The reader often becomes frustrated with detours to consider and reject arguments which are not of central importance to the book's original position, e.g. a whole section is dedicated to a discussion of what it means to be a member of the human species. It is a credit to the author that these discussions are, in themselves, very compelling, but on the whole they distract from the purpose of the book and encourage the reader to 'dip in' and read abstracts on particular discussions rather than consider the book's original argument as a whole.

That said, those who do take the time to read the entire work are bound to find much to recommend it. Although the book is very demanding for the non-specialist, students of philosophy would greatly enjoy its rigorous arguments and well-defended, original position.

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DOI: 10.1017/S0953820804221483

Robert George, *In Defense of Natural Law*, Oxford, Oxford University Press, 2001, pp. 343.

The Introduction to this collection of previously published papers gives a clear and concise summary of the book's contents. Part I explains and defends 'new natural law', that is, the theory elaborated by Germain Grisez, John Finnis and

Joseph Boyle (henceforth GFB). In Part II, George redeems the promise in his earlier *Making Men Moral* to attend to some of the practical implications of his rejection of neutralist liberalism. In Part III, he discusses some of the writings of MacIntyre, Perry, Sullivan, Posner, Feinberg, Rawls and others. These papers must have been collected for the benefit of a very diverse audience. Some will be of interest only to those already familiar with the literature of new natural law theory. Others will be read with benefit only by lay readers. Part I contains some convincing replies to critics of GFB, but the collection as a whole does not break new ground. The following sample is intended to illustrate the range and quality of this collection.

The first short, dense chapter may well put off any reader not already very familiar with the new natural law literature. George dives into the argument between GFB and Jeffrey Goldsworthy, who criticizes the cognitivism of new natural law. GFB hold that fundamental moral norms – which are non-instrumental reasons for action – are objective practical principles and, against this, Goldsworthy rehearses Humean thoughts that such practical principles must be motivationally inert. GFB concede that non-instrumental reasons are not sufficient to motivate action (emotions and other factors play a role), but argue that such reasons 'figure decisively' in some actions. So, according to George, GFB claim that people sometimes have non-instrumental reasons for action and that to refute their position, Goldsworthy has to argue that such reasons are superfluous because desires are always sufficient to motivate action.

Goldsworthy's argument relies on a distinction between something which is 'good for someone' and something which is 'good *simpliciter*'. According to him, GFB conflate this distinction in arriving at their view. The correct view is that some 'goods *simpliciter*' can be reasons and some 'goods for someone' are not. George's main contribution to this debate is to argue against the claim that some 'goods for someone' are not reasons.

If the first chapter is only for *afficinados*, part of the long second chapter could be usefully recommended to an undergraduate who wants a brief answer to the question, 'In what way does the new natural law differ from the view of Aquinas?' Weinreb's book *Natural Law and Justice* is the touchstone for a lucid answer. Weinreb apparently makes two mistakes. First, he apparently ignores the fact that the new natural law is based on a certain interpretation of Aquinas. Second, he attributes to Finnis the view that specific moral judgements are self-evident.

George explains that there are three interpretations of Aquinas: (i) that there is a natural normative order the central problem of which is the antinomy of freedom and causality; (ii) that there is a normative natural order and moral norms must be derived from speculative reasoning about human nature. On either of these interpretations, morality must depend on speculative reasoning since practical reasoning leaves undetermined what things are good. But (iii) Grisez denies that this was Aquinas' view. According to Grisez, Aquinas' first principle of practical reasoning ('good is to be done and pursued and evil is to be avoided') requires only that reasoning be directed at some end pursuable by human action, including morally wicked ones. Although practical reasoning

does grasp certain ends as ends in themselves ('the basic human goods'), Aquinas did not attempt to connect these self-evident first principles to specific moral norms. Which brings us to Weinreb's second mistake.

