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**The ethical demands on the developed world of HIV in  
sub-Saharan Africa**

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## SUBMISSION OF THESIS FOR A RESEARCH DEGREE

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## **Abstract**

HIV/AIDS is a major health problem for sub-Saharan Africa. There are identifiable prevention and treatment regimes which would greatly ameliorate the situation, but these are beyond the resources of the sub-Saharan countries themselves. The research focus of this thesis is an investigation of the responsibility that the developed world has towards supplying help to combat this disease process.

A series of arguments are adduced in support of the contention that the developed world has responsibility in this area and that that legitimate responsibility is very demanding indeed. These arguments are drawn firstly from a consideration of beneficence, secondly, from considerations of distributive justice, and finally from a consideration of reparative justice and rights based arguments. With beneficence the accent was upon Singer and his child in the pond thought experiment. With distributive justice the focus was upon contractualism, primarily considering Rawls, but then extending this both into health and in a cosmopolitan direction. Where reparative justice and rights based arguments were concerned the arguments were constructed from Pogge, Shue and Ooms.

Major objections to this position were considered and largely rejected arising from the question of over-demandingness, from libertarianism and from a consideration of Murphy and the question of fairness in a non-ideal situation.

However it was accepted that there is a place for partiality in moral obligations and that there are reasonable moral duties and prerogatives with regards to self and the needs of

those in close relationships with the moral agent involved. Major writers involved in these countervailing arguments included Scheffler and Cullity.

The original extreme demand provisionally accepted was counterbalanced by a consideration of partialist obligations. Nonetheless the overall moral position would be such that the needs outlined in the Millennium Development Goals in regard to HIV/AIDS fall easily within the limits of moral obligations of the developed world.

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## **Section One**

### **Introduction to HIV/AIDS in sub-Saharan Africa**

# **Chapter One**

## **The Research Question**

### **Introduction**

We live in a world where there is an increasing gulf between the resources which are available to those in the developed world and the resources available to those people subsisting in the underdeveloped world. This is manifest in every aspect of social and economic life, and this includes the sphere of healthcare.

The problems faced in healthcare by those in the underdeveloped world are different from the problems facing those in the developed world. In the developed world the problems are largely caused through chronic degenerative disease and often reflect the difficulties of managing old age. In contrast, in the underdeveloped world, there are predominantly problems with malnutrition, high infant mortality and infectious diseases. The resources available, either privately or through the state, with regards to healthcare, also vary greatly between the two situations. In Europe it is not unusual for 1500 US dollars a year to be allocated per capita in regards to state healthcare provision, in the underdeveloped world, around \$30 per year per head of population (WHO 2010b p.138, OECD 2009, Nation Master 2009). Thus we find two physicians per 100,000 population in Africa as compared to thirty three in Europe (WHO 2010b p.124). The pharmaceutical industry devotes the bulk of their research and development resources to conditions which are predominantly found in developed nations, as this is where profits are garnered.

The contrast between healthcare within the developed world and many areas of the underdeveloped is growing more stark (Labonte 2005 p.535). At the present time, there are arrangements in place for some redistribution of wealth from the developed world to the underdeveloped in respect to this disparity in healthcare resources. These arrangements could be categorised as developmental aid, which comes from various states at taxpayers' expense, or, charity aid, coming from individuals or from corporate bodies. These two sources of funding, would appear to be of considerable help in individual situations and specific projects, but they do not level out the immense disproportion of resources between the developed and underdeveloped world with respect to healthcare.

The United Nations has proposed that each developed nation should contribute 0.7% of its Gross Domestic Product (GDP) to development aid. Very few countries have done so. However, in recent years the international community has focussed more closely on the problems surrounding development aid as a whole and healthcare aid in particular. Much of the catalyst for the latter has been the adoption by the United Nations of various Millennium Development Goals (MDGs) through which there has been an attempt to galvanise the developed nations into concerted action. In regard to the focus of this thesis these particular goals in question have been expressed in very broad terms, such as:-

Goal 4 - reduce child mortality,

Goal 5 – reduce maternal mortality by three quarters by 2015,

Goal 6 – combat HIV/AIDS, malaria and other diseases (Wilson 2005 p.xvi).

These goals have themselves also been expressed in terms of various concrete targets, such as to reduce by two thirds the under five year old child mortality rate by 2015 and to have halted the rise of HIV by 2015 (Wilson 2005 p.3).

These targets have acted as a catalyst for organisations such as the World Health Organisation and the World Bank, and have raised popular expectations for positive outcomes from G8 summits (World Bank 2004 p.2). They have spawned considerable interest and have stimulated the creation of research groups, which in turn have produced weighty reports and initiated programmes, with a view to turning these aspirational targets into reality.

### **The research questions**

The focus of this thesis is upon the investigation and quantification of the developed world's responsibilities for an aspect of healthcare aid, namely HIV/AIDS prevention and treatment. By the phrase 'developed world' I am primarily focussing on the moral responsibilities of individuals in the developed world. However, I will argue that these individual responsibilities are most effectively fulfilled by collective action. The underlying individual orientation will become most apparent when I consider the position of an individual who is living within a society which as a whole refuses to undertake the suggested burden in this area. There, I will argue that when a society as a whole fails to fulfil its duties, then the responsibilities continue to be borne by each individual (Chapter Eleven). I am using the term 'healthcare' as an exclusive term to include both curative and preventative approaches.

The fundamental research question being addressed is what is the ethical demand placed upon persons from the developed world arising from the HIV/AIDS epidemic in sub-Saharan Africa? This research question gives rise to a range of further specific questions, ‘do persons in the developed world have any responsibilities at all arising from the HIV/AIDS epidemic in sub-Saharan Africa?’ If so, ‘can we quantify the level of that demand in any way?’ ‘How do these putative duties compare with other duties in life?’ The thesis fundamentally addresses ethical questions so important subsidiary questions are ‘what is the moral basis for the claim that the developed world has a duty in this matter?’, and ‘what are the countervailing moral considerations, if any, which may moderate that duty?’

I will build up a moral case for assuming responsibility towards HIV/AIDS in sub-Saharan Africa, largely through considering the demands of beneficence and justice. These demands will appear very exacting in comparison to that accepted under common morality. I will then consider the case for limiting the effect of these demands through considering counter-arguments which suggest legitimate constraints upon the demands. The conclusion will be reached that there are strong moral reasons for assuming an obligation in the developed world to provide sufficient resources to enable effective prevention and treatment programmes of HIV/AIDS in sub-Saharan Africa.

### **Why focus on healthcare aid?**

It must at the outset be acknowledged that aid which is currently designated to the healthcare sector is only a part of the total aid packages presently given by donor countries. Even if health is regarded in a general way, including within the health sector some aspects of emergency relief aid, support for related government infrastructure,

support for water and sanitation projects, the percentage of aid currently designated as health related would still not reach beyond 20% of the total aid currently given (OECD 2009 p.11). While this is a minority of the total aid budget it is not insignificant, and thus would confirm that healthcare aid is presently seen as an important focus of aid. This thesis will not be arguing that the only legitimate focus of donor aid should be health. Indeed it accepts that it is reasonable that healthcare assistance should be part of a wider package of aid, which may well include such subjects as general economic development, education and debt relief.

It is likely that many of the arguments described in this thesis in regard to healthcare assistance will also be directly relevant to the question of giving aid in general. Some of the arguments relating to healthcare needs will be different in their nature, due to the immediacy of the personal risks to the individuals concerned. However, I would accept that there is a close correlation between a risk to life and limb caused by a lack of appropriate healthcare and by a lack of appropriate food sources. This example illustrates the difficulties of definitions in this area. Is a lack of food a healthcare issue of malnutrition or an agricultural issue of land development? Yet, there remains a difference between aid given towards health and aid given to establish an appropriate banking system, to moderate loan repayment terms or, to institute a favoured political structure. I will not however focus on potential differences in reasoning for giving healthcare aid, as opposed to general aid. I am simply flagging up at this early stage that the focus of this thesis is upon healthcare aid in particular, although when funding levels are considered, there must be a recognition of a need to scale up the proposals beyond the narrow focus of this thesis.



## **In healthcare, why focus specifically on the HIV/AIDS epidemic?**

At heart, much of this thesis will be considering the moral requirement to respond, or not to respond, to others' need. There are many potential categories of healthcare need which might have been addressed. This gives rise to a potential objection, which is why choose to focus on HIV/AIDS, in contradistinction to other healthcare needs such as TB, malaria, maternal mortality, healthcare systems in general, or malnutrition? Is there anything peculiar about HIV/AIDS, or is it simply one example out of many candidates?

My immediate response is that there are aspects of the HIV/AIDS epidemic which make it particularly useful and interesting as the subject matter for this thesis. Nonetheless, I am primarily using HIV/AIDS as a salient example of a prominent need which raises substantial questions regarding a potential duty of care towards others less fortunate than ourselves. In considering this I would note, firstly, that there are reasons for thinking that HIV/AIDS is at least as important as other candidates; secondly, that I am not arguing for absolute priority to be given to HIV/AIDS, but picking one condition worthy of attention amongst others; thirdly, that my approach throughout accepts that any important healthcare condition will need mainstreamed and not treated in isolation.

HIV/AIDS is unarguably a major healthcare need. The same may well be said for malaria, but when working in sub-Saharan Africa the saliency of HIV/AIDS seems much greater. This may be because HIV/AIDS remains at heart incurable, and the long-term psychological effects on individuals and communities are so great. Whilst more people are infected with malaria in any one year, the duration of illness tends to be much shorter, and the death rate remains considerably lower (WHO 2010b p.16, UN 2011 p.39). People in sub-Saharan Africa have long experience of malaria, and psychologically

regard it as a curable disease. TB, whilst also a more chronic disease, is again essentially curable, and thus less threatening to a community. In addition it affects far fewer persons, especially when considered independently of co-infection with HIV/AIDS (WHO 2010b p.17). Further, the chronic course of HIV/AIDS gives rise to more insidious social problems. In short, whilst it is tragic to lose a child to malaria, or a grandparent to TB, it is more draining on society to have a child orphaned by HIV/AIDS.

One might argue that it is both artificial and counterproductive to look at one disease entity alone, rather than to consider a healthcare system as a whole. There are clearly drawbacks in clinical practice in respect to treating one condition and ignoring others. This approach of focussing on one disease entity has received quite devastating criticism. It has been described as stove-piping. This phrase refers to the incipient danger of placing so much focus on one disease that other healthcare measures suffer (Garrett 2007).

I would accept that there is some validity in this criticism, and at a practical level would not suggest that healthcare institutions should generally only focus on HIV/AIDS. In the actual context of Garret's criticism I note that Garrett's response is to concentrate on maternal mortality. I am unclear why this would not also be accused of stove-piping. The primary point however, is that despite the title of this thesis, I would not advocate a sole concentration on HIV/AIDS in practice.

Instead, I would propose an approach that states that the AIDS response needs to be mainstreamed.<sup>i</sup> That is, that the AIDS response, from a resource perspective, must be set in a general developmental framework, tackling the multi-sectoral complexity of the epidemic (Holden 2003 p.78ff). This need for mainstreaming is particularly required for

HIV/AIDS given the complexity of the social issues that it raises, which go beyond that engendered by other infectious diseases. In financial terms, I will take note of the fact that funding quotes regarding HIV/AIDS will need to be multiplied in order to set the response within a framework of a viable health service as a whole (Chapter Eleven). In my view Garrett's assessment that many billions of dollars have been thrown at AIDS, and the general health of the population is suffering as a consequence, is missing the point that insufficient billions of dollars have been supplied for either HIV/AIDS or healthcare in general. Nonetheless much of the present giving, supplied to specific projects such as HIV/AIDS, TB and malaria can be shown to have had positive local effects, and have contributed to building up a change in overall healthcare, which can rightly, at least in places, be designated as a 'marvellous momentum' (Farmer 2007, Battin 2008 p.191ff).

For a thesis dedicated to the exploration of ethical theory, the funding of an entire health service does raise difficult questions regarding the level of health service provision which it would be reasonable to address. It becomes a very open ended question as to what resources would be required. Thus it then becomes difficult to focus on the question is there a moral requirement to meet these needs. Whereas the mounting of an effective response to HIV/AIDS is a matter which has been very specifically addressed and for which funding figures are readily available.

HIV/AIDS shares some particular characteristics of need with other major healthcare needs. HIV/AIDS is not a rescue situation such as one might see in a tsunami, a flood or an earthquake. In the latter there seems an acceptance in common morality that it is proper to expend quite large amounts of money for a short period of time. This could be illustrated at the local level by the public's response to the appropriateness of vast

amounts of money being expended in an air sea rescue or mountain rescue scenario (McKie 2003 p.2408). In contrast HIV/AIDS serves as an excellent example of an important chronic life-threatening need which will not be easy to remedy and which requires substantial sums of money over a lengthy period of time.

It is also proper to note that there are particular ethical aspects of HIV/AIDS which have received prominence in the literature (Wilkinson 1988 p.470ff, Murphy 1994 p.2ff). Much of this relates to lifestyle choices especially in realms of sexual mores. In my view these are not matters of substance and they will not be dwelt upon in this thesis. I would acknowledge however that such questions may influence the willingness of donors to give when contrasted with giving to disease management programmes regarding TB, malaria or leprosy, which may still be viewed by some as being less ethically problematic disease processes. Further there are particular issues of quality of life (Veatch 2010 p.77 ff), research ethics (Skuklenk 1996 p.400ff, Karlawish 2007 p.611) and public health (Kahn 2007 p.672 ff). Again these will not be focussed upon in this thesis. Nonetheless the general fact that HIV/AIDS has featured in ethical discussion does raise its profile as a pertinent subject matter for a thesis of this sort. Rehearsing the need generated by HIV/AIDS may also help to dissipate remaining stigma in the minds of potential donors.

In summary, there are many salient needs in this world. HIV/AIDS is a particularly useful example of a long-term chronic healthcare need, which is salient, discussed and costed. Certainly within healthcare, other conditions such as malaria, could have been utilised as an example, but there are features about HIV/AIDS which serve to make it an especially prominent example of a healthcare need which is worthy of exploration in regard to the demands that it raises upon others.

## **The relationship between established need and the duty to help**

The problems with HIV/AIDS are immense. However the fact that the problems are immense does not necessarily give rise to any ethical demands upon the resources of persons living within the developed world. For such a demand to be raised, three components need to be in place.

Firstly, there needs to be the possibility that something positive can be done about the problems. If the situation of HIV/AIDS in sub-Saharan Africa is a hopeless situation in which it is impossible to help at all, then it is difficult to see how there can be an ethical demand placed upon others to help. However, if there are meaningful and helpful things which can be done in regard to HIV/AIDS in sub-Saharan Africa, then this keeps alive the possibility that there is a duty to aid.

Secondly, in broad terms, I would suggest that an effective response must be beyond the resources of the persons involved for a demand to be then placed upon others. It is difficult to see why there might be ethical demands placed upon others' resources, if the individuals have sufficient resources themselves, but are choosing not to use them. I am assuming in this broad statement that there is no direct causative relationship between those others who might give aid and the need which has arisen.

Without arguing this point in detail, I would suggest that there are well-respected moral principles which would lead to my contention that responsibility begins with self. Thoughts of justice as fairness would suggest that one should not require of others what one could readily do for oneself. Beneficence to others would suggest that it was improper to ask of others what one could deal with oneself. These statements are not to

concede to libertarianism that there are no responsibilities to others. However they do raise a question against a full acceptance of utilitarianism as it suggests that there may be considerations regarding the resourcing of help beyond arithmetical calculations of utility.

These thoughts then raise two subsidiary problems, which are, what do I mean by “those involved” and when would one accept that the “need is beyond the resources available”?

In short I would suggest that ‘those involved’ refers firstly to the individuals in sub-Saharan Africa who themselves have HIV, then to a lesser extent, the families and neighbours of these individuals and finally the nation states in which these persons live. In this I would differentiate between a strong responsibility for those individuals to help themselves and a weaker responsibility for those who are in close relationship to them to help them. These matters will be discussed further in Chapters Ten and Eleven of this thesis.

In regard to that which would be seen as being ‘beyond the resources’, this may be in an absolute sense where an effective response to HIV/AIDS is completely beyond the resources of the persons concerned. More commonly, one might find that the resource allocation needed for HIV/AIDS would be so great as to cause unacceptable loss in respect to other important goods and services, which would then have to be withdrawn. For instance, if one has to go without adequate food and shelter in order to meet the need arising from HIV/AIDS, then the meeting of the need was beyond the resource available.

Thirdly, given the possibility of a useful response, and the inadequacy of local resources, there needs to be a significant normative reason or reasons put forward as to why others

should commit their resources to this end. The elucidation of this matter forms the focus of the second section of this thesis.

This all gives rise to seven main questions regarding HIV in sub-Saharan Africa and persons in the developed world. The first five underpin this thesis, the last two are the focus of this thesis. These are:-

1. How serious is the HIV/AIDS problem?
2. Is there a feasible solution to this problem?
3. Is that solution beyond the resources of the persons concerned?
4. Are persons in the developed world in partnership with the persons involved currently providing that solution?
5. If there is a significant short-fall, why is that happening?
6. Should persons in the developed world be involved in providing that solution?
7. If so, how great is their responsibility?

### **Structure of the argument**

The first five questions will be addressed in Section One of this thesis where empirical matters will be considered and a sketch given of the current attitude to the subject arising out of common morality. In Chapter One I will introduce the subject matter of the thesis including the research questions and the methodology adopted. In Chapter Two there will be a summary of the empirical science involved, including a summary of potential HIV/AIDS prevention and treatment options currently available, a cost assessment of these programmes and a comparison with the resources currently available. The

conclusion will be that this is a devastating disease which could be much better controlled if significantly more resources were made available. Chapter Three will illustrate aspects of common morality in a descriptive fashion to help explain why such a shortfall of resources is generally deemed to be acceptable to persons in the developed world despite the devastating effects of the disease.

Question six will largely be addressed in Section Two where a strong case will be made for a significantly greater involvement by the developed world in responding to the needs arising from HIV/AIDS. In Chapter Four I will explore Singer's arguments originally addressed to famine in Bengal and argue that this applies directly to the current HIV/AIDS epidemic and should, through a consideration of beneficence, give rise to a considerable duty to help in this crisis. This conclusion may appear intuitively surprising given the extreme nature of the potential duty invoked. In Chapter Five I will strengthen the argument by showing that morality may well be very demanding and that any intuitive reaction that Singer's arguments are overdemanding does not in itself negate his premises. In Chapter Six I will raise a further argument from distributive justice. I will relate this to our responsibilities towards HIV/AIDS in sub-Saharan Africa and through a consideration of contractualist and cosmopolitan arguments conclude that the developed world has considerable responsibilities in this area. Finally in Chapter Seven I will consider ideas of reparative justice and various rights based arguments which again lead independently to the conclusion that there are considerable responsibilities arising in this area. At the end of this section I will conclude that the moral arguments given lead both to a clear decision that we have responsibilities and also to the thought that we have such an extreme duty that the needs of HIV/AIDS should easily fall within the scope of that duty.



Question seven will be clarified further in Section Three where the legitimacy of possible constraints mitigating the force of the arguments of Section Two will be considered. Chapter Eight will address libertarianism. If fully accepted, arguments of libertarianism would negate the acceptance of a duty at all in this matter. I will come to the conclusion that libertarianism is not successful in negating the conclusions arising from the arguments of Section Two, but will accept that it does succeed in moderating the extreme demands which arise in that section. Chapters Nine and Ten will deal with possible countervailing moral arguments which seek to moderate that responsibility by considering other demands arising from self-interest and relationships. I will accept that there is some force in both these areas, but will argue that the moderating influence of these countervailing demands is such that for persons in the developed world, taken as a whole, there remains sufficient obligation for the needs of HIV/AIDS to be reasonably met. In Chapter Eleven I will deal with an objection of unfairness arising from non-ideal theory as to whether it is appropriate for one person, or state, to undertake responsibilities, when another does not. I will conclude that there is insufficient force in this concern to negate the overall conclusions of the thesis, but that it will raise pertinent points in regard to the practical mechanism employed.

In Chapter Twelve I will rehearse the arguments and conclude that there are strong moral reasons for the developed world to supply sufficient resources to deal effectively with such epidemics as HIV/AIDS in sub-Saharan Africa.

## **Methodology**

Sidgwick defined method in ethics as any rational procedure by which we determine what individual human beings ought to do (Sidgwick 1962 p.5). Arguably one can

overplay the place of method, but nonetheless it seems helpful to try to map out how one moves from underlying presumptions, intuitions, principles or theories to normative statements which outline what one should actually do.

As a broad introduction, Veatch helpfully outlined a five step model which he set forth as a linear model to provide a structure for the decision making process:-

1. Respond to the feeling that something is wrong;
2. Gather information;
3. Identify the ethical problem;
4. Seek a resolution;
5. Work with others to determine a course of action (Veatch 2010 p.23).

This thesis will initially address empirical facts regarding HIV/AIDS and explore the need that these engender. A consideration of empirical facts alone is not sufficient to give rise to normative directions. Most of the thesis will therefore address different ethical approaches which each in their own way suggest the need for a much greater involvement in HIV/AIDS in sub-Saharan Africa from persons in the developed world. These arguments will be drawn from disparate sources. I will assess and criticise these arguments, but will not conclude this stage by dismissing most and holding on to one approach alone. This is not to suggest that the cogency of ethical debate is achieved by a quantitative approach wherein the literal fact of using more than one argument is likely to strengthen the worth of the arguments considered individually. If an argument is intrinsically poor, then it is not strengthened by other arguments, using different approaches, happening to come to a similar conclusion. However, it is to consciously take a pluralist approach to ethics, and to accept that different theoretical approaches,

even if in places incommensurable, can each capture something of moral relevance and in the process add weight to each other. Further, from a more pragmatic perspective, showing that the conclusions arrived at are supported from different plausible perspectives makes them more resistant to counterarguments which relate to one moral theory alone. This pluralist approach will allow with greater ease the move from stage four to five of Veatch's classification above.

Undoubtedly, and in contrast to my approach, there is an elegant simplicity in regarding morality as being defined by one rule, such as the type of approach that underpins some forms of utilitarianism. I do not however believe that it would be appropriate to espouse a moral position just because it may appear to be of simpler construction. Morality is complex in its nature; insights can come from various approaches. I would agree with Schmidtz when he suggests we should abjure single-stranded interpretations (Schmidtz 2008 p.90/91). Embracing this complexity may lead to a less certain final outcome by way of normative directions. Yet, if this is a more realistic evaluation of morality, then the fact that the directions achieved are less certain, can hardly be seen as a reason to abandon the process.

The process which I have been outlining and will embark upon is further complicated by the fact that none of the approaches identified are unitary in their nature. Beneficence, utilitarianism, distributive justice, reparative justice, rights, all have different competing understandings of their meaning. I will however seek to present specific views which most closely have a bearing upon the subject of our responsibilities for helping with HIV/AIDS in sub-Saharan Africa.

Amongst the arguments presented, there will be moral positions proposed which lead to differing demands upon us in this subject area. This then raises the question of what should we actually do if differing moral demands and strengths of demand have been identified? In deciding this question I would make recourse to the *prima facie* concept as proposed by Ross. This is the thought that an obligation must be followed unless it conflicts on a particular occasion with an equal or stronger obligation. In other words, the moral demands engendered are in themselves real obligations, but moral agents identify what they should actually do in the Rossian scheme by examining the respective weights of the competing *prima facie* obligations (Beauchamp 2001 p.21 Ross 1930 p.xxxv). The *prima facie* obligations should not be viewed as insubstantial constructs, they are real moral directives, and they require significant countervailing reasons if they are not to be followed in any given situation.

Indeed a paradox of this construction would be that the *prima facie* duties have an intrinsic clarity, which is not always reflected in the eventual duty proper, or in Rossian terms in the actual duty. I would hold this in common with Ross. The various arguments that I will use individually give rise to real moral requirements, although the eventual duty pursued, while being our duty proper, can be more obscure. In terms of principles Ross could say:-

Our judgement about our actual duty in concrete situations have nothing of the certainty that attaches to our recognition of the general principles of duty (Ross 1930. p.30).

In this thesis I am not specifically advocating a form of principlism. I would however note that a theme of principlism is the difficulty often encountered in reconciling principles which pull in different directions. The work which has been done in reconciling differing principles gives insight into that which needs to be done in receiving specific normative directions while holding to ethical pluralism. In regard to principles Richardson has broadly identified three models of connection between principles and outcomes:-

1. Application – that is the deductive application of principles and rules;
2. Balancing – largely a matter of the intuitive weighting of principles;
3. Specification – qualitatively tailoring our norms to cases (Richardson 1990 p.279ff).

The method of application has been decried as being too simplistic. It is argued that particular case judgements rarely rely upon rational deduction from general moral principles (Childress 2009. p.25). However this is an over-reaction to the fact that deductive application, in and of itself, is not the sole element in the process of moving from principles to normative judgements. It is important to retain a deductive element in regard to drawing out the implications of a particular moral insight. Nonetheless, this must be supplemented with a process of weighing or balancing, and to a lesser extent specification.

The comments so far are directed at the level of the reconciliation of moral principles. I would also allude in regard to methodology to Rawls's concept of reflective equilibrium and the later more modern concept advocated by Rawls and Daniels entitled 'wide reflective equilibrium'. Rawls's approach will be developed more thoroughly in Chapter

Six. His approach was used to establish his moral theories, rather than to reconcile moral theories, but it is illustrative of the type of approach that must be taken when faced with competing moral positions.

His earlier method commenced with considered judgements, which is a series of moral convictions in which he had the highest confidence and in which he believed that he displayed the least bias. He then constructed a moral theory of justice and compared his considered judgements with the results of that theory. This was a two-way consideration. The considered judgements were relatively fixed, but they were capable of being moved by the rationale developed through his constructed theory and vice versa. The later wider approach to reflective equilibrium was similar, although it embraced a much more extensive review of moral considerations as part of seeking a harmonious equilibrium through an amalgamation of the disparate elements of moral discourse.

Rawls's approach contains different elements. It allows for basic intuition, but it supplements this with rational argument. It allows for some variation in the position adopted, but it generally maintains a stability regarding the conclusions once that position is constructed.

I would see considerable overlap between that which Rawls has suggested, especially in the later format, and the process envisaged by myself. This comment is particularly directed to the process of reflection leading to the establishment of a balanced position which has weighed up a considerable amount of differing material. In the process of forming a final judgement on what we should do, I am not so much relying on our innate knowledge of right and wrong, our *a priori* considered judgements. I would see the importance of these, but would be relying more heavily upon a combination of the ability

to rationally consider moral argument combined with an ability to come to a judgement regarding where the balance lies between and amongst their conclusions.

In regard to our response to HIV/AIDS, I would stress the importance of gathering empirical facts. In this research question there are two sets of relevant empirical facts. The first will be expanded upon in the next chapter of this thesis. Is there a need, if so what is the nature of that need? Is there anything that can be done to address the need and in particular is there anything that I can do to address the need? After answering these questions one needs to move to the second set of facts, which are facts about oneself. Who am I? What are my available resources? What are my interests and activities? What are the current demands upon my resources?

Armed with a set of empirical facts and relevant moral arguments, there then, at the heart of this process of making active judgements is a mental activity which could be termed reflection. I have used the word reflection, as opposed to deduction, as I believe that it most closely describes the activity involved. The word reflection allows for that which is both conscious and unconscious, rational and intuitive. It is a matter of personal judgement in harmonising disparate ideas which are not necessarily strictly commensurable. It involves making personal decisions, in which one can feel confident (De Paul 1993 p.174). However it is not capricious or idiosyncratic as it leaves the moral agent with a responsibility to be able to give a rational basis for their judgements about competing values.

It is important to admit that intrinsic to this whole process is a degree of indeterminacy especially when weighing up incommensurable goods. On the subject of HIV/AIDS in sub-Saharan Africa this uncertainty is within the boundaries of general parameters. I will

find no appreciable uncertainty regarding the question of whether we have responsibilities for the underdeveloped world's health needs. However, with the more complex moral question of what exactly is the level of our personal responsibility, I would suggest that remains a degree of uncertainty, within boundaries. The establishment of such boundaries will be a theme visited repeatedly throughout this thesis.



## **Chapter Two**

### **The Empirical Background**

#### **HIV clinical introduction**

As this thesis is directly connected to the HIV/AIDS epidemic in sub-Saharan Africa there is a need to briefly outline the clinical nature of that epidemic.

The letters HIV refer to human immunodeficiency viruses. These viruses, after a variable and lengthy period, lead to repeated episodes of illness caused through a failure of the immune system. The natural end stage of infection with HIV is AIDS (acquired immune deficiency syndrome) and eventually death. Although some politicians have challenged the connection between HIV and AIDS, most notably Mbeki, past president of the Republic of South Africa (RSA), there is no accepted scientific doubt regarding the relationship of the two (AVERT 2011). As there is no other cause of AIDS, the epidemic is often described as the HIV/AIDS epidemic.

Worldwide estimates are that over fifty million people have been infected with HIV, of which 16 million have died. Around 90% of the infections occur in the underdeveloped world (BMA 2004 p.174ff). Twenty three million of those currently infected live in sub-Saharan Africa (UNAIDS 2010a p.180). In 2009 in sub-Saharan Africa it is estimated that there were 1.5 million new HIV infections and 1.3 million AIDS related deaths (UNAIDS 2010a p.185). The rate of new infections has marginally decreased, but so also has the rate of deaths. The result is that the total numbers living with HIV continues to increase (UNAIDS 2010a p.25).

There are two main epidemiological patterns for the spread of HIV (UNAIDS 2010b p.15/16). In the developed world it has primarily initially spread within two subgroups of the population, namely, homosexual men and intravenous drug abusers. It has slowly become more common in the general population. In the underdeveloped world the pattern has primarily been that of heterosexual and perinatal spread from the beginning, with, in addition, iatrogenic spread through blood transfusions, and through inadequate clinical injection techniques (Weiss 1997 p.468ff).

The result of this epidemiology is that prevalence, within the underdeveloped world, can rapidly increase, and there is a greater incidence within females and children than is found in the developed world. In broad terms, in sub-Saharan Africa, the female male sex ratio for HIV infection is three to two, and within the age group 15-24 the ratio may well be three to one (UNAIDS 2010a p.131/2, 181/2). This has particular ramifications for new-born children (Medicines Sans Frontieres 2005 p.4).

The clinical disease falls into four broad syndromes (Longmore 2010 p.408). Firstly an acute seroconversion type illness lasting around six weeks, which is similar to glandular fever, although it may manifest itself as encephalopathy or meningitis. This is followed by a largely asymptomatic period which stretches for four to twelve years, during which time the person affected is infective to others. Thirdly, a period characterised by persistent generalised lymphadenopathy. Fourthly, a period characterised as AIDS, in which there is the development of one or more specified conditions such as a particular tumour or opportunistic infection. This fourth stage is often associated with constitutional changes such as fever, weight loss and diarrhoea; neurological changes such as dementia, myelopathy and peripheral neuritis; the specified tumours of non-Hodgkin's lymphoma and Kaposi's sarcoma and infections such as TB, pneumocystis jiroveci (PCP),

cytomegalovirus (CMV) and atypical candidiasis. In the underdeveloped world there is a particular synergy between HIV and TB (UNAIDS 2010a p.114).

In the underdeveloped world the time taken to go through these four stages appears to be considerably shorter than in the developed world. It is likely that the progression is brought on by other factors such as adverse socio-economic conditions leading to generally poor health and nutritional status (Holden 2003 p.6ff).

It is clear that HIV is a major health problem within sub-Saharan Africa. On its account life expectancy is falling (Holden 2003 p.91/92), and child mortality has risen (World Bank 2004 p.254ff). In contrast, in the developed world, HIV is a serious but relatively low incidence disease, which is, at the level of the individual, to a great extent controllable.

### **The social effects of HIV**

The effects of HIV go far beyond the immediate healthcare environment. There is often a pattern of spread which can be identified in different underdeveloped countries. At the early stages of this epidemic, the socially elite are disproportionately affected. The subsequent ill health and death produced within the ranks of the socially elite contributes to shortages of government officials, teaching and health care professionals. This in turn slowly erodes the capacity for the organs of the state to function, especially in rural localities, where such professionals would ordinarily be few in number (Holden 2003 p.15ff).

A further group, disproportionately affected at earlier stages, are itinerant workers, in particular truck drivers and the military (Tripodi 2004 p.196). This can lead to the spread of the virus into previously little affected rural areas and facilitates a gradual move towards equalisation of the prevalence between cities and rural areas. As the epidemic worsens differences between rich and poor erode. In general terms, once infected, poor people have the worst health outcomes. They are also pushed further into poverty (World Bank 2004).

Once established within an underdeveloped nation, HIV is self-perpetuating because most of the causes which give rise to increased susceptibility are themselves linked with poverty. Poverty leads to underlying immune deficiency by route of malnutrition, parasitaemia and Vitamin A deficiency, which in turn increases the likelihood of acquiring HIV infection when one is challenged with the virus. In extreme poverty short-term concerns replace long term planning and people are forced into commercial sex transactions and will often simply live for the needs of the day. This situation can be compounded by issues of gender inequality, which increase the susceptibility of females through their lack of independent education and financial prospects. In peacetime, in poor societies, females tend to have less control over their own sexual relations and in times of war, or civil unrest, they have specific vulnerability to becoming sexual victims of conflict (UNAIDS 2010a p.132). Cultures with extreme poverty are also troubled by poor public services whereby sexually transmitted diseases (STDs) are less likely to be effectively treated and childbirth or trauma is more likely to be associated with blood transfusions, which have been inadequately screened.

The dependants of adults who die of HIV are likely to have been reduced into deeper poverty and in many cases they may have become orphans through the loss of both

parents. The number of child headed families in sub-Saharan Africa is greatly increasing (UNAIDS 2010a p.112).

The problems caused by HIV in sub-Saharan Africa are clearly immense.

### **Are there practical answers to the problem of HIV/AIDS in sub-Saharan Africa?**

The adoption by the United Nations of various millennium development goals has focussed the international community upon the problems surrounding development aid as a whole and healthcare aid in particular. In regard to HIV/AIDS recent ambitious goals have been proposed as encapsulated in the phrases ‘zero new infections, zero AIDS related deaths and zero discrimination’ (UNAIDS 2010b p.7). The route towards these goals have been expressed in specific targets relating to sexual transmission, vertical transmission, targeting stigmatised at risk groups and gender issues (UNAIDS 2010b p.3). The literature surrounding these targets show that there are responses which can positively influence the problems caused by HIV in sub-Saharan Africa. This can be demonstrated both in terms of theory, that is, what potentially could be available, and also in terms of practice, that which has already been put into place in specific situations.

In considering this matter, there are two areas of broad interest in terms of healthcare. These are the prevention of fresh infections and the treatment of those with current infection. There can be interaction between these two areas. The effectiveness of some of the measures for prevention may vary depending upon the availability or otherwise of treatment for infected individuals. Treatment options in turn are enhanced by an informed awareness of HIV, which in turn can arise through effective educational campaigns.

## **Prevention**

Some of the issues of prevention involve general matters of the socio-economic environment and at times of culture change. Useful preventative strategies could be viewed as falling into three broad categories:-

1. Education;
2. Diagnosis;
3. Specific Interventions.

The first of these, education, would cover projects which educate the whole population and also projects giving information to specific vulnerable groups. Surveys within sub-Saharan Africa have shown that there can remain a surprising ignorance of basic facts concerning HIV/AIDS, despite the relatively high prevalence within the communities. This is compounded by a degree of denial about both the existence of, and personal risks associated with, HIV/AIDS (Van Nierkerk 2005 p.16/17, 57-59). This denial arises from many factors. Stigmatisation is common, which leads to direct adverse consequences if one were to admit to having the virus (Van Nierkerk 2005 p.64). Secondly, there is a culture of despair. If HIV/AIDS is perceived as a death sentence, for which there is no meaningful treatment, then it is natural that one might wish to know little about the condition. Thirdly, if one knows of the condition, but is disempowered from being able to make lifestyle changes, then there seems to be little reason to acquire information.

Yet education remains the bedrock of prevention. It must be relevant and realistic. Education in and of itself is not sufficient to guarantee alterations in people's behaviour

and outcomes, but it is the *sine qua non* of such changes. It remains an effective cornerstone of prevention and of empowerment for people to remain HIV free.

In Uganda the proportion of pregnant women found to have HIV has progressively fallen over the last eight years. This would seem to be as a result of education leading to the increased use of condoms in conjunction with delaying the age of first sexual activity and reducing the numbers of sexual partners (Holden 2003 p.22). The message given was “Abstain, Be faithful, use Condoms as necessary” – this was seen as the ‘ABC’ of health prevention. Many would suggest that the message of abstinence alone works poorly (Roehr 2005 p.496).

Similar benefits arise from the next preventative tool, which is accurate diagnosis. This requires the availability of a technically accurate technique for identifying status. It also depends upon a culture wherein there are positive individual benefits in knowing your status, not just benefits for communities or close contacts. At present it is estimated that less than 40% of adults in sub-Saharan Africa who are thought to have HIV have been formally tested (WHO 2010b p.5). It is possible that this percentage uptake will increase, if knowing one’s positive status is more clearly worthwhile, through the provision of treatment regimes.

Knowledge of status is the critical entry point for any type of service. This is true at the level of the individual in regard to personal treatment where a timely diagnosis can ensure that antiretroviral treatment is initiated when clinical benefits are greatest (WHO 2010a p.14). It is also true at the population level whereby the impetus for many public health measures depends upon knowledge of the prevalence of the virus in the society and of the particular sub-groups disproportionately affected. The outcome is poorer if persons are

only tested when they interact with the health services for treatment at a mature stage of the disease process (Poku 2007 p.285). This also leads to a lack of targeted public health intervention measures.

Botswana introduced routine testing of HIV status in all public health facilities in 2004. This remains voluntary, but only 5% opt out. Routine testing helps to demystify the process of HIV and undermines the tendency to stigmatisation and denial within a community. This has had a variety of demonstrable benefits in regard to both prevention and treatment within Botswana (Botswana Ministry of Health 2012). The number of facilities which provide HIV testing is gradually increasing in sub-Saharan Africa overall (WHO 2010a p.17).

Where more clinical means of prevention are concerned, a vaccine will not be available, for technical reasons, in the immediate future. However, building on the two foundational issues of education and diagnosis there are a large number of specific preventative measures which can be undertaken. I will list a few of such without supplying great detail. My primary purpose is to make an empirical case that there are steps which can usefully be taken in the face of the demonstrable and otherwise potentially overwhelming need.

1. The adoption of male circumcision has been shown to make a statistical difference to the spread of HIV (UNAIDS 2007 p.23). The number of such operations are increasing (WHO 2010a. p.6, 23).



2. The specific targeting of expectant mothers who already have HIV in order to prevent spread of the virus to their offspring, is an effective way of reducing future infant morbidity. A single anti-retroviral (ARV) can reduce the rate of transmission from mother to child if given antenatally, although combination therapy is now being recommended (WHO 2010a p.7). The use of these various simplified ARV regimes have been shown to be effective within the Third World context (Taha 2004 p.202-209).
3. Iatrogenic spread can be reduced through appropriate sterilisation of surgical implements, with greater use of disposable implements and screening of all blood products used for haematological treatments. Only 48% of blood products are currently screened in a quality-assured manner in sub-Saharan Africa (WHO 2010a p.23).

## **Treatment**

I will only highlight two treatment areas, the use of ARV drugs and the treatment of associated opportunistic commensal infections.

The treatment option which has had most publicity in recent years is the move to make available ARV drug therapy wherever it is needed. An initial target was expressed in terms of treating 3 million patients by 2005 (Furber 2004 p.1281). A further target was to ensure the regular and safe administration of ARV drugs to 75% of those in need by 2015 (Wilson 2005 p.1). To achieve increasing availability of ARV treatment there needs to be both drugs available within the community and also the availability of robust healthcare services which can make proper use of these drugs. Even free drugs cannot be supplied

without infrastructure, nor are they effective if the drug supply is intermittent (WHO 2010a p.58).

In 2001 it was estimated that 1% of those people for whom ARVs were clinically indicated were in fact receiving them. There has been a considerable change in that situation. However, the scaling up process to meet the millennium goals has been slow. Some countries, such as the Republic of South Africa (RSA), deliberately adopted a slower approach (Nattrass 2005 p.39 ff). This raises the question, are the goals realistic, if some local communities appear disengaged? The interim goal of treating three million HIV infected persons with ARVs by 2005 did not happen, instead around 700,000. However the goal of 3 million on treatment was reached by 2007 (UNAIDS 2008 p.17). It is currently estimated that one third of persons requiring treatment, around 5 million, are receiving it (WHO 2010a p.3,10). Some sub-Saharan countries, such as Botswana, have already achieved universal access (WHO 2010a p.6.). This would suggest that a treatment regimen is possible, although the implementation difficulties had been initially underestimated.

There have been considerable problems with the cost of both the drugs and the necessary associated healthcare infrastructure (Holden 2003 p.20). One of the millennium goal targets is to develop a partnership with pharmaceutical companies to provide access to affordable drugs (Wilson 2005 p.xvii). Nonetheless the costs of drugs remained prohibitive for many from their own resources (Poku 2007 p.8). Treatment for the three million was only reached through massive outside contribution. At a local level, if the decision is to seek payment from the patient to recoup these costs, then this will often lead to an inability of the patients to access the service (Poku 2007 p.17).

There have however been dramatic reductions in the cost of ARVs. Initially full ARV treatment was estimated at being around \$10,000 US per year. Now in underdeveloped world situations, through the interactions between governments and drug companies, this has been reduced to \$130 to \$500 per year (Poku 2007 p.71). Even this remains prohibitively costly for patients if they have to pay for themselves, nonetheless through donor involvement, some countries, such as Zambia, have been able to move to making the drugs freely available at the point of need. Arguably, the provision of free drugs is a cost saving strategy. The social benefits in terms of maintaining household coherence, maintaining a workforce, and reducing periods of hospitalisation, can exceed the cost of providing treatment (Poku 2007 p.9). This cost-effectiveness will not be applicable in every case, but it serves as a reminder that there are cost benefits as well as losses in setting up an appropriate regime of prevention and treatment. Effective treatment also leads to a reduction in viral load and a subsequent reduction in transmission rates (WHO 2010a p.63).

However, healthcare systems are often totally inadequate to deliver ARVs. A particular factor within this is that for financial reasons healthcare workers trained in the underdeveloped world are frequently targeted by the developed world healthcare providers leading to their emigration to the developed world (Johnson 2005 p.2). The United Nations estimates that 36 countries in sub-Saharan Africa have a critical shortage of healthcare workers representing a need for around a million more trained personnel (UNAIDS 2007 p.3). Oxfam would suggest that developed world countries should stop undermining the healthcare networks of the underdeveloped countries by forbidding the import of skilled healthcare workers from these countries (Oxfam 2009b p.2).

A further difficulty is the lack of rural laboratory facilities which can adequately test and monitor the progress of therapy. In this context concentrated international effort is required to explore and research simple technologies which give ‘good enough’ measures for public health and mass treatment policies (Poku 2007 p.8/9).

Pilots in the RSA have shown that it is possible to deliver ARV therapy from Health Centres effectively using nurses and healthcare assistants. In other words, some of the difficulties with healthcare professional number deficiencies can be overcome by a combination of simpler regimes, and through downgrading the type of qualifications required of a healthcare worker at each stage of the process (Poku 2007 p.91). There have been less problems with side effects of drugs than were initially expected from studies which were based on the more complicated Western regime models (Wilson 2005 p.76). Although there have been some negative interactions between HIV and TB drug therapy, this can be overcome (Wilson 2005 p.100). Patients are shown to be highly adherent to the drug taking. A project, ran within a community in Cape Town, RSA, showed that over 90% of people taking ARVs were highly adherent, which was defined as taking at least 95% of their medication correctly (Poku 2007 p.11). Overall statistics for sub-Saharan Africa suggest 75% adherence at 24 months (WHO 2010a p.61). Survival rates are generally good and the effects on recipients’ health and quality of life are similar to that which is observed in industrialised countries (Poku 2007 p.3).

This is not to suggest that ARV regimes are problem free. Some subgroups are difficult to engage in treatment – e.g. children, prostitutes, the poor, drug users (UNAIDS 2008 p.17). This can lead to a targeting of easier to reach groups at the overall expense of the poor and marginalised groups (Wilson 2005 p.4). In particular it is difficult to adequately address women’s HIV/AIDS health needs without engaging with wider issues of poverty, gender

equality, social dislocation, violence and ensuring access to education and property rights (Wilson 2005 p.9). Adherence can be worsened by schemes, such as in the RSA, wherein financial grants are dependent upon continued sickness. There can be a failure to address the needs of specific groups such as sex workers, drug addicts and homosexual men, who can have particularly high prevalence, but who are not targeted due to criminalisation (WHO 2010a p.26, 45).