According to GFB, specific moral conclusions are not self-evident. Rather they are conclusions of arguments from more general moral norms. The first principle of practical reasoning (which is self-evident) instructs us to make rational (but not morally good) choices. To get to the latter, GFB elaborate Aquinas with a second tier of principles called 'modes of responsibility', the first of which (which is also self-evident) is the first principle of morality ('choose and otherwise will those and only those possibilities whose willing is compatible with integral human fulfillment'). The modes of responsibility then guide us in complicated ways to specific moral judgements.

Four of the essays in Part II concern sexual morality and especially the good of marital sex. The reader should begin with chapter 9, 'What Sex Can Be'. This is a clear exposition of the view repeated throughout Part II. The view is what George calls 'traditionalist': 'to be morally right sexual acts must embody or actualize marital union' (p. 162). The arguments in favour of this view are very familiar. First, George argues against the 'liberationist' view that sex is pleasurable fun. George asserts that it is morally wrong to treat one's body as an extrinsic instrument for pleasure because 'if the pleasure sought is a particular sensation or an experience distinct from the fulfilling activity, then the pleasure sought may not be connected to an activity that actualises human good' (p. 164) and that choice is morally wrong. 'The content of such a choice includes the disintegration attendant on a reduction of one's bodily self to the level of an extrinsic instrument' (ibid.).

That the 'liberal view' (extra-marital sex is permissible as long as the couple love one another) fails, follows from George's account of the good of marriage. That only sex within marriage is morally permissible follows from the wrong of other forms of sex. The wrong of sodomy, for example, is, oddly, that 'the participants do not unite biologically' (p. 170). The unity here in question is 'unity of action', which requires that the action has some real common good.

The stick thus fashioned in chapter 9 is used, for example, to beat liberal defenders of pornography in chapter 10. The objection to pornography is not that it may be offensive; it is that is depraves and corrupts. In separating sex from marriage, it depersonalizes and depraves. George's discussion of sexual morality continues in Part III, chapters 15 and 16.

Chapter 17 is an appreciation of Feinberg's *Moral Limits of the Criminal Law*. George claims that Feinberg cannot ultimately defend his antiperfectionist liberalism, but George's actual argument is confined to pointing out that Feinberg's liberalism is under pressure from two counterexamples (as Feinberg acknowledges): Parfit's case in which a couple decide to conceive an impaired child and Kristol's gladiatorial contest. There is also a brief argument that Feinberg cannot sustain his opposition to retribution for victimless crimes.

DOI: 10.1017/S095382080423148X

Ian Cook, Reading Mill: Studies in Political Theory, Houndmills, Basingstoke, Macmillan, 1998, pp. xiv + 194.

This book is about methodologies of the history of political thought, using different ways of reading Mill as illustrations. It does not offer new interpretations of or insights into Mill's political philosophy. The author asserts that there are four, and essentially only four, distinct methodologies. A 'traditionalist' method approaches a canon of great thinkers as if they and we are engaged in a perennial conversation aimed at discovering the truth about human nature, the good life and the good society. A 'historicist' approach reads texts as relative to contexts, and the author identifies three sorts: psychological, intellectual and social. A 'linguistic' analysis, inspired by the later Wittgenstein, may do one of three things. It may provide a taxonomy, a precise description of the way words are used. Or it may approach texts as attempts at reconstruction or stipulation with a view to giving words more precise or technical meanings. Finally it may be 'therapeutic', exposing the ways in which a text falls into confusion or meaninglessness by violating the rules and conventions of ordinary usage. A 'behaviourist' approach asks of a theorist that s/he provide hypotheses about political behaviour that are empirically testable and fruitful.