In regard to reducing both the incidence of morbidity and mortality of HIV it is almost as important to treat the associated commensal organisms as it is to treat HIV itself. Due to the effect of HIV on the immune system, much of the illness and death related to HIV is caused by other organisms which can themselves be controlled by effective treatment regimes. The prime example of this would be appropriate treatment of TB. However there are in addition a range of other commensal organisms, causing illnesses such as pneumonia and widespread candidiasis, which are associated with HIV, and which are potentially responsive to treatment. In some cases such as TB, CMV and PCP there can be benefits in treating these prophylactically (Poku 2007 p.173).

Implementing these positive steps is not easy. There are genuine debates over the best methods to employ. Nonetheless, it remains clear that there are a number of effective interventions which can be introduced into the underdeveloped world in respect to the prevention of cases of HIV and the care of people who have contracted HIV (Hogan 2005 p.1431).

The need has been established, and it is immense. I have now established that there is a realistic programme of potential benefit in response to that need, which would be technically possible to implement. One cannot say, as a member of a developed world

society, that HIV/AIDS is tragic, but there is nothing that one can do about it, therefore I have no potential duty to help.

### **Estimated costs**

The next empirical question is what is the potential cost of an effective HIV/AIDS prevention and treatment programme? It is important that this is dealt with near the outset of this thesis as it may have a fundamental effect upon the main research questions raised in this thesis. Should the costs be minimal, that is well within the means of the individuals and countries primarily affected, then it is likely that an argument could be made for saying that the responsibility for meeting these costs lie primarily with the persons directly involved. In that scenario there may be counterarguments suggesting that the developed world should nonetheless lend a hand in the matter, but the pressing nature of the moral argument would be changed. On the other extreme, should the costs be so excessive, that it were not possible using the combined resources of the developed world to meet the costs, then this would also have a profound effect upon the research question. There may well be arguments raised that it is pointless to embark on such a futile venture. Although, even here, there could be cogent argument saying that it is better do a little good, than none at all.

Estimations of exact costs are themselves fraught with difficulty. It would depend quite how wide ranging the approach adopted would be both in regard to the issues addressed and the anticipated outcomes aimed at. It is however possible to establish a broad understanding of the costs involved. At a very general level Oxfam estimated a need for \$50 billion US dollars per year to cover an appropriate response to AIDS treatment and prevention in a global sense of not just addressing the disease but also addressing all

related matters including underlying poverty and exploitation (Oxfam 2009a). This figure related to HIV/AIDS beyond sub-Saharan Africa and covered a very broad range of underlying issues which were a little difficult for them to specify with great accuracy. With a narrower remit the Copenhagen consensus project in 2004 published a suggestion of a requirement at that time of \$27 billion US dollars spent over a four year period for effective HIV/AIDS prevention work (Van Nierkerk 2005 P.12). This would suggest a requirement for a budget of approximately \$7-9 billion US dollars per year at the present time, dedicated solely to prevention work. Again this related to all developing countries and not just sub-Saharan Africa, although the vast majority of the expense did relate to sub-Saharan Africa.

Arguably the most detailed costings arise from UNAIDS. The costs of their comprehensive prevention and treatment HIV/AIDS package was estimated at around \$22 billion US dollars in sub-Saharan Africa for 2008 with yearly rises required thereafter (UNAIDS 2008 p.3). The estimate of need for 2010 was \$26 billion US dollars (UNAIDS 2010a p.144). Admittedly, there have been concerns that they may have underestimated the need (UK Government 2009).

### **Historical giving**

There was a six fold increase in funding for HIV related programmes in sub-Saharan Africa between 2001 and 2007 (UNAIDS 2008 p.3). Nonetheless, the giving fell well short of that required. A total of \$15.9 billion US dollars was available for the AIDS response in 2009, \$10 billion US dollars short of what is needed in 2010.

This financial investment came both from local government and from foreign donation. In low-income countries, however, such as much of sub-Saharan Africa, 88% of spending on AIDS comes from international funding. HIV prevention programmes particularly rely on international funds (UNAIDS 2010a p.145). Of the money raised internally for HIV/AIDS, half of the money came from state coffers and half from individuals and families, who sell their assets to fund their care (UNAIDS 2005 p.4-10).

After a lengthy period of year on year incremental increases to donor funding the fact that there was a slight decrease, and at best stagnation, between 2008 and 2009 is noteworthy. Donor countries are suggesting that they intend to increase their giving to sub-Saharan Africa by 1% per year over the next three years, although this will be dependent upon economic outcomes within the developed world (UN 2011 p.62). This has led UNAIDS to warn that the global response to HIV is at a pivotal juncture, where the gains of the past may be at risk. They blame this on changes to the wider environment, most notably the current global economic crisis (UNAIDS 2010b p.7, 16). They see this as a particularly urgent and stressful time for their projects (UNAIDS 2010a p.5).

### **Availability of resources**

UNAIDS would suggest that we are looking at a current annual short fall of around \$10 billion US dollars. Do the suggested solutions reasonably fall within the resources of the countries directly concerned within the underdeveloped world, and in particular within sub-Saharan Africa? In short, the answer would appear to be, no.

There are arguments which would say, if only things were different, then persons in sub-Saharan Africa could fund this matter themselves. For instance, if there had been no



conflict in the African continent in the past twenty years (Oxfam 2010). However, the need arises from present reality. It is unreasonable to believe that the individuals directly concerned would in general be in a position to massively increase their contributions towards treatment. It is even less likely that they would be able to, or inclined to, fund a meaningful prevention programme. Where states are concerned, the current shortfall in low income countries is so great, that it would be meaningless to raise the expectation that they would be able to finance current recommended projects.

In this time of economic downturn and financial stringency, would it be possible for the developed world to fully make up the shortfall? In short, the answer is, yes. The current target of donations from the developed world is only 0.7% of GDP. In other words funding presently devoted to aid is but a small fraction of the resources which are potentially available and fully funding the HIV/AIDS programme would scarcely move the current target at all.

However HIV/AIDS is only one of a number of similar issues which arguably have a similar claim on resources. A comprehensive HIV/AIDS programme is possible to roughly cost, but if this is placed in the context of dealing with malaria and TB, of supplying fresh water, of addressing hunger and climate change, then it is more difficult to put an exact figure upon this. There are both arguments for suggesting that the estimate of 0.7% of GDP as being a useful figure are completely outdated (Clemens 2010). There is a general acceptance that it is very difficult to model these overall costs accurately (Reddy 2006). Authoritative estimates in regard to a full worldwide implementation of the UN millennium goals are in the region of an increase in current overseas aid between \$50 billion US dollars and \$126 billion US dollars per year (Markandya 2010 p.4). This

represents an increase in the current aid budget from the developed world of the order of a further 100–200% (OECD 2012).

It may be argued that such donation was acceptable before the current financial crisis, but is now impractical. Contrary to this, I would suggest that the developed world's response to the financial crisis is illustrative of the funds that are available should need arise. These sums were staggering, if still difficult to quantify in terms of end result. It is widely accepted that the United Kingdom utilised around \$170 billion US dollars even if the then Chancellor hopes that the actual end cost may be as little as \$10 billion US dollars (Darling 2010). Similarly, it is widely quoted that the US government spent around \$400 billion US dollars, even if again the Treasury Secretary hoped that the end bill may be around \$87 billion US dollars (Geither 2010).

I would take from this four salient points, that the resources needed are large, that there is at the present time a significant shortfall, that it is not possible to imagine an effective response being mounted by the affected countries on their own and that it is possible to imagine the developed world being able to make up the shortfall.

### **Empirical summary**

There is no doubt that there is a material problem with HIV in sub-Saharan Africa. Africa, the home of 10% of the world's population, living on 1% of the world's global economy carries the burden of 70% of the world's HIV positive persons (Van Nierkerk 2006 p.57). In the last few years there has been a degree of stabilisation of the HIV burden in some sub-Saharan countries, the incidence is falling, whilst the prevalence rate continues to rise (UNAIDS 2010a p.16). In some countries, where the proportion of

adults living with HIV has become constant, this is not because the disease has necessarily halted, but simply because the death rate equals the current new incidence rate (UNAIDS 2010a p.23). It should always be remembered that the AIDS curve, follows the HIV curve, and will not yet have peaked (Van Nierkerk 2006 p.10).

Yes, there is a material problem. Are there meaningful solutions? To be meaningful, the solutions will have been demonstrated to have been beneficial. To be meaningful, they must be affordable within the potential resources available.

Meaningful solutions are available. The United Nations states that “We have the knowledge and ability to achieve universal access and to reverse the epidemic” (WHO 2010a p.4). They declare “... data clearly shows that steady progress is being made towards achieving universal access to HIV prevention, treatment, care and support. HIV prevention is working. Treatment is working” (UNAIDS 2010a p.7). There is however a considerable funding shortfall. The next chapter will address in a descriptive fashion some of the ethical reasons why such a shortfall exists.

## **Chapter Three**

### **Common Morality**

In this chapter I will give a short descriptive account of the common ethical thinking which partly explains the current acceptance of substantial shortfalls in funding for areas of need such as HIV/AIDS in sub-Saharan Africa. This brief description will act as a counterfoil to the ethical deliberations in the substantive parts of the thesis in Section Two and Three.

#### **Why is there a shortfall?**

It would appear clear in respect to HIV/AIDS in sub-Saharan Africa that there is a great need, and that that need has potential solutions, yet the implementation of these solutions is beyond the capacity of the people directly involved to resource.

At the present time there is a substantial recognition of both the need and the funding shortfall. The need is recognised by the United Nations and has led to the production of their millennium development goals as previously mentioned. This need, amongst others, has also been recognised by various voluntary organisations and individuals and has led to public events such as Band Aid. This has helped to place the issue higher in the political agenda and it has been given greater prominence at recent G8 summit meetings. The international community has committed itself to increasing resource transfer at Monterrey, Doha and Johannesburg. Corporate bodies, such as the pharmaceutical giants, have begun to bow to social and legal pressure and allow for the reduction of the prices of their drugs in certain underdeveloped situations which particularly helps HIV treatment. The

resources for AIDS programmes in the underdeveloped world have increased dramatically. Yet the response remains inadequate. Why is this?

There are many potential answers to this question, some of which relate to feelings of powerlessness or futility, perhaps even of prejudice, but at this stage I will briefly focus on three. These three raise fundamental moral questions. The first two I will mention at this stage in passing, and the third I will develop a little further here. These answers relate to an individual's response within a society, but are reflected in the communal decisions carried out by states. Currently the primary donor mechanism is state giving through taxation. A state may well lead public opinion in this regard, which is demonstrated by the criticism which the current government in the United Kingdom has received at the hands of some members of the press over their decision to ring fence, rather than reduce, the present overseas aid budget. Nonetheless a state will not stray far from its perception of what individuals in the society would wish it to do.

### **Why is the shortfall not fully addressed?**

1. People are reluctant to hand their resources to strangers if it means a tangible reduction in their own lifestyle.
2. People are reluctant to contribute to others if they believe that others in a similar position do not contribute.
3. Common morality does not dictate that this level of giving is necessary.

One could see my first response above as being a reference to the natural human tendency to acquisitiveness, or indeed greed. Greed however is a pejorative term, as it does imply that the conduct should be judged against a standard which would suggest that the desire to hold on to ones property in this way is wrong. This standard would not necessarily be popularly agreed. Often people positively feel that they have the right to hold on to that which they have justly earned. Although not always thought out, this could be seen as libertarianism. In addition, people do have a tendency to make much of their own needs, wants and projects, to the detriment of claims of others upon them. Finally, people commonly put great emphasis on the needs of those close to them, against those who are distant strangers. I will return to consider these matters in Section Three, specifically Chapters Eight, Nine and Ten.

The second point raised can arise from the first. There will be occasions when a need is recognised, yet someone is pleased, perhaps relieved, if they see that the need has been met by someone else. However, there is the more basic point, why should one give if someone else in the same situation is not giving? Further, if one decides to give notwithstanding the others refusal, and the need is not met, should one then have to give more? I would suggest that the apparent unfairness in this situation would be a reason for many not to give generously. This question of fairness will also be considered in Section Three and addressed specifically in Chapter Eleven.

However, the fundamental problem for many is not a desire to be selfish, nor a worry about what others are doing, but the fact that common morality does not clearly stipulate any need to give more than presently occurs. Thus people, by in large, while seeing the need arising from HIV/AIDS and similar issues, do not see it to be wrong, not to meet the need.

By common morality I am referring with a broad brush to how people in the developed world generally approach matters of right and wrong. I am using the term 'common morality' in a descriptive sense, conveying that which many people believe about morality. I am not saying that there is a discrete position on morality which everyone accepts, called 'common morality'. Nor am I suggesting that we should accept all that might fall under the heading. However, there are some general agreements about morality held within the developed world as a whole and it is possible to say something about the characteristics of this belief. It would be my view that common morality should not be lightly disregarded, but, nonetheless, it must be subject to potential criticism and change, through the evaluation of moral ideas.

My approach here is descriptive, rather than making an argument for accepting some or all elements of common morality. This is in distinction to the approach adopted by Beauchamp and Childress. They also believe in the concept of a common morality, which they define as the set of norms which all morally serious persons share. They claim that these norms are learned as we grow up, that they predate us, and are transmitted across the generations. They restrict this common morality to a small set of all actual and possible moral norms. The reason they do this is presumably because they claim that common morality has normative force (Beauchamp and Childress 2001 p.2-4). I agree that common morality will inform intuitions and is likely to contain substantive beliefs which are reasonable to hold, but it would not be my intention to rely upon common morality as a guide in this thesis, but to describe it here as the cultural background to later ethical considerations.

Likewise I would distinguish how I am using the term from Gert (Gert 2007). He also describes a moral theory which he believes represents a common morality. He defines this

in terms of rules and ideals and outlines a two stage process to be undertaken in regard to moral disagreement. Yet he goes beyond description and seeks to justify his conception of common morality as being rational and authoritative (Gert 2007 p.4 and 8). In the process he faces criticism that his view of common morality is quite distanced from how people actually think, as it allows no place for religious sentiment and arguably puts too great a gulf between moral obligation and ideal (Flescher 2006 p.223/4). Further, that his methodology for resolving moral conflict would not be universally understood, never mind followed (Strong 2007 p.535ff).

### **Characteristics of common morality**

In describing some of the characteristics of common morality I will draw upon elements identified by Gert and Beauchamp, but also have regard to the writings of Shelley Kagan who describes a common morality, not in order to advocate the position, but as a foil to demonstrate the reasonableness of his utilitarian concepts (Kagan 1989).

All three writers suggest that there is a common morality which can be broadly agreed and described. In general terms this is expressed in terms of rules, or principles, which are strongest when stated negatively, that is delineating limits on our actions. There are actions which are generally deemed to be bad to do, such as causing harm to others, and should generally therefore be avoided.

Common morality relies heavily upon intuition, reinforced by conscience. Although ill-defined on a theoretical level common morality can be quite efficient and cohesive as a moral guide within a specific society. It has a tendency to conservativeness. However, common morality struggles when its basic rules or principles come into conflict with each



other and there are poorly charted means for dealing with this conflict which can lead to unresolved moral disagreements.

Common morality also accepts positive injunctions, such as to do good unto others, to act beneficently. For instance, surveys in the United Kingdom tend to show that the majority of persons agree with the proposition that we have humanitarian obligations to help the poor in other countries (Hensen 2010 p.30). However common morality generally recognises limits that such positive demands can place upon us. This is variously expressed, but can be described as the making of a distinction between moral ideals and obligations, or in describing principles which could give rise to, but not demand, supererogatory acts. These latter are acts which are good to do, but not blameworthy if avoided. They are seen as being in the province of moral heroism, as an act is supererogatory if, and only if, it meets the following three conditions, (1) it is morally optional, (2) it is morally praiseworthy, and (3) it goes beyond the call of duty (Crimmins 2012). Intrinsic to this approach is a belief in moral options, wherein it is possible to justify various approaches in regard to outworking moral conundrums.

People who campaign on social deprivation issues have in recent decades placed more emphasis on questions of rights and justice (Labonte 2005 p.535). This resonates in common morality as people are beginning to accept the idea that they should claim rights, at least for themselves, and then through reflection for others. They also wish to acknowledge the benefits of living in a just society and would not wish to be assessed as acting themselves unjustly.

However, in common morality there is still some residual suspicion of the language of rights, perhaps due to some uncertainty of the basis of rights declarations and surprise at

the burgeoning number of rights which are claimed. Where helping strangers is concerned there remains in common morality a reliance on the concept of charity which falls more naturally into supererogatory act, than obligation. For some, there would remain alive the question do we have any duty to give at all, that is can there be a duty to be charitable? In this common morality resonates with Kant's view of benevolence as being an imperfect duty (Kant 1947 p.89).<sup>ii</sup>

Further, common morality remains ambivalent as to whether we have duty to self and self-interest or not. It is noteworthy that Gert does not believe that this forms part of common morality, but in popular terms people would appear to live as if, in this, he is mistaken. There is a common acceptance that one must look after one's own interest which goes beyond a prerogative to pursue one's own interests to an acceptance of duties to self. Indeed, one of the factors which motivates people in the UK to continue to make contribution to those overseas is the belief that this will in some way make their own lives more comfortable (Hensen 2010 p.22, Gettleson 2011 p.8).

### **How does common morality apply to HIV?**

HIV is a major problem, producing untold misery to many millions in sub-Saharan Africa. Yet to the majority of those more affluent persons in the developed world it would seem a problem for which they are not directly responsible and which affects persons who are distant strangers. Common morality may accept duties to help due to reparative justice,<sup>iii</sup> however the empirical questions as to whether colonial activity did inflict harm and whether such harm persists from the global economy would not be clear cut. Thus potential duties arising do not weigh heavily in terms of popular common morality. Similarly a case may be made for helping financially in terms of distributive justice.<sup>iv</sup> Yet

again I would suggest that the argument here would weigh lightly in terms of common morality and most would see it easily fulfilled, if accepted at all, in terms of the current giving through taxation. Indeed there is growing concern over why we are giving so much (Brennan 2010).

The underlying issue would be that most people do not see a requirement to give aid as arising from a rule saying that we should not cause harm. Certainly a failure to give adequate aid will lead to negative consequences. However common morality would not view a failure to help in the same terms as positively causing injury and misery to others. To many philosophers, focussing on consequences, failures of omission and commission are identical. In common morality they are distinct.

In common morality giving for HIV provision falls under rules such as a general duty to help others more needy than ourselves. This is subsumed under the general heading of charity. We may feel that there is something that we should do, but at heart it is optional. Our giving is voluntary and subject to a considerable number of legitimate constraints. These would include self-interest, our own interests, projects, pleasures and desires, also the interests of our friends and family and perhaps those geographically close to us. We expect praise for giving away £20. We express admiration for those who dedicate their lives to helping good causes, but we do not expect to be blamed for not following their example. We have almost a free choice in this matter. Yes there are limited or imperfect duties to the distant stranger, but we have considerable freedom in the extent that we should feel obliged in this matter..

In summary giving help to HIV/AIDS in distant lands fits clearly into charity and supererogatory activities. In addition, for some there would be a further complication of

judgemental attitudes particularly attached to HIV/AIDS which opines that people have only themselves to blame for the predicament in which they find themselves (Dixon 2002 p.6ff). Thus in different ways common morality reflects and reinforces the current shortfall in resource allocation to HIV in sub-Saharan Africa.

### **Importance of common morality**

This thesis will not adopt the position that common morality should be accepted in an unquestioning fashion. Neither will it start from the position that the intuitions found in common morality can be set aside at whim in favour of an overarching moral theory. I will explore further moral arguments which support a duty to give much more than that which is currently suggested by common morality. The accent will move from charity and supererogatory acts. The focus will remain on the questions, do we have a duty to give to programmes for HIV/AIDS in sub-Saharan Africa, and if so, how does that duty compare to other demands, that is, what should be the strength of that duty in resource terms. I will show that the positive arguments available justify there being a duty to give and quantify the obligation very far beyond that held through common morality, so much so that it appears extreme and counterintuitive. I will then address and evaluate potential constraints upon that extreme position and suggest a position which is much more generous to the underdeveloped world than that currently adopted, but less extreme than that which at times has been suggested in the literature with regard to similar topics.

This is not an entirely theoretical exercise. A reliance upon common morality leads to inadequate funding. If one accepts that there is a duty to give more than common morality would suggest, then clarity regarding the reasons for that duty helps to define the weight of the duty. Should we give one pound more, or a thousand pounds? Finally, clarity

regarding the reasons for the proposed duty will have an effect upon people's motivation to comply with the duty. This last point is somewhat pragmatic. One might argue that we should all comply with moral duties, simply and only because they are duties. However, in regard to actual behaviour, compliance with a duty will be higher if people understand the reasoning involved behind the moral obligation which is set out.

## **Section One - Conclusions**

There is a considerable disparity between the healthcare resources in the developed and underdeveloped world. HIV/AIDS in sub-Saharan Africa is a salient example of a massive healthcare need which creates untold misery and death. There are effective means available for both prevention and treatment, which would limit the devastating effects of this disease. The resources required to implement these measures are completely beyond the means of the local societies involved. International society has recognised the need and this is reflected in the millennium developmental goals. The resources currently donated from the developed world in this regard have been sufficient to demonstrate some improvement but they fall considerably short of the resources required for fully effective programmes to be implemented.

One of the reasons for the inadequacy of this response is that common morality does not suggest to the vast majority of persons in the developed world that their response is immoral. There is some acceptance of a duty to be beneficent, but this is seen as an imperfect duty and becomes classed alongside other works of charity. These are seen as supererogatory acts. Most would see stronger responsibilities of duty to themselves and to those who are in close relationships with them.

This thesis will identify in Section Two a number of strong moral arguments which will each lead to the conclusion that the developed world has responsibility for need in the underdeveloped which vastly surpasses the resource requirements for HIV/AIDS. In Section Three counterarguments will be considered which will modify the extreme demand set out in Section Two but will still lead to an expectation of a resource demand which is considerably greater than that envisaged currently under common morality. The

competing moral demands will be viewed as *prima facie* duties and assessed in a methodology primarily using balancing in order to establish general parameters of where the practical duties lie.

## **Section Two**

### **Arguments in favour of much greater responsibility**



## **Chapter Four**

### **Peter Singer - The Child in the Pond**

#### **Introduction**

Chapters Four through Seven comprise the second section of this thesis. In this section I will be considering and largely endorsing various approaches which have been taken to questions similar to 'Should persons in the developed world be involved in providing solutions to HIV/AIDS?' and which answer these questions very positively. These various theories do not unambiguously reinforce one another, as they start from different assumptions and apply different criteria. Nonetheless, when taken together, they build up a strong case for contributing to the healthcare needs of HIV/AIDS to a level which is far beyond that currently envisaged in common morality. They each share in common a level of moral demandingness which is startling to those following the obligations of common morality. Each theory gives us a reason, albeit not a complete one, for accepting moral demands in excess of those endorsed by common morality.

This chapter will commence this section by considering arguments raised by Peter Singer. Precedence is being given to his views as an acknowledgement that his arguments, while in some ways simple, have been a driving force on similar matters of debate over the last few decades. He has not specifically written on the question of HIV/AIDS in the context of the arguments which I will outline. However, I will make the case that his arguments do apply in this area.

As a philosopher his own outlook is of a preference utilitarian. This does undergird his approach, but it is not central to these arguments. He would claim that the arguments discussed here should appeal to persons who do not share his immediate philosophical outlook. This would appear reasonable. Through a consideration of his thought experiments and underlying premises some will agree with his approach through sharing his utilitarian perspective, others, in contrast, through a belief in the importance of beneficence, while sharing intuitions about particular cases.

In this chapter I will outline the basic arguments used by Singer and consider how they would apply to HIV/AIDS. I will outline some of the problems that the arguments have encountered, dealing briefly with some within this chapter and highlighting where other issues will be considered later. I will accept, that Singer raises strong arguments which should form part of an overall assessment of the demands that HIV/AIDS places on the developed world.

### **Singer's arguments**

Peter Singer first wrote on this type of subject in the early 1970s (Singer 1972a p.229-243). He has subsequently returned to his theme and developed it over the decades (Singer 1977a p.36ff, 1993 p.218ff, 1995 Ch.5, 2002 Ch.5, 2009). In his later writings he has stayed very close to his original article, although the subject matter envisaged extended beyond the immediate episode of famine in East Bengal to other disaster scenarios and indeed to the results of absolute poverty in general.

Singer expressed three premises, the first two moral, and the third factual (Singer 1977a p.36/7). He begins with the assumption that suffering and death from lack of food, shelter and medical care are bad (Singer 1972a p.232). He sees no reason to defend this position as he feels that it is self-evident (Singer 1972a p.232, 1977a p.37).

He then enunciates a second premise, which he regards as being equally uncontroversial, which is that 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 (Singer 1972a p.233). He gives two versions of this second principle. The stronger version is as stated above. There is also a weaker version, which is; if we can prevent something bad from happening, without sacrificing anything of moral significance, we ought to do so (Singer 1972a p.233).

The third premise is a factual premise. He states in the context of the initial problem, that affluent nations can do something meaningful to reduce the number of starving people in the world (Singer 1977a p.37).

Singer gives a thought experiment to illustrate his principles, which has been much quoted in the literature and has helped to shape subsequent discussions. Singer supplies this illustration so that he may tease out in a more concrete way a proper response to a dreadful international situation. This illustration is crafted by Singer to strengthen the likelihood of accepting his premises through a direct appeal to intuition.

An application of this principle would be as follows: if I am walking past a shallow pond and see a child drowning in it, I ought to wade in and pull the child out. This

will mean getting my clothes muddy, but this is insignificant, while the death of the child would presumably be a very bad thing (Singer 1972a p.233).

This is often referred to as the ‘child in the pond.’ Singer believes that most people will intuitively agree with the ‘ought’ expressed in the analogy. The explanation for this intuition would be found in Singer’s second premise. In this case we are comparing the saving of a child with the ruining of our trousers. Clearly Singer would assume that most people would react to say that these are not comparable and therefore there must be action under the terms of the stronger version of the second premise. It is probable that the use of the word ‘insignificant’ would also suggest that Singer believes that this situation would also require action under the weaker format of the second premise.

### **Applicability to HIV/AIDS**

Singer has not given these arguments as a response to HIV/AIDS. The immediate context of the original article was that many people were dying in 1971 in East Bengal as a consequence of lack of food, shelter and medical care. This situation was well publicised, was overwhelming to the immediate community resources and was at least partially remediable through the application of outside resources. That specific crisis was defused through Indian military intervention. After this resolution Singer concluded that his arguments were valid for other humanitarian crisis where aid was required (Singer 1972b p.240).

There are clear parallels between the situation of famine and the effects of HIV/AIDS. Famine itself is potentially more short-lived in any one situation than HIV/AIDS, as was illustrated in Bengal. However famine is closely related to malnourishment, which is

often an insidious and long-term problem. In his later applications to poverty, Singer clearly accepts that his arguments can be applied to such long-term complex situations. Famine and malnutrition are problems which become deep-seated, long-term, and are perpetuated by geographical, cultural and socio-economic factors. They cause illness and death to individuals and affect the very structures of the societies involved. They produce salient need which is overwhelming to local resources. Given the parallels between this and the effects of HIV/AIDS, the principles enunciated by Singer are directly relevant to the subject matter of this thesis. I am not suggesting that Singer had HIV/AIDS distinctly in mind as something that we should respond to, but that his arguments fully apply to our response to this type of serious need.

As Singer's arguments are not specific to HIV/AIDS it may well be possible that an individual would meet the entire moral demand engendered by Singer's premises through a dedication to another equally worthwhile cause. This is not problematic to the theme of this thesis, as there are many individuals concerned and if another more popular cause is addressed first, then the need involved in HIV/AIDS would rise in terms of comparative moral demand and thus present an even more compelling case for being addressed next. I would make the further points that there are many needs which are less compelling than HIV/AIDS and thus could not be conceived as being addressed first and that the resources potentially available to the developed world are sufficient to meet the needs of HIV/AIDS and other similar level demands.

While it is evident that the general argument from Singer's premises are relevant to considering HIV/AIDS, what is less clear is the relevance of the child in the pond thought experiment to HIV/AIDS in sub-Saharan Africa. One might reasonably note that the example apparently deals with a rescue situation, which is a one off event, involving

a face to face encounter with relatively trivial losses accruing to the putative rescuer. This contrasts markedly with long-term programmes, dealing with distant strangers, and potentially producing extreme demands, as we would find with HIV/AIDS. Yet the same could be said for famine relief. In other words if the thought experiment is relevant to famine relief, then it is relevant to this subject matter of HIV/AIDS in sub-Saharan Africa. Singer clearly believes that it is useful for famine relief, and thus one can argue from the parallel, that it relates to HIV/AIDS. But is this reasonable in either case?

I would approach this question by asking does the child in the pond example clearly relate to the premises which have been set out? Does it illustrate in a simple way the meaning of the premises? Manifestly it does. Yet, it has been chosen to make fairly specific points, and we have to be careful how far we can extrapolate from the example, as opposed to extrapolate from the premises. The example has limitations.

The child in the pond example has been crafted by Singer because it both illustrates and intuitively reinforces a belief in his premises. Most would agree that it would be appropriate to save the child in the situation envisaged. Most would see a connection between that response and the premises elucidated. The questions which would then arise are does our agreement over the child in the pond lead to agreement as to the outcome of similar examples or, is the latter simply a legitimate illustration of the premises in one particular scenario? Singer would answer that it does lead to agreement in other situations, unless one can identify a significant moral difference between the situations considered.

This is a reasonable point. The child in the pond does not closely correlate with HIV/AIDS on first appearance, but the usefulness as a thought experiment is that it

focuses our mind upon the question of whether there are any relevant moral differences between how we act there, and how we should act towards HIV/AIDS.

I would note that Singer's overall position is challenged by others who produce a range of counter-examples to try to disprove the premises. The scenario could be much complicated by the addition of many children in the pond, some coping, some not, many onlookers, some frail, some in expensive suits, some utterly disinterested. The child could have deliberately placed himself in the pond despite many warnings to the contrary. We could choose an adult in the pond, without the thought of innocence conjured up by the child image. Should we have the pond infested by crocodiles to increase the risk to the rescuer?

I would not see this as the most appropriate place to commence criticism and I will not be adopting this approach. The difficulty is that the child in the pond is only an example, and like any example it cannot cover conclusively the range of disparate situations envisaged by Singer's principles. I would argue that the example, while effective in its own area, is limited. It supports the second premise in a general way, but it does not prove any particular application of the premise. At best, a list of other examples might hone our interpretations of the premises, but are not themselves likely to prove or disprove the premises.

Yes the example is eye-catching, it is useful, and it relates equally to HIV/AIDS as it does to famine relief. However, the substance remains in the premises, not in the example. Thus we will turn to the premises for further analysis of the argument.

## **Assessment of Singer's premises**

I will start with the final and empirical premise. I have argued in Chapter One that it is possible to propose an approach to HIV/AIDS in sub-Saharan Africa which would go a long way to stop the spread of the disease and to alleviate the suffering of those currently affected by the disease process. These approaches seen as a whole would be very expensive, but nonetheless would be within the capabilities of the nations in the developed world to follow, if they chose to do so. Therefore, I would accept the application of the third and factual premise of Singer's original argument to the subject of this thesis.

I would also agree with Singer's first premise. I would suggest that this easily transposes into the scenario of HIV/AIDS in sub-Saharan Africa and that the privations caused by this disease should be seen as being bad. I would suggest in general terms that the ravages of the disease process on individuals, with the shortening of potentiality and the subsequent premature death and suffering in individuals, family and society, would be regarded by the vast majority of people as being bad. Singer himself is a utilitarian. In some of his writings he explicitly endorses an account of utility in terms of satisfied desires (Singer 1981b p.101ff). Here, he is writing from a similar perspective and he speaks of wishing to further people's best interests (Singer 1993 p.13/14, 2000 p.17). He would make the general point that people usually do not want to suffer extreme privations (Singer 2000 p.231). I do not believe that one has to be a utilitarian to accept this general conclusion. This position would not just be shared by hedonists, but would be generally assumed under common morality.



The second of the premises is however much more controversial and requires greater consideration. It is one thing to agree that a certain situation is bad, and also to accept the empirical factual statement that we have the ability to help in that situation. It is a further step entirely to state that because there is a need, and we have an ability to help, that we ought to help to meet that need.

### **Singer's second premise**

It is reasonable to ask, why should we prevent bad things from happening? Why should we alleviate suffering arising from a bad situation? Singer does not seem to elaborate on his response to these questions. He regards it as self-evident that we should intervene in this way. Underlying his response, although unstated, would be the principle of utility. I would suggest that we can legitimately broaden that response out beyond utility to beneficence.

In seeking to interpret Singer's position, Beauchamp and Childress suggest that Singer is deliberately limiting the requirements of morality by stressing that we have a duty to prevent harm, rather than to promote good (Beauchamp and Childress 2001 p.169). It is as if they are suggesting that the fundamental thought here is nonmaleficence. It is generally thought that the principle of nonmaleficence while being stronger in its demands upon us to follow its *dictat* is nonetheless more limited in its scope than the principle of beneficence. Even so, they find this all too demanding and warn that it would lead to a moral disenfranchisement (Beauchamp and Childress 2001 p.170).

Here I believe that their placing a stress on Singer's use of the phrase to 'prevent something bad from happening' is unreasonable. It is not solely a case of preventing

harm, the harm is already intrinsic to the situation. What is being advocated here is a deliberate doing good to the person or persons involved. The underlying thought behind the second premise advocated by Singer for non-Utilitarians is better encapsulated by beneficence, than by nonmaleficence. It is primarily the thought of beneficence that establishes the reason for believing that one should meet a need, if it is within our capacity. Beauchamp and Childress are certainly right that Singer's position is fundamentally challenging.

Singer's second premise does not however only bring out an obligation to assist, it also gives direction to the thought of how strong that obligation might be. The matter is complicated by the fact that Singer has chosen to set out his second principle in two formulations. He designates these as a weaker and a stronger. The reason that he gives for this approach is fundamentally a pragmatic one. Singer wishes to change lives. He believes that the weaker formulation might be more easily accepted. Further, that even an acceptance of the weaker format, would lead to a fundamental change in society (Singer 1977 p.36).

The weaker formulation, is 'if we can prevent something bad from happening, without sacrificing anything of moral significance, we ought to do so.' Singer believed that an acceptance of this formulation would lead to a fundamental change on how people viewed their responsibilities to those in need. It would no longer be a matter of optional charity, but there would be an obligation to contribute much greater resources than would be the case presently. In regard to HIV/AIDS, substantial resources would become available.

There are however two obvious problems with this weaker formulation of the second premise. The first would be what does one mean by the term 'anything of moral significance' (Otterson 2000 p.183-203)? The second would be the question of how could one justify withholding doing a great good, if the reason for not meeting that obligation was simply not to offend a relatively minor moral sensibility?

Singer does not give clear guidance as to what he himself was meaning in this context by matters of moral significance. He deliberately leaves this somewhat vague to canvas support for his position. He does however assume that even the weak formulation will be challenging to current affluent societies. Singer is presumably assuming that we would believe that to forego the non-essential benefits of consumer society is not to sacrifice anything of moral significance. He mentions buying clothes, just to look smartly dressed, as an example. If that is the case, then the effects of the weaker formulation could be very similar to that of the stronger formulation, depending upon what we believe to be non-essential elements of our consumer society.

However, the situation could be very dissimilar, if we were to choose to believe that the acquisition of luxury is of positive moral significance. Or perhaps, one has made a promise to a child that they will benefit from private education, and the breaking of a promise is a matter of moral significance. The force of the premise could be very much diluted, unless one were also to strictly delineate and restrict that which can be counted as being of moral significance. For Singer, a utilitarian, this difficulty is not great, as moral significance is defined as a largely arithmetic balance of interests, that is of utility. However, for others, the fact that the sacrifice of anything of moral significance would be enough to negate the obligation is likely to reduce the acceptance of the obligation at all.

The second difficulty, with the weaker view, in broad terms, is to understand why we should weigh one lesser moral consideration against a greater moral consideration and see the former as being sufficient reason to prevent our stopping the latter. I acknowledge that there is a debate as to whether moral principles can actually clash, and if they can, and do, over the question of how this may be resolved. Here, I will simply assume, as is commonly accepted, that there is the possibility of a moral conflict caused by one principle being pitted against another in a situation wherein both cannot be followed. In broad terms the importance of the two will be assessed and contrasted. Yet in this formulation of Singer's premises it appears assumed that any moral obligation must trump the obligation to prevent harm from befalling those in need. This sounds surprising.

One might argue that there is a hidden premise within the weaker version; that it is saying *if* we can stop something very bad from happening without sacrificing anything of moral importance then we should. It is not saying, *if and only if*. Therefore it allows for the possibility of continuing to act and thus overriding a relatively minor moral sacrifice. However that would be a matter of implicit permission and not direction. Further, it is not clear that this hidden permission was specifically envisaged in the original formulation. It is not surprising that Singer himself believes that while his weaker view would be obligatory on all, nonetheless his strong view is both defensible and preferable. He would also say that the strong view includes the weak, as the demands are much greater (Singer 1977a p.37).

I would accept this judgement. The weaker version of his second premise has, as has been shown, considerable difficulties and I would not advocate it solely on pragmatic

grounds, which are that as it is potentially less demanding, it would be more widely accepted.

### **The stronger formulation of the second premise**

The stronger formulation of the second premise, as already quoted, is that ‘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.’ This initially appears quite uncontroversial.

It does however lead to the question, what does one mean by something of ‘comparable moral importance’? While at face value the principle seems clear, there nonetheless remains room for considerable debate concerning its application through persons arguing from different moral perspectives. There will be disagreements over what type of principles or issues could be said to have moral importance at all. There will also be disagreements regarding the weight that could be placed on these disparate issues in order to come to a conclusion about that which is comparable.

Singer’s stronger formulation is generally taken to represent an extreme demand, in the sense that it represents a call to a duty which is far beyond that routinely accepted under the general descriptive heading of common morality. This is particularly true if one limits what one could mean by issues of comparable moral importance. From a utilitarian perspective this opens us up to a demand to continue to give until one reaches a position of marginal utility wherein the donor exists in a similar position to the one who is being helped. This is in keeping with the fact that a utilitarian formulation of morality commonly leads to complaints regarding its moral demandingness. If one is not a

utilitarian, the demand arising from beneficence continues until one reaches a position whereby it is counterbalanced by something of comparable moral importance. Where therefore there are other modifying factors of morality which need to be considered, then the demand is not necessarily so extreme as it appears to be on first perusal.

Nonetheless, through this premise, Singer redefines the borders of morality. Common morality assumes three broad divisions:-

- a. Moral obligation, that is duty, performance of which is right, not praiseworthy, non-performance is wrong, and is blameworthy;
- b. Supererogation; where performance is praiseworthy, non-performance is not blameworthy;
- c. Moral indifference; amoral acts attracting no blame or praise (Raley 2009 p.27).

Singer almost eliminates c, and moves a large part of what had hitherto been regarded as b, into a.

As he says:

The traditional distinction between duty and charity cannot be drawn, or at least not where it is usually drawn... To give money away rather than to spend money on luxury is not supererogatory, it is simply wrong not to do (Singer 1972a p.234).

To illustrate the effects of this, one can put the premises and the analogy together in the context of HIV. Many are dying and experiencing considerable loss in sub-Saharan Africa through the ravages of HIV. Individual lives could be touched and changed for the better if we, in the affluent West, would only put our hands deeper into our pockets and contribute positively to aid their plight. This is not a matter of charity, something which is good to do, but not wrong not to do, it is a matter of moral necessity.

To make this a little more concrete, and assuming for the illustration that a practical route of funding existed, one could imagine someone in Africa dying prematurely of HIV for want of ARV drugs costing one hundred pounds. Consider also that a middle class resident of the United Kingdom could donate that one hundred pounds with very little personal consequence in terms of financial or material loss. Here we have a situation of something bad which could be prevented, without any comparative sacrifice on the part of the richer person. The premises given, and the example of the child in the pond, would indicate that there is a moral duty to give.

That small contribution, will have dramatically changed the situation for the individual recipient. However, the overall situation will not have greatly changed. There still will be considerable disparity of need. There will be somebody else needing ARV drugs, costing one hundred pounds. The middle class person, already minus one hundred pounds, will still not be greatly inconvenienced by giving a further hundred pounds, not when set against the benefit accruing to the second individual in need. The premises and the analogy would state that the money ought again to be given. Indeed, we must put our hands into our pockets again and again, until such times as giving anymore, even a little, would be of comparable moral significance to ourselves. In Singer's utilitarian terms this will be when we come to a position which would be comparable to those whom we are

trying to help. In non-utilitarian terms it will be until we reach a position whereby we are sacrificing something of comparable moral importance which may well be less than coming to a position of comparable resource.

### **Should we accept Singer's arguments?**

The premises themselves appear robust and this is particularly so with regard to the stronger version of the second premise. This is not to say that the entire position adopted by Singer should be accepted. Simply that the premises themselves, taken at a basic literal level, are reasonable. To apply these directly to the subject matter of this thesis, it is to hold that it is reasonable to say that the suffering engendered by HIV/AIDS is bad. It is reasonable to say that if we can prevent something bad from happening, without thereby sacrificing something of comparable moral importance, we ought, morally, to do it. Finally, it is also reasonable to suggest that it is factually within the power of developed nations to make a material difference to the Third World health need associated with HIV/AIDS.

It is however clear that the premises and the child in the pond analogy point towards conclusions which are very disturbing to that which is generally accepted as moral norms in this area in Western societies. In other words, I would suggest that our first response to the premises and to the child in the pond analogy is an intuitive one, and that is that Singer is making a strong point. However, when we begin to consider the ramifications, the response to the sequelae is often quite different. Why these disparate reactions?

One possible answer is that there are fundamental flaws with Singer's premises. In theory someone may not agree with a statement that suffering and death from HIV/AIDS



is bad, perhaps through an exaggerated concern with the perceived dangers of overpopulation. This will not be discussed further as a serious moral concern. A consistent egoist may fundamentally disagree with the proposition that we ought to help others. Libertarians may take a position that it is good to help, but not a requirement of morality. These will be addressed further in Chapters Nine and Eight respectively.

For many, however, the propositions would appear unremarkable and worthy of assent. The difficulty is that they are counterintuitive as they appear to result in a position which in comparison to common morality is overdemanding. I will consider the place of intuition in the next chapter where I discuss the development of Singer's thought through Kagan and Unger. Meanwhile I would flag up that if moral matters could be decided solely by intuition then this in itself would give rise to difficulties. It would make morality deeply conservative and potentially subject to the tyranny of the majority. It would reduce the possibility of rational discussion being allowed to initiate moral change. It could potentially be capricious. It would lead to considerable impasse wherever two person's intuitions differ. Do we find Singer's position too demanding? Then we must ask, is that because we are too lax? Does it need revising to fit in with our intuitions? Then we must ask, in what way is it false? Nonetheless, this is not to say that intuitions are of no importance. If a moral proposal is counterintuitive then this should cause us to pause in our thinking and force us to investigate why the proposal is counterintuitive.

At its heart the intuitive problem with Singer's position is its moral demandingness. Singer's premises lead us to a position on support for HIV/AIDS prevention and treatment which is considerably beyond the present actuality and the demands of common morality. It should be noted that this is not an issue with Singer alone. It will

recur as an apparent problem throughout Section Two of this thesis as I look in turn at other utilitarians, cosmopolitans and reparative justice. The problem of demandingness will be explored further in Chapter Five.

When confronted with an extreme demand such as one finds with Singer, one may consider whether the demandingness can be legitimately moderated by other countervailing concepts. With Singer the most obvious way to do this in is to consider again what we may mean by something ‘of comparable moral importance’. It may well be that some of the intuitive disharmony produced by the extremist position adopted could be moderated if other legitimate moral considerations could be identified, which at times may work as countervailing principles in this matter.

Singer’s position is particularly extreme when one accepts it alongside his underlying utilitarianism. However, on this issue Singer claims that one does not need to be a utilitarian to see worth in his argument. I would accept this and would suggest that his argument could be followed guided by general humanitarian principles and in particular an acceptance of a principle of beneficence. This could still lead to an extreme position in regard to the duty to be borne, but the weight of that duty would be dependent upon a consideration of what one might accept as being matters of comparative moral worth.

I will offer a pluralist concept of morality suggesting that morality is best considered through a number of different moral strands, rather than through a concentration upon any one guiding scheme alone such as in utilitarianism. I will look at other arguments for bearing responsibility for HIV/AIDS in sub-Saharan Africa, primarily from different aspects of justice. This is being done because they are relevant to the moral discussion and not because I believe that they will invariably form a counterweight to Singer’s

approach. Indeed I would suggest that they will mostly reinforce the demands upon us. However, in the third section I will also consider arguments arising from libertarians, from fairness, from the demands of relationships and personal projects, all of which may potentially moderate the demand proposed by Singer.

### **Singer's response to criticism**

Singer himself viewed questions of relationships and fairness as two obvious objections to his position. He wished to restrict that which can be considered as 'of comparable moral importance' to matters which relate directly to beneficence or utility. However, he immediately came across two popular objections. The first is that the people with the needs are far away, and may not be our responsibility. The second is the question of why should I give more than anyone else (Singer 1972a p.239). He repeatedly came back to various forms of these issues in subsequent decades.