Rightly Cook judges a behaviourist approach inappropriate to a political philosopher such as Mill; he then offers examples of readings according to each of the other three. There are some problems with these examples as representative, as convincing or as useful to students. As he remarks elsewhere, a 'traditionalist' approach supposes that there are truths about human nature, the good life and the good society to be found. Therefore exposition of a 'great' thinker is almost invariably followed by discussion and criticism, as for example in the Mill commentaries of Plamenatz or Ryan, Gray or Skorupski. In his exemplification of a 'traditionalist' approach, Cook simply provides exposition without discussion. The exemplification of 'historicist' readings is better; but it is not clear that anxiety about urbanization greatly troubled Mill, and it is decidedly odd that contextualizations of Mill on 'pleasure' and 'history' should not bring Coleridge and Carlyle into the picture. The examples of the 'therapeutic' 'linguistic' approach are unpersuasive. For it is false to suppose that there is a simple dichotomy between using words according to rules and conventions which give them meaning, and mistaken attempts to go beyond those rules which result in contradiction or meaninglessness. At least some words, and among them key concepts in political philosophy, are essentially polysemic and contested. Such words may acquire clearer meanings if explicated at length, as Mill unpacks 'self-regarding' in On Liberty. For example, Mill's use of 'stationary state' is not meaningless within the discourse of political economy; it is a perfectly intelligible argument that, contra Smith and Ricardo, a decent standard of living could be combined with zero economic

Reading secondary literature brought Cook to 'the fairly rapid conclusion' that political theorists fall into his four different types. Perhaps he should have taken more time before concluding that his four types are distinct and that

they exhaust the field. He concludes that the four types cannot be reconciled, nor can any one of them hope to prevail; diversity must be tolerated, and historians of political thought should be more reflexive about their choice of method. But some hermeneutic approaches (which do not get mentioned), for example Gadamer's, at once undermine his distinctions and at the same time propose a more far-reaching reflexivity.

The book is littered with typographical errors.

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DOI: 10.1017/S0953820804241486

Patrick Hayden, John Rawls: Towards a Just World Order, Cardiff, University of Wales Press, 2002, pp. 211.

Thomas Pogge, World Poverty and Human Rights, Cambridge, Polity, 2002, pp. 284.

The first half of Patrick Hayden's John Rawls: Towards a Just World Order is a brief overview of various elements of Rawls's theory of domestic justice, while the second half is a critique of Rawls's extension into the international domain. Hayden's strategy is to argue that Rawls's 'law of peoples' does not live up to the promise of his domestic theory. Rawls's principles of international justice are significantly weaker than his principles of domestic justice. For example, while he endorses the egalitarian difference principle in the domestic sphere, in the international sphere he holds that inequalities in wealth among countries are not even prima facie unjust, as long as all are above a certain minimal threshold. In contrast, Hayden endorses an account of 'cosmopolitan justice in which all social primary goods . . . are to be distributed equally and universally' (p. 173).

Some of Hayden's criticisms of Rawls are the result of rather contentious readings, several of which relate to Rawls's idea of a 'decent hierarchical society'. These are non-liberal societies that Rawls claims should be fully tolerated by liberal societies. Contrary to Hayden's assertion (p. 130), however, Rawls never claims that such decent societies are 'just'. In fact, Rawls goes out of his way to emphasize the opposite: 'To repeat, I am not saying that a decent hierarchical society is as reasonable and just as a liberal society' (John Rawls, The Law of Peoples (Cambridge, Mass., 1999), p. 83). Nor does Rawls hold that the culture of a decent hierarchical society is, as Hayden charges, 'a timeless essence, something without history and processes of change' so that "liberal" rights would never be accepted by those societies' (p. 140). Again, Rawls makes the opposite point explicitly: 'All societies undergo gradual changes, and this is no less true of decent societies than of others. Liberal peoples should not suppose that decent societies are unable to reform themselves in their own way' (Rawls 1999, p. 61.) Rawls's point is that 'decent hierarchical societies do have certain institutional features that deserve respect, even if their institutions as a whole are not sufficiently reasonable from the point of view of political liberalism generally' (Rawls 1999, pp. 83–4). One such feature is that 'a decent hierarchical people's system of law...secures for all members of the people what have come to be called human rights' (Rawls 1999, p. 65). Hayden claims that Rawls holds a 'peculiar conception of human rights' according to which they 'are assignable only when it is determined what particular society a person is born into' (p. 135). But this charge of 'cultural relativism' (p. 138) is misplaced. Rawls and Hayden agree that there is a core of universal rights. Their disagreement concerns what is to be included in that core.