In answering these objections Singer firstly addresses the literal question of distance. He initially feels that there is little that needs to be said on this matter except to simply point out that distance should not be a factor to be considered.

I do not think I need to say much in defence of the refusal to take proximity and distance into account. The fact that a person is physically near to us, so that we have personal contact with him, may make it more likely that we shall assist him, but this does not show that we ought to help him rather than another who happens to be further away. If we accept any principle of impartiality, universalizability, equality, or whatever, we cannot discriminate against someone merely because he is far away from us... (Singer 1972a p.240).

Singer concedes that closeness might imply more knowledge and thus more targeted help. However, this is just a matter of practicality. He does not believe in principle that distance matters. This literal argument about distance soon becomes an argument about whether partiality can be shown to anyone with whom one has a special relationship.

In 1997 Singer addresses that position directly :-

In a famine situation there would be few parents who would think of giving their last bowl of rice to others if their own children were starving. Indeed we might well think parents who did so were unnatural, and lacking in basic human feelings. But would it be morally wrong to do so, if the need for the food was the same? I am not sure that it would be (Singer 1977a p.43).

Singer returns to this theme repeatedly. I will also do so in Chapter Ten by asking whether having relationships with others is a matter of moral significance. If, as I would contend, it is, then it must be a factor to be taken into consideration in respect to the premises outlined by Singer.

In his initial article, Singer found more trouble arising out of a second concern. In this he touches upon one aspect of the question of justice. He is concerned that people may not feel responsible for others based on the fact that there are many other people in the developed world who are also doing nothing to aid those less fortunate. He saw this objection as a psychological response. People hide their own responsibility behind the fact that they are one of millions (Singer 1972a p.240). I will address this in greater depth in Chapter Eleven.

As the argument develops over the years Singer is forced to consider further the demands of various approaches to justice and how they may affect the ramifications of his two principles. He regards Rawls's views of justice as being broadly compatible with his own, with the exception that he sees no reason for Rawls to limit his position to the nation-state (Singer 1977a p.39, 2004 p.179). He considers a view of justice as being related to desert, and does not believe that this has any relevance to the situation of people in abject poverty (Singer 1977a p.40). He considers the view of Nozick, with which he is not in close agreement, and argues that Nozick's views would give us a right to retain property, but this still speaks nothing of whether it is good to retain property (Singer 1977a p.41). These positions and their applicability to HIV/AIDS will all be discussed in greater depth within Chapters Six and Eight respectively.

### **Conclusions on Singer**

At the commencement of this chapter I raised questions of developmental aid to the sub-Saharan Africa HIV/AIDS epidemic, 'do we have any responsibility at all' and, if so, 'what is the limit, if any, of that responsibility?' I have commenced with Peter Singer's contribution to this discussion because his argument has been exceedingly powerful in this field. He works towards the recognition of much greater humanitarian duties than would normally have been accepted. These duties flow from three very simple principles backed up by a persuasive example.

Singer's own position is underpinned by his utilitarianism. I have not advocated utilitarianism in this chapter, nor, for the sake of space, have I entered in to any detailed critique of that position. Throughout this thesis I will assume a pluralist approach to ethics. Singer himself believes that his arguments can be applied in a non-utilitarian

fashion and I would accept that. I have also suggested that the basic premises outlined by Singer are robust and that they apply directly to the situation of HIV/AIDS in sub-Saharan Africa. The only exception to this is that I have discounted the weaker position that Singer postulates in respect to his second premise and have accepted his stronger. I would see his child in the pond thought experiment as a helpful device which helps one to see the radical nature of his premises.

I would apply the premises to HIV/AIDS in sub-Saharan Africa under the general heading of a duty of beneficence.<sup>v</sup> This, like utility, leads to a very open-ended commitment to supplying resources to sub-Saharan Africa with regards to an effective preventative and treatment programme for the needs described. My provisional conclusion therefore would be that persons in the developed world have a duty of responsibility to be involved and further that the extent of that involvement would be so great as to easily encapsulate the proposed demands that arise from programmes envisaged under schemes such as the millennium development goals.

This is an extreme position, and in regard to common morality it is counterintuitive. This flags up warnings, but it does not necessarily negate the conclusion. However, the application of these premises to HIV/AIDS will ultimately depend upon what one would define as being of comparable moral importance. I have noted two main areas of contention which Singer himself identifies, that is questions of fairness and also the way in which relationships determine our moral obligations. Having fully accepted the importance of Singer's approach to my subject, I will explore other views in the rest of this section which lead to a similar conclusion and then consider counterarguments and potentially countervailing moral matters further in the third section. In the process I will identify matters which in given situations could be seen as having comparable moral

importance and will allow for the application of Singer's premises in a way which will be more in conformity with common intuition. In so doing, I will not be disputing the importance of Singer's premises, nor suggesting that the *status quo* of common morality is acceptable, but allowing them to have a full place in a more rounded moral scheme.

## **Chapter Five**

### **Intuition and Moral Demandingness – Unger and Kagan**

#### **Introduction**

I have commenced my discussion on the demands which HIV/AIDS in sub-Saharan Africa reasonably place on the developed world through outlining Peter Singer's approach to such questions. I have accepted that his arguments can be extended beyond utility to beneficence in general and that the stronger version of his second premise is the most coherent. Given this, I have come to the provisional conclusion that there is a very considerable demand upon the developed world in regard to HIV/AIDS provision which is far beyond anything which would currently be accepted under the heading of common morality.

As has been noted, the demand is so great, that it is commonly perceived as being counterintuitive. The very level of the demand is seen in and of itself as being a problem. For many this is an overwhelming obstacle to the acceptance of Singer's position. This is usually simply called the 'Demandingness Objection'. Fishkin can write 'I will assume that saintly behaviour, however admirable, is not morally required of us all. In other words, my working assumption, will be that the way of life most of us has adopted is not, on its face, immoral' (Fishkin 1982 p.22).

The arguments which I have accepted from Singer would fall immediately if the demandingness objection succeeds. In this chapter I will briefly outline different approaches which have been adopted by philosophers who champion a demandingness



objection. I will however focus particularly upon the form of this objection which would be found most consistently from common morality and that is the declaration that it is simply counterintuitive and thus must be mistaken. I will answer this form of the objection making particular use of arguments taken from Unger and Kagan amongst others. In passing I will note the support that these writers give in different ways to the conclusions regarding HIV/AIDS already inferred from Singer.

At the end of this chapter I will come to the conclusion that Singer's arguments can be supported against a demandingness objection which arises from the thought that his extreme demand is counterintuitive.

### **The demandingness objection**

The demandingness objection is a common argument raised against utilitarian theories. As such it is particularly employed against impartial act-consequentialism's requirements of beneficence towards strangers. It can be effective, in the sense that it has caused some moderation of utilitarian theory (Hooker 2009 p.160ff). However, from my perspective, at heart, it is a response to being asked by morality to do what is intuitively perceived as being 'too much'. It thus can also be raised against non-utilitarian positions, such as those that will be discussed in chapters six and seven of this thesis.

Reasons given for the demandingness objection vary. I would mention here in passing Bernard Williams's concerns regarding integrity. That is, that a moral agent has to be free to act according to his or her own values, which determine individual projects and commitments (Williams 1974 p.116-119, 1988 p.22ff). Similarly it is important to note Scheffler's position on agent centred prerogatives moderating extreme demandingness by

making allowance for one's own concerns, commitments and relationships (Scheffler 1994). Further one should note the related matter of Murphy's unwillingness to accept the moral demandingness of making up for someone else's moral failings (Murphy 2000). These all record important aspects of objecting to demandingness and could have been discussed in this chapter. They will however be discussed in section three and in particular in chapters nine to eleven as part of a consideration of countervailing moral arguments ranged against the force of the duty being argued for in this section.

In this chapter I am dealing with a more basic objection to demandingness and that is that it is counterintuitive to believe that any moral demand can impose such a compelling duty as is envisaged in Singer's arguments (Kanygina 2011 p.57). This is sometimes phrased as morality should be liveable, in principle an 'ought' should be aligned to a 'can', with the assumption that extreme demands of morality are impracticable (Cottingham 1983 p.84, Corbett 1995). But we must be careful here, there is a difference between a moral demand being infeasible, meaning that it is impossible, and one which is perceived to be infeasible, meaning that it is too costly. It is the latter which is usually in view. A variation on this would be to say that the demandingness is so high as to be counterproductive. If we demand so much of people then it is likely that they will respond by doing nothing at all. This latter is not an argument that shows that a moral position is incorrect. It just shows that given people's attachment to common morality it may have undesired effects.

Fundamentally, however, what I am addressing here is somewhat different, it is the assertion that morality cannot be very demanding because it just does not seem right for it to be so. This can be phrased as:-

Premise 1      Moral view X imposes moral obligations that require compliant agents to sacrifice good G, where G is possible to sacrifice and consists of such goods as :-

A very significant level of our well-being

Highly important objective goods

Premise 2      If a moral view requires compliant agents to sacrifice G, it is mistaken because it is intuitively too demanding, as it demands too much sacrifice.

Conclusion      Moral view X is mistaken

This type of argument is important to my overall discussion as if accepted it would potentially greatly limit the type of demand that HIV/AIDS in sub-Saharan Africa could be thought to raise in regard to the developed world. It would not necessarily preclude mounting an effective campaign, but it would lead in that direction. I would accept the validity of the argument as stated, but will both deny that intuition can be given such a deciding place in ethics and also deny that there is any other *a priori* reason why morality should not be deemed to be demanding. This is not to state that intuitions do not matter, but to state that they do not have this level of decisive authority on moral matters (Tedesco 2011 p.95).

The objection to demandingness arising from intuition is not a philosophical straw man arising from popular belief. Fishkin assumes that morality cannot be so demanding. He assumes this, as one of his underlying working assumptions. He believes that common morality cannot be so dreadfully mistaken. He accepts that morality should be impartial

and that we have a duty to help strangers. However when he applies these duties in a cosmopolitan fashion, he finds the demands are much too great, and become what he terms 'overload'. Yet he finds himself in a dilemma, for which he has no defensible solution. Either, he has to give up some basic assumptions regarding individual morality, that is that we should be beneficent to strangers, or, he finds that he is in an unacceptable place as he applies morality on the world stage. In this application he finds that he must give up his robust view of the size of the sphere of moral indifference and allow morality into every part of his life and he must give up his assumptions of a cut-off point for moral heroism and accept that acts which he would class as supererogatory are in fact moral requirements.

Fishkin believes that what is required is a solution to allow for individual tenets of morality to be transposed to the world stage without producing a counter-intuitive level of demand. He believes that the situation is analogous to that which had pertained before regarding democracy. Democracy originally seemed a good idea which was impractical, because not everything could be decided by every individual. Then the concept of representative government was established and democracy became workable on a grand scale. Fishkin believed that some such solution is required for morality, but he made no proposals in this direction (Fishkin 1982 p.169ff).

### **The importance of intuition - Unger**

Singer makes positive use of intuition through his crafting of the child in the pond analogy. Nonetheless, it is clear that intuition on balance remains a major problem for his approach to morality, as the ramifications of his ideas are deeply counterintuitive. Yet this latter is only a problem if intuition is given a strong place in determining moral

directions. If intuition is unreliable, prone to self-contradiction or, much influenced by factors which cannot be seen as being moral factors, then it cannot have this determining force.

Peter Unger has written on the subject of our responsibility to underdeveloped world problems in very similar ways to Singer (Unger 1996). His writings would be equally applicable to HIV and AIDS and would suggest the same degree of demandingness of the response from the developed world. As such they would be open to the same charge of being deeply counterintuitive. Whilst the arguments are very similar to those employed by Singer, Unger himself denies that he is writing from a utilitarian perspective. The similarities of his and Singer's writings on the subject are so great that some commentators have assumed the contrary (Stanford Encyclopedia of Philosophy 2011).

Similar to Singer, Unger has produced examples which are designed to make clear our responsibility for others. I will briefly sketch two of these, which I will call the 'Envelope' and the 'Bugatti'. These illustrations are not as intuitively compelling as the child in the pond example. However this is not a major problem to Unger. He does write to motivate persons to accept their responsibilities to underdeveloped world problems, so the examples should be telling in this regard. However, beyond this, there is a second purpose to his book, which is to advance the argument that intuition is not a dependable guide in matters of morality. He does this latter through a very lengthy series of thought experiments and analogies in which he contrives to prove that intuition leads to contradictory and malleable results and is influenced by matters which could not possibly be thought to be moral.

I would first highlight the envelope example.

In your mailbox there's something from UNICEF. After reading it through you correctly believe that, unless you soon send a cheque for \$100, then, instead of each living many more years, over thirty more children will die soon. But you throw the material in your trash basket...

Almost everyone reacts to this decision that your conduct is not wrong at all (Unger 1996 p.9).

Here we have a simple extension of Singer's child in the pond analogy, going in a direction which Singer would have intended. Unger is essentially providing further arguments for the same position by making very clear a practical application of Singer's thought experiment. Yet, when the intended ramifications of Singer's original analogy are teased out in this form, people regularly will react in this opposite fashion. Thus there is a general intuitive reaction that the child in the pond analogy reflects our understanding of morality, but the envelope analogy, while very similar, seems intuitively wrong, it does not reflect our understanding of common morality. In providing this example, Unger is making clear that the compelling analogy from Singer should be applied in a practical fashion in regard to donations to worthy Aid bodies. While at the same time he is illustrating the weaknesses of intuition, which allow us to respond one way to the child in the pond, and another way to the envelope.

The second example, I will term the Bugatti.

A rare uninsurable classic car is parked beside a railway siding. A railway trolley is coming down the line towards a railway fork. If it continues on its route it will hit and kill a trapped child. If the owner diverts the trolley it will destroy his car.  
(Unger 1996 p.136)

Unger believes that most people will intuitively react to say that the owner should suffer the loss of the car, despite the fact that this would entail considerably more loss than is found in the envelope example. Again this is designed to make us consider why we place so much reliance on intuition, when it appears to produce results which are at heart contradictory.

This then leads to a whole series of examples wherein standard two option examples of moral dilemmas are expanded to include a variety of middle options. Most of these are based on varieties of the trolley thought experiment. Unger seeks to demonstrate that the introduction of intermediary steps causes a change in the intuitive judgements in the analogous two option cases. He then theorises as to the factors which might have caused these changes to have happened. He argues that these factors cannot in themselves be seen as morally relevant. He concludes that it is not possible for morality to take as decisive any intuitive response to right and wrong in specific situations.

Unger's series of analogies are undoubtedly lengthy and ingenious. The force of his argument is however reduced by doubts over reproducibility. I personally did not share all the intuitive judgments which he was claiming that most would have as reactions to his postulated dilemmas. Further, when he analyses the potential reasons why persons'

intuitive responses may change in slightly varied presentations of the same dilemmas, he identifies a variety of possible reasons and then he makes assumptions that they could not be seen as being morally relevant. In every case all may not agree that he has identified morally neutral matters.

Yet in this process he makes compelling points. The fact that I did not share all his intuitions in itself supports his conclusion that intuitions are variable between persons, that they are subject to psychological framing techniques and appear at times to be malleable, for no clear morally justifiable reason. Given their untrustworthiness, the point does seem established that intuitions cannot be seen as being the decisive regulatory factor of morality. This does not prove that moral intuitions are morally redundant, but it does suggest that they should be subject to rational consideration.

### **Kagan and Sobel**

Shelley Kagan writes from a very similar perspective to Singer on these subjects and comes to similar conclusions. He does not develop a specific position regarding HIV/AIDS, but it would be legitimate to assume from his overall arguments that he believes the developed world would have responsibility to meet such a major demand. While the practical outworking of his position would be to raise a similar extreme demand as Singer and Unger in regard to the subject of this thesis, his arguments are more abstract and are frankly based upon a utilitarian perspective (Kagan 1989 p.XI ff). As such, they are less consistent with the pluralist view which I am adopting. I would neither wish to establish a position based on a utilitarian perspective, nor divert here into a critique of utilitarianism. I would simply note, that a frankly utilitarian perspective gives rise to an extreme demand in this area and pass on to look at how Kagan deals with



the demandingness objection which arises from this level of demand being counterintuitive.

Kagan is forthright in his view that the usefulness of intuition is very limited. He holds that intuitive support is not sufficient for justifying a moral theory. He illustrates this by suggesting that a slaveholder might intuitively believe that a difference in skin colour justifies differential treatment within the human race. However, if the slave-owner cannot offer an explanation as to why skin colour should make this difference then considerations of coherence give reasons to reject the position as being morally irrelevant, as well as repudiating the intuitions that turn on it (Kagan 1989 p.14). Like Unger, he is undermining the force of the demandingness objection, by questioning its basis in intuition.

Kagan then addresses the problem of demandingness more directly. In short he adopts the view that morality is demanding and that we should simply accept the fact. This position is given in terms of utilitarianism, but it would apply to other forms of morality which also may make extreme moral demands upon us. For Kagan, the problem is not with the demandingness of morality, the problem is with us not coping with the demandingness.

The demands of morality pervade every aspect and moment of our lives - and we all fail to meet its standards. It strikes us as outrageously extreme in its demands – so much so that I shall call its defender the extremist. The claims are deeply counterintuitive, but they are true (Kagan 1989 p.2).

Kagan points out that common morality assumes two limits upon what morality can demand. Firstly, it rules out certain acts, which cannot be done, even if greater good might arise through the process. Secondly, it accepts that there are limits on what morality can demand of us by way of sacrifice. These he terms firstly a belief in constraints, and secondly a belief in options (Kagan 1989 p.72).

Kagan allows for the theoretical possibility of the justifiable existence of some constraints although he is not convinced entirely by this. He gives an example of the question of whether it would be justifiable to kill a rich elderly uncle in order to release funds through inheritance to benefit a greater number. He is uncertain that this would be an appropriate route of action.

He does however feel that the common morality position is unjustifiable in respect to the demands of morality. “If the moderate does indeed accept a standing reason to promote the overall good, why doesn’t this commit him to the existence of a general requirement to promote the best available outcome overall?” (Kagan 1989 p.65). He argues that there is a general acceptance of a *pro tanto* requirement to promote the good, and if this is the case there must then be a reason to limit the requirement if we choose not to fulfil it. Kagan believes that the reason that is usually given is simply that the sacrifice is too great. This would not be a legitimate argument against the demand of morality. It is simply a statement that we are not prepared to act morally.

In these claims, Kagan is understandably, defining the overall good in utilitarian terms. His position, this notwithstanding, is essentially the bold assertion that persons are obliged to follow morality, and if it is demanding, then so be it, it is demanding. It is quite possible to hold that there is a general obligation to promote the best available

outcome overall, without subscribing to the utilitarian position that that outcome is defined solely by utility. This would be my position. I accept that there is a *pro tanto* duty to act beneficently to strangers and that although this will be set against other legitimate moral concerns in order to define the best possible good, the result may well be very demanding and cannot be set aside just because the sacrifice seems too great.

Sobel notes that the power of the demandingness objection has caused what he terms a ‘cottage industry amongst consequentialists’ who are trying to amend consequentialism in order to make it less vulnerable to the objection (Sobel 2007 p.1). He mentions rule consequentialism, agent-centred-prerogatives, satisficing versions, and general attempts to make consequentialism less demanding. He does not himself pursue these options. Instead he makes the simple observation that the costs of what a consequentialist theory demands of the aider, should be set against the cost of what a failure to be aided is demanded of the aided. Why should a person with AIDS in sub-Saharan Africa die a slow unnecessary death in order to protect the lifestyle of the rich? Why does the cost to the aided not come into the equation? Why should we assume that the costs of what a moral theory requires is more important than the costs of what a moral theory permits? Those who advance the demandingness objection are already in the grip of the thought that a moral theory that requires X to sacrifice for Y is demanding on X but a moral view that permits Y to suffer rather than insist that X help is not similarly demanding on Y (Sobel 2007 P.6). This assumption that cost required is more significant than cost allowed is surprising given that the latter will typically befall the worst off and the former will typically befall the best off.

While this is standard utilitarian argument it also applies as a consideration for duties of beneficence to others. It may well be that there are reasons which can be induced for

saying that cost required is more important than cost allowed. This subject will particularly be addressed when I look further at libertarian objections in Chapter Eight. Yet it would appear that the demandingness objection is not as clear cut as might otherwise appear as it cannot simply be regarded in terms solely of cost to the donor. Kagan's reply to the problem of demandingness, which is to state yes, morality is demanding, appears more straightforward, if it is softened by the reminder from Sobel that someone's gain in this regard is someone else's loss.

## **Conclusions**

The conclusion that I would draw from this chapter is that while there is a place for intuition to be involved in the moral process, it is not as the primary determinator of morality. I would accept that it is counter-intuitive to believe that morality demands major sacrifices of individuals within the developed world to meet the needs arising from HIV/AIDS in sub-Saharan Africa, in the terms which the arguments of Singer, Unger and Kagan would suggest. The fact that it is counter-intuitive, does not make the demand misplaced. It does however cause us to pause and consider whether there are counterarguments which might militate against the demands ensuing, and which may lead to a more rounded picture, which is less intuitively discordant. This will be addressed in the third section of this thesis.

Nonetheless a theory should not be rejected on the sole basis that it is intuitively morally demanding. The arguments for doing so rely heavily on an *a priori* assumption of the importance of intuition and the resultant credence which is given to the moral *status quo*. Singer's approach, as echoed by Unger and Kagan, to issues such as HIV/AIDS in sub-Saharan Africa, cannot be dismissed purely on the basis that it is morally demanding.

Neither can other approaches to the central ethical question of this thesis if, and when, they produce similar results.

## **Chapter Six**

### **Distributive Justice – Contractualism and Cosmopolitanism**

#### **Introduction**

In Chapter Four I considered arguments originally raised by Singer which gave rise to an extreme demand upon people living in the developed world in relationship to the topic of this thesis, namely HIV/AIDS in sub-Saharan Africa. While for some these duties arose from utilitarianism and forms of justice under that philosophy, for many the force of the simple arguments supplied came from the demands of beneficence. I noted that the demands went far beyond that of common morality but in Chapter Five came to the conclusion that moral demandingness, while challenging, does not in itself disprove a moral theory, and further that intuition, while important, cannot hold full sway in assessing a moral position. I noted that moral demandingness could be found in a range of moral systems and was not restricted to the demands of utilitarianism. This will be demonstrated further in this and the following chapters.

This chapter will assess another approach to considering our responsibilities to HIV/AIDS in sub-Saharan Africa. The focus will be upon the demands of justice. In this chapter I will be considering distributive justice and will begin by outlining and largely embracing a contractualist formula. I will then apply distributive justice more particularly to HIV/AIDS in the sub-Saharan context by considering cosmopolitan writings while maintaining a contractualist approach.

The purpose of this chapter therefore is to introduce contractualism and cosmopolitanism and to discuss how they apply to our responsibilities for HIV/AIDS in sub-Saharan Africa. Differing presentations of distributive justice give rise to varying levels of responsibility. Nonetheless each scenario that I would envisage as being reasonable would give rise to a demand which is more than sufficient to meet the need identified and some will give rise to an extreme demand which is similar to that arising from the principles discussed in Chapters Four and Five.

### **Introduction to justice**

Justice is a vast subject matter. The construction of a comprehensive unified concept of justice is elusive (Beauchamp and Childress 2001 p.226). One might define justice so widely as to embrace all that is right and good and in the process denude it of significance, as to act justly would simply be to do the proper thing. Likewise, we might define the concept too narrowly, such as, for instance, to obey the law, and arguably in some situations it would be appropriate to act unjustly in order to do right or good. Thus, it would be naïve to ask the general question, what does justice tell us about our duty to the underdeveloped world for the healthcare needs arising from HIV/AIDS? Although, in truth, this is a question which I would really like to ask and answer.

I will argue for a view of justice, which is distributive in its nature, and which will rest heavily on the work of Rawls. It will not strictly be a Rawlsian position, but through a critical assessment of his position, it will lead to a modified view, broadly of a Rawlsian approach. I will address criticism of Rawls, mainly from Pogge and Daniels, before arriving at my own outline of the subject.

At its heart, justice, involves treating people with fairness. There is a thought of equality, and indeed of impartiality about justice. It concerns the fair arranging of benefits and harms amongst individuals who comprise a society. Justice imposes order upon competing claims, it is public, final and universally applicable to the society to which it pertains. It deals with entitlement (Caney 2005 p.104).

Distributive justice is the main form of justice which is involved in this particular debate and it is the focus of this chapter. It primarily addresses a snapshot analysis of resources and notes if resources are unfairly distributed. It then raises demands of justice wherein inequalities need to be addressed and in some situations redressed. As there exists a manifest inequality of distribution of healthcare resources at the root of the matter under discussion, this is of direct relevance to the theme of this thesis.

It is widely assumed that there should both be a fair, equitable, and appropriate distribution of resources, as well as a right to hold to personal property which is justifiably earned. These two concepts are in tension. In Western democratic societies this is embodied in a system of law which gives protection to the right to hold property, but also, at the same time a system of taxation, redistributing that property.

O'Neill recounts a helpful analogy, whose original formulation was outlined by Hardin. (Hardin 1974 p.561-568). Consider a lifeboat full of persons in the middle of an ocean off a sunken liner. The lifeboat is full of people and far from shore. It contains some passengers who came from first class cabins and the rest from standard cabins. The first class passengers have been supplied as they enter the lifeboat with abundant provisions of food and water, the standard class passengers with none. The standard class



passengers are at risk of not surviving, if the first class passengers opt not to share. The question is, do property rights override the right not to die (O'Neill 1975 p.274/5)?

One might argue that this is not dealing with distributive justice, but is dealing with a more extreme situation. Nonetheless the basic point of the analogy remains clear. Intuitively one would accept that there are situations where the demands of distributive justice would outweigh the rights of property ownership. I will argue that such is the case with the healthcare needs of sub-Saharan Africa. The difficulty remains that the basis for distributive justice and thus the extent of distributive justice remain unclear in my discussion so far.

### **John Rawls**

I will take my lead from Singer and examine the work of John Rawls (Singer 1977a p.38). He has been the leading exponent of a social contract theory of distributive justice in the twentieth century. Rawls commenced from a position that political theory had become too utilitarian (Rawls 1972 p.22ff). He stands in an historical stream of social contract theorists such as Locke and Rousseau. His proposals on justice were based on the concept that individuals in the society concerned have entered a contract with each other accepting those tenets of justice, although he emphasised that his contract was a theoretical construct.

At the heart of his first main book, *A Theory of Justice*, lie two principles, a principle of equal rights and liberties and a principle of justice, which latter stresses equality of opportunity, mutual benefit and egalitarianism. Rawls believed that where individuals are allowed to choose a set of principles for communal justice it is firstly rational for

them to pick principles out of self-interest. Secondly, it is reasonable for them to choose principles which would most benefit others, that is the greater society. He compensated for this primary predilection for self-interest by his careful choice of an 'original position' in which representative persons would choose the principles of justice for the society. In that original position the representatives, whilst representing individuals, are denied knowledge of their own identity, including such matters, as creed, age and sex. They thus choose the principles of social justice, relating to social institutions, under a situation which Rawls termed a 'veil of ignorance' (Rawls 1972 p.136ff).

Rawls concluded that these representatives, choosing in a veil of ignorance, would choose two basic principles. The first and foremost principle is that each person is to have an equal right to the most extensive basic liberty consistent with a similar liberty for others (Rawls 1972 p.60). In general terms these liberties are political (the right to vote and to be eligible for public office), freedom of speech and assembly, liberty of conscience and freedom of thought, freedom of the person and to hold personal property and freedom from arbitrary arrest. For Rawls these principles were most clearly expressed in a liberal democracy.

The second principle is of economic justice falling under two main headings; an equality of opportunity, and a principle which he termed the difference principle. The difference principle being that further distribution of wealth should be heavily weighted to the advantage of the poorer members of society (Rawls 1972 p.61). The higher positions of those that are better situated are just if, and only if, they work as part of a scheme which improves the expectations of the least advantaged members in society (Rawls 1972 p.75). This works as a policy of redress for natural disadvantage (Rawls 1972 p.100/1). There should be the maximising of mutual economic benefit subject to egalitarian restraints.

Inequality is still allowed, but only so far as one can argue that inequality within a society may in itself allow for the greater production of primary goods, which can then be shared within that society to the benefit of the worst off. This contractualist position was novel and compelling and it achieved a considerable measure of academic respect.

It must be recalled that this is Rawls position in respect to an individual society and does not necessarily relate to the situation arising between societies. Initially Rawls scarcely mentioned the inter-relation of societies, with the exception of a brief discourse on the concept of just war and conscientious objection (Rawls 1972 p.375ff).

Towards the end of his working life Rawls turned his attention directly towards international relationships in his work *Law of Peoples*. He did not take his concept of justice as defined within a liberal society and apply this globally. In defining an account of international justice, he uses a similar methodology as before, but he moved in a much less radical direction. He sketched a realistic utopia, rather than to an ideal (Rawls 2001 p.13).

In respect to the international arena Rawls used a second original position. There are differences from the first position in that Rawls envisaged that the representatives of the peoples involved on this occasion are representing societies, as opposed to representing individuals. The results envisaged by Rawls in respect to the deliberations of the representatives are somewhat conservative and largely in agreement with traditional international law. They include the thought that peoples have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent social or political regime (Rawls 2001 p.37). Rawls also envisaged a duty to assist others in times of emergency such as famine relief (Rawls 2001 p.38).

The basic approach to justice given in these accounts by Rawls appears helpful. This is particularly true with regard to the methodology adopted, whereby he employs this construct of a veil of ignorance in respect to determining the duties envisaged. There is an essential fairness about Rawls's approach to the subject, which I find compelling. Rawls's earlier work is radical, especially in his applications of the difference principle. If it could be applied directly to the research question then it would be likely to lead to a demand which would produce substantial responsibilities for those who are better resourced. However there are disjunctions between my subject and Rawls's work outlined. I would explore three areas of debate, firstly that the difference principle as formulated by Rawls does not directly focus on health, secondly that it does not apply over national boundaries and thirdly that it is not a foregone conclusion that representatives operating under a veil of ignorance would choose a difference principle at all.

### **Health a primary social good**

Rawls discusses primary goods, meaning something which a rational man would want, whatever else he wants (Rawls 1972 p.92). He divides these goods into primary social goods and primary natural goods. A social good is something under the direct social control of society, as opposed to a natural good which is something like intelligence and imagination which are not under society's immediate control. Rawls believes that justice should distribute primary social goods. Rawls does not see health as being a primary social good, but classes this as a 'natural good' and thus not an aim of justice (Rawls 1972 p.62). Here there are two matters, firstly how we should view the relationship of health to justice and secondly what is the sphere of distributive justice.

In considering this, I would first reflect upon the importance of health in human society. Daniels makes the observation that people who tolerate vast inequalities in wealth and power are often morally outraged when those who are ill cannot get care, because they cannot pay for it (Daniels 2008 p.18). Health is viewed as a moral issue in a way which is different from the way that the other attributes which Rawls classed as natural goods are viewed. I would agree that one is fortunate to have high intelligence and also one would be fortunate to possess good health. However it is possible to meaningfully say that it is unfair that you have poor health, where it is often not possible to say that it is unfair that you have low intelligence. The reason for the difference is that there are many aspects of health which are in fact social constructs. There are social policies which contribute both to causes of ill-health and to our ability to ameliorate ill-health. Some illnesses could be viewed simply as genetic bad luck, many, however, are a product of our social situation. Most are influenced by our access to healthcare institutions.

Daniels argues that since justice as fairness requires, according to Rawls, protecting opportunity for all, and since health contributes to protecting opportunity, then he believes that he has established a connection between Rawls's theory of justice and facts about disease and disability that had previously been ignored (Daniels 2008 p.29). He added that healthcare institutions should be apportioned a place among the basic institutions involved in providing for fair equality of opportunity. Opportunity, not healthcare, remains the primary matter, but health is given greater emphasis (Daniels 2008 p.57).

A simpler approach would be to add healthcare to the list of primary goods. This is not against the spirit of Rawls's position as he has accepted in theory that his list may need to be expanded (Rawls 1996 p.181). It does raise potential difficulties however. If we

expand in the direction of health, should we also expand the list in other directions, such as education? As the list expands, it becomes more complicated and it raises the question of how do we differentiate between the importance of the differing primary social goods?

Daniels and Rawls reject this latter move on the basis that health is an imperfect social good. While the nature of society does impact upon health, it cannot easily be reallocated from one person to another. I would acknowledge this at a theoretical level, yet in regard to HIV/AIDS prevention and treatment many of the resource questions needing addressed are in fact of a type which are answerable by actions adopted through society. Given the generally perceived moral peculiarity of health and its close relation to social structure, it does appear reasonable to propose a Rawlsian type view of justice which includes the concept of health as one of the primary social goods.

### **What is the appropriate sphere of distributive justice?**

The profound challenge to Rawls is not in respect to his original view of justice but in the charge that he lost his way when he moved from considering justice within a society, to justice in the international scene. There are two aspects to this charge, firstly that he has produced two views of justice, and secondly that these views appear to be incompatible one with another.

Rawls would regard the charge that he has produced two views of justice as a non-issue. He would see relations amongst peoples as being different from relations within a society and thus the application of justice as fairness will also be different. If they are thought to be incompatible, again what is the basis of the comparison, they are simply, different. Just as justice within a family may have a different content from justice within a society,

so principles of global justice may differ from principles of social justice (Miller 2006 p.202).

But, why can they not mirror each other more closely? Why can the principles of justice as outlined within a society not simply be extrapolated into a world society? In short, why should the difference principle be unacceptable for a global economy?

For Singer part of the problem is Rawls's doctrine of reflective equilibrium wherein there is an attempt to come to an accommodation between our considered judgements and the results of any theory which is being propagated. Singer suspects that if Rawls were to pursue his view of justice within a society internationally then the result would be too radical and too challenging to the current world order for Rawls to be able to achieve this reflective equilibrium (Singer 2004a p.24). This would then force Rawls to re-examine his original conclusions regarding justice. Instead Rawls has not challenged the prevailing positions on the international scene and has thus had to propose a further definition of justice.

In a similar vein Pogge raises the question of how are we to interpret Rawls's term 'realistic utopia'? Is this a high ideal for an indefinite future? Or is it a stop-gap accommodation with the present world order, wherein we still have to accommodate the reality of the presence of backward and reactionary societies (Pogge 2006 p.210)? For my part I would suggest that these two possibilities cannot be usefully separated with Rawls. He is committed to the primacy of the practical (Pogge 1989 p.3/4). He would appear to be less free than Singer to be able to advocate a position to which one cannot attain. However, it is still not clear that the two contexts have to be treated differently,

so the question can continue to be asked why did he not extrapolate his earlier writings on justice into the global scene?

There are three types of answers either expressed or implied by Rawls. These have direct bearings upon the degree of responsibility of persons in the developed world to the healthcare needs of those in the underdeveloped.

The first set of answers would be that to extrapolate the original view of justice into the global scene simply would not work, due to disparity between the two scenes. Rawls argued that there are no appropriate global institutions akin to the governance functions within individual societies. Given the absence of robust global institutions, Rawls suggested that a global difference principle could only be a shadow of its domestic self (Freeman 2006 p.255). Further, he believed that to produce equivalent government functions would be an undesirable aim, which was a circular element in his argument. These arguments seem less compelling in regard to HIV/AIDS given the involvement of the Global Fund and the United Nations.

The second set of answers would be that to extrapolate the original view of justice into the global scene would create various anomalies which would be difficult to manage. He believed that the affinity of citizens between different societies would not be strong enough for them to agree to choose and implement a difference principle on a global scale. He did however accept, on a more positive note, that the numbers of caring people in the world might expand over time.

The third set of answers would involve a defence of the methodology chosen as being the more appropriate methodology for the global scene. Rawls argued that people must be



allowed opportunity to develop in line with their core beliefs and values. If this leads to a subsequent difference in the societies in regards to wealth production then it is inequitable to suggest that the richer should continually supplement the poorer. The prime example which he gives, is of the differential created between two societies where one chooses to continue with an agrarian policy and the other develops faster through opting for industrialisation. He backs this thought up with a second similar example in respect to two different policies chosen in regard to population growth or control (Rawls 2001 p.120). The basis of his argument is that wealth per se is not the prime social good. There are other matters that are more important, like the freedom to make choices in regards to your own style of living. He suggests that it is manifestly unjust to ask one society to perpetually bail out another society due to the choices that they have deliberately made.

One difficulty for Rawls in arguing like this is that it is reminiscent of arguments that may well have made in the past against applying distributive justice within a society. If it is unjust to be asked to bail out the agricultural society, why is it not unjust to bail out the lazy family (Pogge 2002 p.105)? Rawls may feel some pressure from this in that he made a comment regarding “those who surf all day off Malibu must find a way to support themselves and would not be entitled to public funds (Rawls 1999 p.455).”

Rawls argued that the cause of the wealth of a people lies within its political culture, its religious, philosophical and moral traditions and institutions. The implication being that we are largely responsible for what happens within our own society, as a society (Rawls 1999 p.108). It is not clear that this transposes directly into the situation of HIV/AIDS in sub-Saharan Africa.

Pogge would feel that this argument is all very simplistic. It denies accepting that rich countries through their global institutional arrangements have historically contributed to the deprivation of the poor and also that this is a current ongoing process. Many would feel that market forces outside of the country involved are more important than Rawls would allow (Riddell 2007 p.133). Neither is it obvious that all countries as presently constituted have sufficient resources to compete within the world market place. Many societies are burdened by the political decisions of their forebears.

In considering these matters, I would firstly acknowledge that Rawls's position remains a lot more radical than some detractors might suggest. He is saying that it is a matter of justice that the 'Society of Peoples' supports and aids those burdened societies to make material changes within their societies to bring them ever closer to a position wherein they can join that same society of peoples. This duty would move some way to help supply burdened societies with education, the rule of law, economics infrastructure, proper governance and basic level healthcare. If this were fully applied the situation in respect to HIV/AIDS in sub-Saharan Africa would be improved.

Rawls's scheme also offers humanitarian assistance to those burdened society in terms of rescue. Again this is not simply a matter of individual conscience but comes from the peoples themselves and thus may well be rendered through the taxation systems. In speaking like this it is clear that these tendencies are in fact redistributive and to this extent distributive justice does impact upon the situation between societies. Satisfaction of human rights to existence through providing unpolluted air, unpolluted water, adequate food, minimal preventative public healthcare, to persons in burdened societies would make a tremendous difference (Rawls 1999 p.61). Given the overwhelming scale of the problem of HIV/AIDS it is difficult to see how this area could not be approached

as something which fell into the category of requiring assistance. Thus while Rawls's approach is less extreme than a global difference principle, it is still likely to be more radical than the *status quo* of common morality.

I would also acknowledge that other writers struggle to apply justice to the global scene (Daniels 2008 p.334-6). Yet it remains my perception that Rawls was at his most compelling in his earlier writings when his primary concern for the least advantaged remained a central priority. His reasons for not extending his original views to the global situation sound more pragmatic than based on adequate moral reasoning.

Rawls is not unusual in setting out a contractualist position in regard to distributive justice in terms of a nation state or equivalent. Most traditional political philosophy, until recently, assumed that principles of distributive justice should operate at the state level and not globally. Similarly those who approach the subject through human rights tend to affirm civil and political human rights, but deny economic rights (Caney 2005 p.104).

There has however been a growing interest in cosmopolitanism. The key idea is that every person has global stature as the ultimate unit of moral concern and is therefore entitled to equal respect and consideration, no matter what his/her citizen status or other affiliations happen to be (Barry 1999 p.12, Brock 2009 p.1). Pogge gives a widely cited synopsis of three critical elements of cosmopolitanism which are:-

Individualism – the ultimate units of concern are human beings;

Universality – concern attaches to every human being equally;

Generality – persons are the ultimate concern for everyone (Pogge 1992 p.89).

Cosmopolitanism can be argued for from a variety of approaches. This includes utilitarian positions as already mentioned, contractualist as presently being reviewed and rights-based, which will be focussed upon in the next chapter.

Shortly after Rawls published his principles in *A Theory of Justice*, others began to apply his principles globally. They believed that there was sufficient evidence for global economic and political interdependency and as such there was no reason to view national boundaries as having moral significance. The veil of ignorance should simply extend to matters of national identity and the principles deduced remain unchanged (Beitz 1975 P.362). With some current writers the simplest solution continues to be to affirm a global difference principle (Moellendorf 2002 P.36ff). This is to postulate, contrary to Rawls, a single original position. There would be an ignorance of the state they represent, its character, territory, population size. There would also be more concern for individual conceptions of the good life rather than the more corporate interest of peoples (Moellendorf 2002 p.17). It has been questioned why all the earlier emphasis should be placed upon the reforming of institutions, rather than direct help to individuals.

Rawls argues that it is because we are engaged in co-operative activity, sharing institutions in the process, that the question arises as to how we should share in the fruits of that co-operation. A more individually orientated cosmopolitan would ask why is the establishment of the institutions of economic interaction of so great moral importance in regard to distributive justice? Why can we not accept that people are involved in the global difference principle on the basis of common morality rather than institutional involvement (Richards 1982 p.278-282)?

The fundamental point however would be that there is no *a priori or compelling* reasons why distributive justice should not be applied in a cosmopolitan manner which brings the type of arguments loosely based upon Rawls much more closely into the area of interest for this thesis.

### **Is a difference principle the only outcome?**

If we do accept that a hypothetical contract can provide independent support for principles of justice then a critic could then go on to question whether such a contract would necessarily lead to an acceptance of a ‘difference principle’ (see p.105). This is addressed by Brock, who accepts the methodology of applying a contractualist account of distributive justice and uses a form of the veil of ignorance presentation, but does not believe that this would give rise to a difference principle.

She suggests that the outcome chosen by representatives of persons would be a needs-based minimum floor principle as opposed to a difference principle (Brock 2009 p.46). She states this in the context of a veil of ignorance position which factors in risks to health such as highly infectious diseases and global pandemics. She believes that in addition to caring about protecting freedom, that rational decision-makers would also want protection from real risks of serious harm to which they might be vulnerable (Brock 2009 p.49-51). A needs-based minimum floor principle establishes a level of safety-netting for all whereby people are positioned to enjoy the prospects of a decent life, fleshed out by what is necessary to maintain basic needs and certain guarantees about basic freedoms (Brock 2005 p.343). It is likely to be less radical in its support for the disadvantaged in society than a fully applied difference principle.

This question is a matter of what would people actually choose in the situation of being representative persons acting under a veil of ignorance. This is a construct situation but it is based on that which might appear reasonable. There is a place therefore for considering relevant empirical evidence. Brock finds backing for her beliefs from empirical evidence produced internationally which gave quite consistent results suggesting that the difference principle would not in fact be chosen, and in contrast an ability to maximise ones income whilst maintaining a robust minimum floor income was greatly preferred.

Option	First Choice Percentage
Maximising the floor income (difference principle)	1%
Maximising the average income	12%
Maximising the average with robust floor constraint	78%
Maximising the average with a fixed range constraint	9%

(Frohlich and Oppenheimer 1992 p.201)

It may be that the general public, used to concepts of the welfare state in different national guises are more likely to choose a minimal income guarantee option out of habit. This raises questions as to the background expectations of those choosing under veil of ignorance conditions. If they are more theoretically isolated from previous background experience, then one might argue that they would produce a more theoretical type of construct, such as a difference principle, or indeed the maximising of expected utility position, and that in this sense the empirical information relied upon by Brock is missing the point of the veil of ignorance. Nonetheless, this empirical research does give credence to the thought that the choice of a difference principle is not the first

and obvious choice that people would make and at the least it does raise doubts as to what would in fact be chosen.

Brock concludes that global justice requires that all persons are adequately positioned to enjoy prospects for a decent life, understood in terms of what was necessary to meet their needs, enjoy basic freedom, fair terms of co-operation in corporate efforts and the social and political processes that underlie these goods. She believes that needs are the counterpoint of capabilities and would enjoy more general acceptance as a basis for common discussion and agreements, than a demand for rights, which she views as being quite contentious (Brock 2009 p.119ff).

## **Conclusions**

Distributive justice is a concept which has deep intuitive appeal. It gives expression to the basic thought that it is unjust for a rich man to be living in splendour and ease with a poor man dying at the gate. Yet it appears to be a concept which requires an underpinning theoretical argument, partly to justify, but largely to give a context for evaluating the moral demand of the subsequent duties which arise. The contractualist postulation of decisions being made under a veil of ignorance is a very helpful device in this regard. Rawls claims no self-evident truth in regard to his construct, but puts it forward as a useful core for overlapping consensus (Pogge 1989 p.4). This it seems to be and is how I would use it.

Most contractualist positions are firmly rooted in a nation state context. This would give rise to duties for a sub-Saharan government in respect to HIV/AIDS within their borders, but not for the developed world in regard to the same problem. Rawls own position is

arguably more generous than this as he does allow for rescue situations and a duty of assistance. However there remains a cut off position in regard to his global position on distributive justice as this is primarily aimed at securing the requirement of political autonomy. It is not clear that this would lead to major benefit for HIV/AIDS sufferers beyond the current *status quo*, even in the middle term. It certainly would not be sufficient to fully initiate a radical treatment and prevention campaign.