At several points, Hayden suggests that Rawls's view is only a minor variation on traditional political realism. (See pp. 127, 141.) Although Rawls's principles are not as demanding as Hayden's, it is a serious distortion to say that Rawls endorses a system characterized by 'the pursuit of narrow self-interests and indifference towards the interests of persons who happen to reside outside of a nation-state's own borders' (p. 95). On the contrary, Rawls stresses that a liberal people has 'a moral nature' and 'tries to assure reasonable justice for all its citizens and for all peoples' (Rawls 1999, pp. 23, 29). Hayden does, however, identify one important assumption that Rawls shares with the realists: He 'emphasizes the nation-state as the primary actor in the international system' (p. 91). The Law of Peoples is an attempt to 'work out the ideals and principles of the foreign policy of a reasonably just liberal people' (Rawls 1999, p. 10). This contrasts with Rawls's own approach to domestic justice, where he begins not with the conduct of individuals but with the background institutional structures within which they interact. Why not take a similar institutional approach to international justice? One answer would be that there simply is no global institutional structure analogous to a domestic basic structure. Hayden rejects this. It is

possible to recognize that the contemporary world fits the description of a global scheme of cooperation. There exists interdependent economic (as well as political, social and cultural) activity that produces substantial aggregate benefits, and a pattern in which international and transnational institutions...distribute those benefits as well as burdens. (p. 98)

But this bare assertion is not defended and is insufficient to establish that there is a global basic structure in the relevant sense.

In Thomas Pogge's collection of eight papers published between 1990 and 2001, together with a new introduction, he carefully explores the existence of a global institutional structure that is partly responsible for severe poverty. Significantly, he does not focus on the low wages paid by multinational corporations or on the efforts of the World Trade Organization to lower tariffs. (In fact, when he does discuss the WTO, it is to make a point opposite to that made by many of its critics: 'My complaint against the WTO regime is not that it opens markets too much, but that it opens our markets too little and thereby gains for us the benefits of free trade while withholding them from the global poor' (p. 19).) Instead, he concentrates on property rights that are enforced internationally. Specifically:

Any group controlling a preponderance of the means of coercion within a country is internationally recognized as the legitimate government of this

country's territory and people – regardless of how this group came to power, of how it exercises power, and of the extent to which it may be supported or opposed by the population it rules . . . [W]e accept this group's right to act for the people it rules and, in particular, confer upon it the privileges freely to borrow in the country's name (international borrowing privilege) and freely to dispose of the country's natural resources (international resource privilege) . . . Indifferent to how governmental power is acquired, the international resource privilege provides powerful incentives toward coup attempts and civil wars in the resource-rich countries. (pp. 112–13)

Most explanations of poverty 'present it as a set of national phenomena explainable mainly by bad domestic policies and institutions that stifle, or fail to stimulate, national economic growth and engender national economic injustice... This dominant view is quite true on the whole'. However, Pogge points out that an explanation of poverty that stops at the national level is incomplete since 'it holds fixed, and thereby entirely ignores, the economic and geopolitical context in which the national economies and governments of the poorer countries are placed' (pp. 139–40). Pogge's analysis, then, recognizes that the proximate causes of poverty often involve 'a culture of corruption [that] pervades the political system and the economy of many developing countries' (p. 200). But he also recognizes a background global institutional structure that partially explains the frequency of corruption and unjust domestic policies. One of the significant points about his analysis is that it does not 'lessen the moral responsibility we assign to dictators, warlords, corrupt officials, and cruel employers in the poor countries' (p. 116).