However, the reasons Rawls gives for radically moderating the veil of ignorance device in regard to applying it internationally, appear weak. Through accentuating the interconnectedness of modern day societies and stressing common bonds of humanity it seems reasonable to use the veil of ignorance device internationally in the same way as one might apply it nationally. This then applies the concept of distributive justice more directly to the focus of this thesis.

There remains however a debate over the outcome of such a theoretical discussion. Rawls had assumed that representatives of peoples would primarily be interested in justice at the institutional level, and care little directly for the situation of individual persons. His focus is on the institutions of society and while this would affect individual well-being eventually, it does so indirectly. This seems an unwarranted assumption. Why should such representatives not be interested in the standard of living of individuals involved? While re-distribution may best be organised at the level of the state, justice as a concept applies both to states and to individuals.

For many who accept that distributive justice should be applied in a cosmopolitan fashion, there has often been the assumption that the outcome would be akin to Rawls's original argument arising from the application within a state, that is amongst other



outcomes, a difference principle. This is not universally accepted and as an example Brock has made a cogent argument that this would not be the case and has advocated a minimal safety floor for income and resources.

She remains very aware of the major disparity which currently exists in the world economy and she therefore sees her proposal as being quite radical. Her position would be less stringent on the developed world than the application of a difference principle, but she can nonetheless state that the minimal result of this less stringent position would be resource allocations greater than an increase of 1% of GDP taken from the developed world and transferred to the underdeveloped (Brock 2009 p.123).

I would suggest that the choice of principles under a veil of ignorance is a device that should find general acceptance, but that the exact principles thereafter engendered would be subject to further debate. I would not take a strong position on the outcome of this debate although I would wonder if Brock's less radical position would be influenced by prior assumptions which would not in theory be present amongst the representatives concerned. If a difference principle was accepted as being a reasonable outcome, this would engender responsibilities in regard to HIV/AIDS of a very similar nature to the extreme demand envisaged by Singer. It would mean that the persons in the developed nations would have responsibility and the level of responsibility that they would have would be a resource demand which would clearly be sufficient to meet any need envisaged by the United Nations taskforce on HIV/AIDS.

If a minimal security position was adopted then the situation is a little less clear. Nonetheless, given the level of chronic suffering engendered by HIV/AIDS it would be difficult to see how even this level of demand would not equate to both an effective

treatment regime and a fulsome social support regime. Further, given the cost advantages of containing the epidemic, it would seem also to dictate the necessity of introducing an effective prevention campaign. Brock's own estimate of 1% of GDP may well simply reflect an underestimate of the need, rather than a necessarily minimalist nature of her position.

It is difficult to envisage why representative persons would choose principles which were less generous than the position advocated by Brock. On that basis, it would therefore appear that thoughts of distributive justice arising out of a contractualist construct would provide further strong arguments for fully funding the type of response which is required for HIV/AIDS in sub-Saharan Africa. I would advocate that this is essentially a separate strand of argument from the beneficence position outlined through Singer, but one which complements that earlier argument and comes to essentially similar conclusions.

In the final chapter of this section I will explore arguments which are both rights based and also which arise from thoughts of reparative justice. I will then be in a position to set out the arguments for accepting a major responsibility for HIV/AIDS prevention and treatment before considering the weight of counterarguments and constraints in the third section of this thesis.

## **Chapter Seven**

### **Rights - Pogge and Shue**

#### **Introduction**

In Chapter Four I have utilised the seminal work by Singer to outline a very positive argument based on beneficence for considerable involvement by the developed world in HIV/AIDS programmes in sub-Saharan Africa. I have now complemented this in Chapter Six with arguments arising from a completely different source, that is distributive justice, seen from a contractualist and cosmopolitan perspective, and coming to broadly similar conclusions. These positions are radical and counterintuitive in comparison to the *status quo* arising from common sense morality and I have argued in Chapter Five that they cannot be immediately rejected simply because they appear demanding and counter-intuitive.

In this chapter I will continue to discuss justice, this time restorative justice, with the accent being placed on various rights based arguments. Again I will come to the conclusion that HIV/AIDS places a strong moral duty upon the developed world. This will then conclude the second section of my thesis. My purpose will be to have sketched three main types of argument which give rise to demands in regard to HIV/AIDS in sub-Saharan Africa which far outstrip that which would be accepted as being reasonable under common morality. These arguments are different from each other, but are not inherently incompatible. I will not be rejecting one in favour of another, but in a pluralist fashion advocating the three types of argument as each giving cogent reasons to accept the duty to meet needs arising from HIV/AIDS.

In the Third Section I will then introduce counter arguments, not in regard to the detail of the arguments evidenced so far, but against the force of my overall conclusion that the developed world has responsibilities for HIV/AIDS which would be greater than the sacrifice that would be needed to deal with the situation.

### **Pogge's contributions**

Fundamental to this present chapter will be a consideration of the contribution of Pogge to the case for the obligation to give aid. I have already made mention of some of his positions in Chapter Six. This is not surprising as in many ways Pogge, along with Singer, has been at the forefront of this debate.

Pogge's approach has always been based on a principle of justice, often reparative justice. However his approach can be seen as taking three main phases so far.

We are imposing a global economic order which is unjust in view of the massive and avoidable deprivations it foreseeably reproduces. There are three harms ... Imposing on them the lasting effects of historical harms ... Holding them below any credible state of nature baseline ... Imposing an order which is unjust as it contravenes human rights ... (Pogge 2005c p.4/5).

His initial approach was to defend a variety of globalised Rawlsian contractualism, with the use of the device of the veil of ignorance (Pogge 1989). This is no longer his primary emphasis (Wenar 2001 p.81), although some suggest that it remains his tacit understanding of the issues (Kelly and McPherson 2010 p.103). He then moved on to a

more frankly Lockean series of arguments before adopting an approach which made particular use of a modern concepts of rights.

### **Empirical observations and Lockean arguments**

Pogge shares with Singer a similar assessment of the problems of poverty and deprivation in the world (Pogge 2010b p.177). He believes that we have demanding duties grounded in beneficence, but is concerned that these obligations will not be enough to motivate sufficient people to act on these problems. For Singer, due to his underlying utilitarianism, how the poor are connected to the rich is a matter of little import. For Pogge it is crucial, as the connections between the two are for him the basis for stringent demands of justice. For Pogge it is important to ask how the current *status quo* arose and why it is continuing. He believes that domestic factors within underdeveloped nations play a part, but the more important factors arise from the global economy.

There are at least three morally significant connections between us and the global poor. First, their social starting positions and ours have emerged from a single historical process which was pervaded by massive and grievous wrongs. Second, they and we, depend on a single natural resource base, from the benefits of which they are largely, and without compensation, excluded. Third, they and we coexist within a single global economic order that has a strong tendency to perpetuate and even to aggravate global economic inequality (Pogge 2001c p.13).

He thus argues that the present economic order is the product of a violent past. He accepts that one cannot be held responsible for the sins of one's forebears, but argues

neither should we benefit from the fruit (Pogge 2005c p.2, 2008b p.74). Further, that the present global economic system greatly benefits those who are in the developed world and the elites, but not the masses, of the poorer countries. These elites have access both to international borrowing privileges and have resource privileges. This means that they can borrow money internationally on behalf of their countries and they can use the natural resources of their countries independent of the benefits that either might bring to the masses. Both of these privileges provide incentives and means for corrupt dictatorial regimes to establish a power base. Yet at the same time they benefit the developed world (Pogge 2001c p.14). Pogge asks, why should a Nigerian strongman have the right to dispose of a nation's assets (Pogge 2003 p.6)?

Pogge takes these empirical arguments and with them seeks to demonstrate that the better off states and their citizens are continuing to harm the poor. This does not primarily raise questions of beneficence, but of reparative justice. In particular he argues that it is unjust to impose such a global economic order for Lockean reasons, that is, that the poor are left with a share of natural resources smaller than the equal share they are entitled to in a hypothetical state of nature (Hanisch 2007 p.24).

In a state of nature persons would be entitled to a proportional share of the world's natural resources. For Locke the justice of any institutional order thus depends on whether the worst-off under it are at least as well-off as people would be in a state of nature with a proportional resource share (Pogge 2005c p.3).

He considers various subjunctive baselines including that of zero global economic interaction and compares this to the effects of the World Trade Organisation's framework. He concludes that we are actively impoverishing, starving and killing

millions of innocent people by economic means and that this is unjust (Pogge 2005c p.14). He reminds us that the developed world consists of democracies and as such our contribution to this injustice should make us feel very uncomfortable (Pogge 2003 p.7).

### **Criticisms of Pogge's Lockean position**

It is very clear that Pogge's arguments as sketched above receive considerable support, both from persons within the developing world, and also from other academics (Ramose 2002 p.463ff, Coetzee 2002 p.547ff, Cullity 2004 p.9). However they have also come under much criticism (Risse 2005 a,b,c, Loriaux 2007 p.252ff, Jaggar 2010).

As an example, Risse argues that it is debatable whether the global political and economic structure actually harms the poor or not. Yes, 34,000 children under the age of five may die daily of preventable diseases, but who is to say that a lot more may not have been dying if it were not for the present global structure? It is his view that if we consider any standard developmental indicator we will see that the global poor have never been better off (Risse 2005c p. 110-112). He does not deny that there are major problems to be encountered in the developing world, which would include an inability to cope effectively with conditions like HIV/AIDS. But he argues that the primary problem with the developing world is the corrupt nature of their local domestic institutions and not factors arising from a scarcity of geographical resources in these countries, or the nature of market integration in the international community. It is a fundamental and culpable weakness of governance within local institutions. What outsiders can do in regard to building and supporting these local institutions is in fact quite limited and yet this is their only responsibility in the matter. Independence, sustainability and organic

evolution are all important concepts in building local institutions and they all militate against outside help. He challenges Pogge to conclusively prove that the development of the North has led causatively to underdevelopment in the South.

Risse would view past history as being largely irrelevant. Who is to know how matters would have turned out if history had been different? Perhaps the slave trade and colonialism, with all their negative connotations, have led to a better overall outcome than would otherwise have occurred. In this he takes us to the difficult question of identifying an appropriate baseline when we are considering whether anyone is being harmed.

Further, the Lockean arguments quoted by Pogge require the resource base to collectively belong to all humanity and this is a complicated matter to establish in a reasonable fashion. Even if it is accepted, Risse would claim that the fundamental problems arise in the local institutions, rather than stem from the amount of resources.

Finally Risse points out that Pogge's arguments require that there are feasible alternatives to the present global order in which radical inequality would not exist. Yet Pogge does not supply such feasible alternative arguments in any detail. Some sub-Saharan countries have been receiving 11.5% of their Gross National Product as development aid and yet their problems persist. One cannot deal with the AIDS epidemic without rebuilding a medical infrastructure, and this is rarely possible as it needs a peaceful environment, and this again is dependent upon local institutions. In short there are no simple answers (Risse 2005c).



Loriaux adds, what if the present global order can be shown to actually reduce poverty, does this mean therefore that we have no ongoing responsibility to the remaining poverty problems? She strengthens this thought by stating that most economists believe that the global order does benefit the poor (Loriaux 2007 p.252, 260).

I will not within this thesis be entering into these arguments and subsequent counter claims in any detail in regard to the question of past injustice. Direct appeal for compensation or reparation for past wrongs is always a difficult matter which is dependent on how one assesses the effects of history, the responsibilities of that history in regard to persons who had not been present at the time, and the questions of theoretical baseline situations to act as a comparator if events had been handled differently. I would accept that it is reasonable to suggest that colonialism and the slave trade on balance may have caused harm, but will not rely upon this as a substantive argument.

It is likely that Pogge's dwelling on the subject of past injustice is in truth a side argument aimed at Nozick's concession that goods should be justly acquired (Nozick 1974 p.150ff). The importance of this will be illustrated in Chapter Eight of this thesis. Yet the thrust of Pogge's argument and the strength of the argument is not in respect to history, but in the present. There appears to be cogent empirical arguments that the current economic global structure adversely affects the poor in third world countries. Whether they still benefit from trade is a moot point, if they consistently benefit less than their developed counterparts. In comparison Risse's approach appears to be a counsel of despair, that nothing can be done with certainty, so that nothing should be done at all, except perhaps some marginal help with institutions. Pogge's case that there is a current need for reparation in relation to poverty and development in general appears persuasive. What is of greater importance to this thesis is that in regard specifically to HIV/ AIDS

there are workable solutions which are less dependent on requirements for a massive overhaul of internal institutional reform and thus are less susceptible to Risse's criticisms.

Interestingly Pogge accepts that he has not set out a detailed picture for an entire new order, but he argues coherently that on the balance of probabilities the empirical evidence suggests that it is more likely than not, that we in the developed world are responsible for more than half of the millions of poverty related deaths per year, and that a combination of several reforms taken together over the last thirty years would have dramatically cut this devastation (Pogge 2010b p.180/1). Undoubtedly it can be shown that some in poverty have benefitted from the present world order, nevertheless there remain substantial numbers who have been needlessly harmed.

I would accept the basic empirical premise that the present global world order causes economic harm to the developing world. This in turn gives rise to difficulties in coping with major problems such as HIV/AIDS. An example being that the International Monetary Fund for many years discouraged developing countries from investing in their own healthcare infrastructure. Further I would accept that this directly relates to individuals in the developed world and not just states, as individuals are both themselves benefitting from the current order and also living in democracies which gives both influence in budgetary matters and allows for consumer choices to be made in ethically responsible fashions.

However the historic aspects of the argument remain more uncertain. This is due to a difficulty in establishing a certain comparator in regard to how the world would have turned out if things had been different. Further the underlying Lockean theory

connecting resources to persons' rights seems less persuasive. The 'Lockean proviso' that the acquisition of natural resources is only just if it leaves enough and as good for others, is widely accepted, and thought to be fairly modest. However, there are difficulties establishing why each is entitled to the same initial resource allocation. One might be able to cogently argue that raw materials are not available to be exploited on a first come first serve basis as their existence is nobody's accomplishment and their use should not depend on accidents of time and chance. However this reasoning is not compelling. There are difficulties in considering what would be the baseline of nature in this matter and how we should factor in the squandering of resources and also the possibility of the free relinquishing of rights to resources. Having said this there does seem to be a question of natural injustice when the present economic world order allows corrupt elites to forcibly disengage the masses from the resources to which one might assume they have some interest as members of the same society.

### **Pogge's use of rights**

Many of Pogge's more recent arguments take the position that the present global economic order is unjust, because it adversely affects persons' human rights. The question does arise as to whether Pogge is actually theoretically committed to the concept of rights as opposed to a discussion of basic needs (Brock 2009) or human capabilities (Sen 1993, Nussbaum 2000)? However, it would appear reasonable to suggest that these matters are all interconnected. Nonetheless, he deliberately chooses to use rights as a springboard for his argument. He believes that this represents an approach which has gained wide acceptance and thus will allow the dissemination of his views with little need for secondary debate regarding the moral basis of his proposals.

Pogge's strategy is to take the fulfilment of social and economic rights as found in the

Universal Declaration of Human Rights (UDHR) as being the most plausible definition of a just social order (Pogge 2001c, 2002, 2008b).

#### Article 25

Everyone has the right 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 and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control (United Nations 1998).

He argues that to impose an economic order that violates human rights, by definition, amounts to harm, and is unjust (Pogge 2005a).

While one accepts that rights have been gaining ground in political and philosophical discussions as a commonly accepted basis for moral discussion, it is still however controversial to take as a starting point economic and social rights. Rights imply duties, otherwise they are mere aspirations. Strong claims made on behalf of human rights still frequently provoke sceptical doubts and this is particularly true of putative economic and social rights. The United Nations 1948 Declaration as quoted above in regard to social and economic rights has indeed been officially adopted by most countries, but adopted for progressive implementation. In reality Article 25 has been downgraded to a goal to avoid massive non-compliance.

Pogge has stressed Article 28, 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised'. He

would take from this that all countries and individuals have negative duties not to be complicit or co-operate in upholding an unjust economic order, at least without compensation, contrary to the rights previously expressed including social and economic rights (Pogge 2002 p.67). In this approach Pogge seeks to establish a positive right to economic benefits through appealing to negative rights not to interfere with people's rights. As is often the case in discussion of rights this smacks a little of rhetorical argument, nonetheless it is a legitimate use of the language of rights.

The distinction between positive and negative rights is viewed as being very important. The distinction is made by considering what must be done in order to respect the right (the correlative duty). If the correlative duty is to act in some way then it is a positive right, if to refrain from certain actions, it is a negative right. Negative rights are usually thought to include civil and political rights such as freedom of speech, freedom to hold private property, freedom from violent crime, freedom of worship, freedom from slavery. Positive rights include social, cultural, and various economic rights such as a right to public education, health or social security. Negative rights are held to be stronger rights as they require less action from others, they are seen as being first generation rights, whereas positive rights tend to be seen as second generation and thus are often relegated to being aspirations achievable in the fullness of time.

This distinction is accepted by most libertarians who believe that positive rights do not exist unless established by contract. It is emphasised by some substantial donor governments, the prime example being the United States of America (Payne 2008 p.1). This has helped protect Americans, as a corporate nation, from feeling any force of obligation in regard to healthcare issues in the developing world, beyond that of supererogatory charity contributions. Further it is reflected in the writings of Kantian

philosophers where negative rights are associated with perfect duties, whereas positive rights are reflected in imperfect duties (O'Neill 1986 p.131).

Pogge's decision to base his arguments on rights has been chosen very deliberately to address the concerns of libertarian and Kantian approaches. He is prepared to concede that there is a meaningful difference between negative and positive duties, between causing poverty and merely failing to reduce it. He states that Singer and Unger's arguments and also those of Shue, which latter will be addressed shortly, appeal to positive obligations and thus are resisted by many. He agrees that negative duties are the more important, but then, as stated, claims that the present economic order positively harms persons in the developing world by denying them their rights.

In this process he is denying that welfare rights can be marginalised by saying that in fact there are negative duties associated with welfare rights. Pogge seeks to narrow the gap between civil and political rights on the one hand and social and economic rights on the other in a way which he believes may remain attractive to a minimalist libertarian. How far this is successful in regard to the libertarian will be addressed further in Section Three of this thesis. How far it is successful with respect to the positive arguments being developed in this section and the cost implications will be addressed below.

My position, as already indicated, would be that Pogge here is making a reasonable argument, but it seems possible that in theory his rights argument has only indirect bearing upon the needs of HIV/AIDS in sub-Saharan Africa. If one starts from the position that there is currently an unjust and biased world economic order then this, as discussed earlier, brings up directly the question of reparation. Reparation is relatively straightforward and could well comprise in part resource reallocation from the developed

world to the underdeveloped in regard to needs that must be met, but which are unaffordable, such as programmes for HIV/AIDS. This current manifestation of a rights argument leads to the position that the biased world economic order directly denies people human rights in the underdeveloped world. This produces a strong requirement upon the developed world to act to change the biased world economic order and eventually, in so doing, this will free up internal resources for such programmes as HIV/AIDS in sub-Saharan Africa. Pogge himself blurs the distinction here, as he still in practice envisages a direct transfer of resources. This is presumably because he views the likelihood of changing the system itself as being inherently problematic.

Pogge's own estimates appear at one level relatively modest. He envisages a Global Resource Dividend supplying a maximum of 1% of the rich economies GDP as being sufficient to remove radical inequalities between the world's poorest and the richest (Pogge 2002 p.205). This would raise questions over whether Pogge's position would be adequate to fully deal with the needs of HIV/AIDS as envisaged within the financial scheme of this thesis. Yet at the same time it is commonly assumed that Pogge's economic position is very demanding (Parsons 2007, Lichtenberg 2008a p.16).

It is noteworthy that Pogge has moved from an extremely demanding position on global justice, namely the global application of a difference principle, to an interpretation of global justice based upon human rights in order to render his approach as widely acceptable as possible. One wonders if his empirical figures are also designed to continue this desire to have his views accepted? He himself adds that we should perhaps spend 2% 'to ensure that the poor, especially poor children, have secure access to food and shelter, vaccines, safe water, basic health services and sanitation ....' In regard to my

specific subject he says ‘We ought to make a major effort to stop AIDS’ (Pogge 2001c p.2).

Risse objects that the costs of such activities would be much greater than the prices quoted by Pogge due to the difficulties which in practice would need to be overcome along the way. The compensation to be made is not made under ideal conditions and there will necessarily be additional transfer costs (Risse 2005c p.310).

In regard to the fact that the obligation is now being based upon negative right claims, it should be remembered that Pogge envisages his arguments as being supplementary to other types of arguments arising from different approaches. Therefore it is possible that Pogge envisages that the nature of the demand may rise as different types of argument are considered together. However, treating his rights argument as standalone arguments at present, it can be argued that his negative rights arguments would have quite dramatic effects beyond the mere transfer of resources. From an institutional perspective it would mean for example the curtailing of current protectionist systems, it would mean the cancelling and perhaps reversing of the professional brain drain which has so limited the development of healthcare systems in sub-Saharan Africa. It would mean the removal of intellectual property rights on pharmaceutical products which would contribute greatly to the affordability of HIV medication. At an individual level, these negative duties may well be very stringent, forbidding many aspects of our personal lives in regard to consumer choice.

What is of importance here are the principles enunciated by Pogge rather than Pogge’s financial calculations in response to these principles.



Article 25 of UDHR does not suggest that it is necessary for an effective HIV/AIDS response that we must bring a level playing field into healthcare between the developed world and the underdeveloped. Instead, allowing for some differences, it requires that there must be an adequate health resource response. This is more than basic healthcare needs being met and it would be a very considerable improvement on the current HIV/AIDS sub-Saharan provision. This is what is being envisaged by Pogge's proposals, even viewed in isolation.

### **Shue on basic rights**

Pogge's almost exclusive concentration on stringent negative obligations in regard to social and economic rights is understandable in terms of his desire to involve libertarians within the compass of his arguments. It is less convincing as a full explanation of the concept of economic rights. In one sense it fails to directly focus on the economic rights themselves. Should we be primarily changing the economic order or should we mainly argue for compensation to bring them to the position that they would be in should the economic order have not adversely affected their position? Or, should we be seeking to meet needs which may well be beyond that level, but still could be encompassed in the concept of economic rights? If the eventual aims are undetermined, the distinction between negative and positive duties becomes blurred (Lichtenberg 2008a p.21).