Pogge's account is embedded within a powerful theory of human rights, which is distinctive for several reasons. First, human rights do not encompass all of morality, but 'they should normally trump other moral and nonmoral concerns and considerations' (p. 54). Second, rights concern the design of institutions (especially, but not exclusively, legal orders). On this approach,

Human rights can be violated by governments, certainly, and by government agencies and officials, by the general staff of an army at war, and probably also by the leaders of a guerrilla movement or of a large corporation – but not by a petty criminal or by a violent husband. (pp. 57–8)

Finally, the assessment of institutions must be sensitive not only to their causal role, but also to *how* they bring about their effects, their 'implicit *attitude*' (p. 42). For example, Pogge holds that there is a relevant difference between a legal order that *explicitly prohibits* certain individuals from receiving a core good, say, adequate nutrition, and a legal order that enforces property rights of private individuals that *predictably leads* to inadequate nutrition for those individuals, even though there is no explicit prohibition (pp. 41–2).

Pogge therefore rejects a strongly consequentialist analysis, and this allows him to 'agree that the distinction between causing poverty and merely failing to reduce it is morally significant' (p. 13). Yet, his institutional approach leads him to his most distinctive conclusion: If global institutions are partially responsible for causing severe poverty, those who participate in and uphold those institutions are violating 'our sharper and much weightier *negative* duty

not to harm others unduly, either single-handedly or in collaboration with others' (p. 133). They (that is, most of *us* in wealthy countries) have a strong duty of justice to 'either discontinue their involvement – often not a realistic option – or else compensate for it by working for the reform of institutions or for the protection of their victims' (p. 50).

Pogge discusses in detail two types of institutional reforms. The first involves setting up institutions – a Democracy Panel and a Democracy Fund – that would help to undermine the borrowing privilege and the international resource privilege. The second involves instituting a Global Resource Dividend (GRD). Briefly, the idea is that 'states and their governments shall not have full libertarian property rights with respect to the natural resources in their territory, but can be required to share a small part of the value of any resources they decide to use or sell... Proceeds from the GRD are to be used toward ensuring that all human beings can meet their own basic needs with dignity' (pp. 196–7).

Although he has done so elsewhere, Pogge does not here explicitly endorse egalitarian principles of justice on a global scale. Instead, he endorses a more minimal threshold conception, according to which 'an economic order must be shaped to produce an economic distribution such that its participants can meet their most basic standard needs' (p. 96). When he does discuss the extent of global inequality, it is not to object to inequality as such, but to argue that it is possible to relieve severe poverty without excessively disrupting the lives of wealthy countries (p. 96). This minimal requirement of satisfying basic needs is compatible with 'more ambitious criteria to which specific societies might choose to subject their national economic order' (p. 95; cf. pp. 78, 81).

Like Hayden, Pogge is critical of Rawls for not extending his domestic principles of justice to the international arena: Rawls 'fails to meet the burden of showing that his applying different moral principles to national and global institutional schemes does not amount to arbitrary discrimination in favor of affluent societies and against the global poor' (p. 108). It may be that Rawls has not provided the grounds for differentiation of the two, but it seems that Pogge himself has. Even if both global and domestic institutions have a causal role in generating poverty, the way they do this is very different. The mechanism that Pogge emphasizes involves global institutions influencing domestic political structures, which themselves have a more direct influence on the economies. This suggests that the role of global justice should be to ensure that basic needs are satisfied and to promote (or at least not to undermine) legitimate political institutions. And this is exactly Rawls's position: The duty of assistance requires that well-ordered societies 'help burdened societies to be able to manage their own affairs reasonably and rationally and eventually to become members of the Society of well-ordered Peoples' (Rawls 1999, p. 111). Pogge's work is powerful and original, distinct from Rawls's and not only because of its institutional orientation. However, the principles he winds up endorsing do not seem to be as far from Rawls's as he sometimes suggests.