Shue embraces this by attacking the clear distinction between positive and negative rights. He argues that negative rights usually require positive actions, e.g. the formation of police forces and judicial systems, whereas positive rights can also involve a prohibition from harming. In the process his position does become less attractive to libertarians. However he hopes to get round this by stressing that there are remaining

negative rights attached to economic rights and by arguing in addition for an underlying concept of 'basic rights', which would include economic rights in a way that potentially enhances their importance for libertarians.

For Shue a right 'provides the (1) rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats' (Shue 1996 p.13). A basic right reflects the line beneath which no person should be allowed to sink. It is a right whose enjoyment is essential to the enjoyment of any other right. As he explains:-

1. Everyone has the right to something.
2. Some other things are necessary for enjoying the first thing as a right, whatever the first thing is.
3. Therefore, everyone also has rights to the other things that are necessary for enjoying the first as a right (Shue 1996 p.31).

All appear to accept that security rights are basic in the sense that Shue is using the term. Shue suggests that by analogy basic economic subsistence rights are equivalent, and should also be treated as being essential rights.

No-one can fully, if at all, enjoy any right that is supposedly protected by society if he or she lacks the essentials for a reasonable healthy and active life. Deficiencies in the means of subsistence can be just as fatal, incapacitating, or painful as violations of physical security (Shue 1996 p.24).

This argument is quite simple but it does make the assumption that the enjoyment of a right is a fundamental feature of the concept of a right. A moral right has correlative duties and that these duties imply social guarantees. There is room for debate upon this as people may be said to have a right, but not care to use it. By extension some might claim that people can have a right, but be unable to use it through lack of resources. In this latter situation one might say that the basic right is violated, but question whether the underlying first right is violated.

Similarly others may have duties, but the duty may not be enforced. Yet it does seem very hollow to say that people have rights, but in reality they are not in a position to enjoy the rights. In what sense can they then be said to have a right? Given that concession to Shue, it then does seem reasonable to accept that the idea that rights must be available to be enjoyed to be meaningful gives a shortcut to the view that we have an obligation to provide positive assistance in this matter.

One could then raise the question as to whether health could be an appropriate subject for rights. The argument might run that never mind what resources one has available, one cannot guarantee health. However this argument does not work as the same could be said for other forms of fundamental right. Never mind how peaceful and law abiding the community, one cannot guarantee that an individual may not be a victim of crime.

Ooms helps in this matter, if a little legally, by arguing that human rights law affirms obligations of global health justice beyond matters relating to internal state justice and beyond the demands of charity (Ooms 2010 p.1). From a legal rights perspective, while the 1948 UDHR is not law, it has given rise to various treaties which include

‘the right to the highest attainable standard of physical and mental health.’ Further the United Nations as a consequence expects that ‘Each State party to the present Covenant undertakes to take steps individually and through international assistance and co-operation, especially technical and economic, to the maximum of its available resources’ (Ooms 2010 p.7/8).

In regard to negative or positive obligations, Ooms adopts a compromise position somewhere between Pogge and Shue. She says that she agrees with Pogge that the obligations of justice are first and foremost obligations of correction to compensate for the failure to fulfil the negative obligation to do no harm. In writing like this, she is however not ruling out the possibility that obligations of justice also have some additional, if less important, positive obligations attached.

When we turn to the financial implications of these positions, Shue’s approach to rights would seem clearly related to dealing effectively with the needs of HIV/AIDS in sub-Saharan Africa. The toll produced by the epidemic is so great that Shue’s arguments would lead to the financing of a very effective campaign against the disease, as advocated by the United Nations. However, like Pogge, he has some difficulty in specifying the parameters and costing his proposals. He acknowledges this and at times speaks as if the demands would not be great. Yet, again, like Pogge, he is sometimes accused of falling into problems with over-demandingness.

Shue does write in terms of subsistence rights. He discusses ‘minimal preventative public health care’. He argues that ‘people may or may not have economic rights that go beyond subsistence rights’, but he does not see this as part of the core questions which he is addressing. This could suggest that he is not viewing an adequate response to

HIV/AIDS as being part of subsistence rights. Yet at the same time he does say that a child born, should not be expected to have 35 years of fever ridden parasitic existence, even if they are not entitled to open heart surgery (Shue 1996 p.20ff). Again, it should not be assumed that Shue believes that his arguments represent the sum of all moral requirement on this matter. Yet, for balance, in making that point, it should also be acknowledged that he does not make direct reference to beneficence type arguments at all in his major contributions to the subject area.

Ooms position seems somewhat clearer. She specifically quotes with approval the new ways of funding for HIV/AIDS as developed through the Global Fund as the emergence of a new paradigm which she heralded as demonstrating the feasibility of improving healthcare outcomes internationally. This was a perfect example for her of the fulfilment of human rights law obligations for global health.

She mentions three problems in regard to HIV/AIDS provision. Firstly, that there are increasing calls saying that AIDS is being given exceptional help in comparison to other diseases and that this could be seen as an injustice. Her response to this is to suggest that other healthcare conditions should also receive increased funding to remove any apparent disparity.

Secondly, that historically one of the main objects of previous meaningful aid schemes had been to strive for sustainability, that is to reach a position whereby the local population can continue the provision after the initial set up costs have been covered. She makes the point that this is not the approach adopted in rescue situations. She believes that the HIV/AIDS epidemic requires a new paradigmatic approach, as

exemplified in the Global Fund, wherein there is a new definition of sustainability, which involves not just self-reliance but also includes, where necessary, international support.

Thirdly, she discusses the ‘Matthew Effect’, that there is a tendency for money and resources to concentrate in developed situations and constantly to be lost from the periphery. The original idea is expressed as to ‘those who have, then more will be given in abundance’. She believes that we will always have to guard against that tendency and accept in healthcare resource allocation that the economic reality is that there will need to be a continued assessment and reassessment of the situation and if necessary the continuation of top-up funding.

## **Conclusions**

This chapter has made mention of the concept of restorative justice and how it might apply to the question of HIV/AIDS provision in Sub-Saharan Africa. Like Pogge and Shue it has hinted at a historical case to answer but has found the empirical case difficult to establish due to the uncertainties regarding appropriate base comparators. In contrast a contention that there is an ongoing bias in the current economic order seems easier to establish. This leads naturally to the contention that this injustice requires compensation.

That general discussion has led to a consideration of perceived health rights and how these may inform an evaluation of responsibilities. Historically rights have been a difficult area for philosophy in that it can be uncertain on what exactly they are predicated. In this review I have endorsed Pogge and Shue’s pragmatic approaches, which are based upon the rights asserted, and widely accepted, in the UDHR. The ensuing problems are a matter of interpretation, in particular whether positive social and

economic rights have similar force to negative liberty rights and whether we violate a negative right by not providing the resources necessary for its exercise.

I have noted that there has been a general response that negative obligations are of greater import than positive obligations. I have highlighted Pogge's approach in this matter which is to suggest that a right to healthcare is contained within other negative obligation claims, and Shue's approach that health rights in themselves have both positive and negative features and should be framed within the context of overarching strong basic rights. I agree that Pogge's arguments succeed in regard to the contention that there is a duty to prevent harm occurring through the ongoing economic world order. However I would particularly endorse Shue's approach on this question as a right does seem to pre-suppose features which are more than a matter of simply avoiding harm and a right which cannot be utilised is a fairly meaningless concept.

The arguments taken from this chapter would lead to the contentions that there is a duty falling on the developed world in regard to HIV/AIDS in respect to reparation for the current unjust global economic order, in regard to the denial of human rights associated with that unjust economic order and in respect of positive rights to healthcare viewed as a basic right. The extent of that obligation is difficult to gather from the writers concerned. Pogge suggests 1 or 2 % of GDP would be reasonable, which on balance would just cover the requirements of the millennium development goals inclusive of HIV/AIDS demands. With Shue's approach it is difficult to be certain of the level of basic healthcare provision which he would personally see as being a basic right although he clearly believes that it is considerably more than the *status quo*. With Ooms the matter is more straightforward, she views the meeting of the millennium goals on HIV/

AIDS to be paradigmatic of the type of healthcare problems which should be fully addressed by health rights legislation.

The overall effect of the arguments discussed in this chapter is to suggest that reparative justice and widely recognised rights based agendas would give additional arguments for the substantial provision of HIV/AIDS healthcare to sub-Saharan Africa if Pogge's empirical observations were to any material extent correct. These arguments contribute in an independent and additive fashion to the arguments from beneficence supplied in Chapter Four and the arguments from distributive justice in Chapter Six.

In using the word independent I am acknowledging that the three lines of argument pursued are different and they each, without reliance upon each other, come to similar conclusions. When using the word additive I am not suggesting this in a crude arithmetical fashion, that is the more arguments that are quoted then the more resources that are required, or even quantitative whereby three arguments are necessarily stronger than one. Nonetheless the latter approach should not be decried completely. The fact that there is more than one method of making a substantial argument for giving more resources to HIV/AIDS programmes than would commonly be accepted helps to give credence to the overall moral argument produced. If nothing else, it helps in respect to polemics, where a sceptic may well be more convinced by one line of argument than another, due to their own predilection to the types of argument involved.

Taken together, these three sets of arguments strongly suggest that there are overwhelming indications why persons in the developed world have considerable responsibilities towards those in need in regard to HIV/AIDS in sub-Saharan Africa. This level of obligation envisaged is in many ways counter-intuitive because it is so



much greater than that which would commonly be accepted under the heading of common morality.

## **Section Two - Conclusions**

In this section I have set out to identify, assess and make evident a series of arguments which all lead to the conclusion that the developed world has very substantial responsibilities for resourcing HIV/AIDS programmes in sub-Saharan Africa. This commenced with a thought experiment and related premises from Singer. These were not adopted using the underlying assumptions of utilitarianism, but were applied relying upon a general principle of beneficence. The only substantial modification made to Singer's arguments was that the weaker version of his second premise was rejected in favour of the stronger formulation. The resultant conclusion could be regarded as an extreme demand, whereby persons in the developed world were responsible for supplying resources until they were in a position very close to those that they were trying to help. Singer's arguments, lead to a demand which easily encompasses the production of an effective campaign against HIV/AIDS such as is envisaged in the United Nations millennium goals. It was concluded in Chapter Five that it was not possible to reject this level of demand simply because it appeared counter-intuitive and on that basis was considered overly morally demanding.

In Chapter Six arguments were set out which were loosely based on a Rawlsian model of distributive justice. The arguments proposed were however cosmopolitan as well as being contractualist. This meant that *contra* Rawls the first original position adopted was applied internationally, as well as nationally, and the argument was made more specific to the subject of this thesis by the acceptance of health as a primary social good. Uncertainty was acknowledged regarding the potential results of such an international veil of ignorance and this was seen to lie somewhere between a Brockian minimal security position and a Rawlsian difference principle. The end result however was of a

further acceptance of responsibility for HIV/AIDS resourcing with a level of duty which ranged between one which easily met the millennium goal requirements to one which was essentially as demanding as that which was envisaged through Singer.

Finally, a third series of arguments was addressed in Chapter Seven arising largely from Pogge and Shue and encompassing arguments from reparative justice and rights based arguments regarding healthcare. This thesis has rejected, as essentially unprovable, otherwise plausible argument based on historical analysis of international relationships, but has accepted that the present world economic order leads inexorably to a belief that it is so biased that there is a requirement for compensation. Beyond this the same economic order gave a basis for Pogge's view that there are strong negative rights arising which would require transfer of resources. Specifically in regard to healthcare, based on Shue's arguments, there are indications that there are positive healthcare rights which should be honoured. It was accepted that it was more difficult to quantify the demand which arose from these arguments. On balance this demand was substantial and was likely to meet, or at least go far to meeting, the needs of HIV/AIDS in sub-Saharan Africa.

The three groups of arguments are based on differing moral grounds, but they are not mutually incompatible and thus a choice does not necessarily have to be made to accept one and reject the others. Indeed they are complementary. Thus if it is argued that rights based arguments suggest a resource duty just sufficient to meet the needs required, this does not preclude other moral arguments, engendered from distributive justice or from beneficence, reinforcing the duty, and bringing us to a position whereby the moral duty is more than sufficient for a requirement to meet the need, even bearing in mind that this demand would need multiplied in practice to cope with other morally significant

underdeveloped world needs. The final result of this section therefore is the provisional conclusion that the developed world is morally responsible for supplying sufficient resources for meeting the needs of HIV/AIDS in sub-Saharan Africa and that the reasons for this conclusion appear compelling.

### **Section Three**

#### **Arguments moderating very great responsibility**

## **Chapter Eight**

### **Libertarianism**

#### **Introduction**

In the second section of this thesis I have considered a range of arguments which both individually, and taken together, lead to the firm provisional conclusion that persons in the developed world have substantial responsibilities towards those in the underdeveloped world. These arguments suggest a specific requirement for the full implementation of a substantive treatment and preventative programme for HIV/AIDS in sub-Saharan Africa as would be envisaged in the United Nations' millennium developmental goals. In Section Two I set out the strongest case that I could reasonably make for this conclusion and from time to time I have flagged up issues which will need to be discussed further, that might either negate or moderate the demand envisaged.

During this, the third section of this thesis, I will be considering some arguments and principles which give explanation of the intuitions that the extreme level of demand outlined is beyond what is morally required. I will not here be revisiting the objection *per se* that the demand is intuitively too burdensome, but instead that the level is ill-conceived, and that it should either be rejected through considering counter arguments, or attenuated by considering competing moral demands.

The most forceful negating argument arises from libertarianism. This will be discussed in this chapter. The position will be adopted that libertarianism contains some useful insights, which are sufficient to counteract the most extreme aspects of the demand set

out so far, but that it does not work as an argument to counteract the overall conclusion that the developed world has substantial responsibility for HIV/AIDS resource provision.

In Chapter Nine I will address the argument that matters relating to self-interest and in Chapter Ten relationships are appropriate areas of moral concern and serve as moderating influences on the demands which have been set out so far. I will accept this, but again only at the level of ruling out the extreme demands so far induced and not sufficient to rule out the substantial matter of giving much more than the *status quo* would allow. Finally in Chapter Eleven of this section I will address the moral difficulties arising from the question of unfairness when some give and others do not. I will not accept that this should affect our moral obligations, but will advocate that practical measures should be taken to limit the difficulties which arise.

### **Libertarianism as approached through Nozick**

Libertarianism is a term which encompasses a wide and at times quite disparate field of thought. A literature search of contemporary libertarianism rapidly becomes embroiled more with shades of political opinion, largely originating in the United States of America, than with philosophical discourse. In regard to HIV/AIDS prevention and treatment, quite extreme views can be espoused. This arises through the fact that the most effective responses to the AIDS epidemic are likely to be a response initiated, or coordinated, through states. Libertarians are to various degrees antagonistic to a state operating in this role. This perspective can lead to libertarians embracing the outlook of the survival of the fittest in welfare issues. Those who have AIDS, and have insufficient means to protect themselves from it, should simply die (Wides 2005).

In contrast to making a general survey of libertarianism, my approach will be to focus on the pivotal writings of Robert Nozick in order to illustrate the fundamental objections which libertarianism raises against my contention that morality requires substantial involvement in sub-Saharan HIV/AIDS programmes from the developed world. Nozick has been called the modern father of libertarianism (Metcalf 2011). As a designation, this is contentious, because libertarianism clearly predated 1974 (Richman 2011 p.1). Nonetheless in academic circles it would appear undeniable that Nozick through his influential book *Anarchy, State and Utopia* (Nozick 1974) played a crucial role in defining many of the typical beliefs expounded over subsequent decades by libertarians.

In Nozick's view, the bearer of rights is the individual human being. The focus of rights is upon the economic right to have control of the resources which justly belong to that individual. Nozick is much influenced by both Kant and Locke. From Kant he accepts that it is always proper to treat people as ends in themselves. He believes that the best way to realise this is to emphasise individual property rights. A person is not to be used solely for the benefit of others. To do otherwise would not respect the fact that the person is a separate autonomous individual. From Locke he adopts the doctrine of self-ownership and the related concept of the legitimate acquisition of the products of labour. This is the right to own that to which one has added value through mixing one's own labour (which one owns) provided one leaves enough and as good for others. In short, people deserve to hold these items which they have produced through their industry (Nozick 1974 p.10).

Like Locke he accentuates the concept of a theoretical state of nature as his starting position where people independently have rights to life, liberty and property (Locke 2003 2.2.19). Nozick grants that it would be reasonable to move from that state of nature to



the establishment of a minimal state. However, that minimalist state has no right to do anything other than enforce the rights which individuals already enjoy under a state of nature (Nozick 1974 p.118). Thus Nozick argues for a state which is limited to the narrow functions of protection against force, theft, fraud, and the enforcement of contracts (which last can produce new rights by voluntary agreement). This he terms a 'night watchman state', that is, one whose function is to guard the city walls and to patrol the city streets (Nozick 1974 p.27). He specifically states that the state may not use its coercive apparatus for the purpose of getting some citizens to aid others (Nozick 1974 p.ix).

Fundamental to Nozick's position is his theory of entitlement, which for him covers the crucial subject of justice in holdings. This has three main components:-

A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.

A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.

No one is entitled to the holding except by (repeated) applications of 1 and 2 (Nozick 1974 p.151).

Assumed in this third point is that persons can acquire holdings by means not sanctioned by the principles of justice in acquisition and this then directly expresses the third major topic under justice in holdings, namely the rectification of injustice in holdings (Nozick 1974 p.152).

For Nozick his principles of justice as outlined above differ from most other formulations in that they are both historical (as opposed to time sliced), and unpatterned (as opposed to patterned) (Nozick 1974 p.154-160). The former means that the emphasis is placed upon whether the resource was justly gained, as opposed to an assessment of a current position in regard to resource distribution within a society, irrespective of how that situation arose. For Nozick this emphasis on the historical is considerably fairer than a continuous re-evaluation of the present. He believes that where an end state principle of justice is pursued, then this must lead to a continuous interference in people's lives. He feels that such interference would be repugnant to most persons.

The latter, the lack of pattern, means resource allocation is not predicated upon any standard, such as moral merit, need, effort or usefulness to society as a whole (Nozick 1974 p.156). It does not matter where the resource came from as long as it was justly acquired; it could for instance have come through gift or good luck. Nozick objects to the whole concept of distributive justice as he makes the point that the very term is not neutral as it implies redistribution, and in this is the thought that all resources are held in a central source and then given out, as opposed to each resource being individually earned and owned (Nozick 1974 p.150).

Nozick's emphasis upon the importance of self-ownership of goods coupled with a belief in a minimalist state leads to a disparagement of enforced state collection of resources from individuals. He argues that the taxation of earnings from labour is on a par with forced labour, why should someone be forced to spend hours working for someone else (Nozick 1974 p.169)? He does not abjure taxation completely. He does however limit its scope to that which is strictly necessary for supplying appropriate security for persons within the state. He does not even allow that this minimal tax raising power is itself re-

distributive. He argues that as a minimalist state assumes to itself all legislative power for enforcing security within its borders, then the persons of that state have to be compensated for the lack of the ability to enforce their own justice, which they retained within a state of nature (Nozick 1974 p.27ff and 114).

### **Immediate application to HIV/AIDS donations**

The immediate impact of Nozick's position on the theme of this thesis comes from two directions. These are his advocacy of a minimalist state, with his related rejection of most taxation, and his positive emphasis on personal property rights.

Presently most effective foreign aid, in terms of volume effect, is organised through states. Their giving is based upon taxation. If the moral imperative was to increase the giving sufficiently to meet the actual needs engendered by HIV/AIDS, then it is difficult to conceive of a system of aid donation which would be effective, but which would bypass the participation of states. For Nozick, it is improper for states to become involved in welfare aid. It is simply not their function. He sees this as being true for welfare within the borders of the state and most certainly for a situation whereby persons in the developed world are seen to have major responsibilities to help sub-Saharan Africa with regard to HIV/AIDS. For Nozick, if there was deemed to be an ethical demand from the underdeveloped world, then that could only be met at the level of individuals, it is not part of the function of a state. Thus it would be improper to use the state's apparatus to forcibly collect money from individuals. Using taxation for the purposes of helping against HIV/AIDS in sub-Saharan Africa would be fundamentally immoral.

In regard to individuals within the developed world the situation is somewhat different. It would not be improper for them to donate as individuals, money or resources, to helping

against HIV/AIDS in sub-Saharan Africa, even if the practical route for doing this efficiently would be less clear. Nozick may well see such acts as praiseworthy. However it is a matter of voluntary charity and not obligatory justice. People are free to do whatever they want with their resources. It would be equally just if they chose to use all free resources in aid of their pet's welfare, or to spend all their resources upon themselves, as it would be for them to decide to help others with HIV/AIDS.

Thus an initial impression of libertarian arguments as encapsulated in Nozick would be to remove the most efficient channel of resource transfer from the discussion, that is the state, and also to negate any thought that individuals should be moved by justice to donate. There would remain a number of voluntary donations, moved by humanitarian principles of beneficence, which may well be effective in part, but there would be no overriding moral duty arising from justice, and it is quite possible that the giving would be even less than the inadequate giving currently in place. However, these matters are not as straightforward as first appears, and I will return to consider in greater detail how Nozick's arguments interplay with the arguments rehearsed in favour of greater involvement in this matter, after a more critical consideration of Nozick's positions.

### **Criticisms of Nozick – minimalist state**

There is a basic simplicity in Nozick's fundamental positions which makes them quite engaging and gives them mass appeal. It could be summed up as saying that what you have gained through honest work, belongs to you, and no-one has the right to take it away from you. This resonates for many and informs common morality. It has taken particular hold in individual orientated societies like the United States of America, where independency and hard work are particularly lauded. Although not incompatible with

altruism it does nonetheless give considerable place to self-interest. It tends to give moral justification to someone who is disinclined to share his substance with someone else who is poorer. This penchant to self-interest is somewhat surprising given Nozick's frequent reliance on Kant for philosophical pedigree. For Kant the motivations for morality were to be found in reason and duty and he generally viewed the idea of acting purely out of self-interest as contrary to morality (Ashley 1997 p.157).

In regard to Nozick's view that a minimal state can be justified, but no greater than this, there is again a simplicity to his approach which appeals to those who are independent in outlook. Yet the underpinning arguments to support his position appear arbitrary. Nozick provides an account of how a minimal state could arise by voluntary agreements as a theoretical construct with no claim of historicity. Detractors would say this was 'immaculately conceived' or produced through 'an invisible hand' (Rothbard 1977 p.45/6).

The accusation that something is abstract and non-historical does not in itself suggest that an argument is philosophically unsound, but there is an artificiality about Nozick's position which seems designed to lead to his conclusions regarding a minimalist state. He commences with Locke's theoretical state of nature. This is a position which was originally designed to oppose the divine right of kings, the state control of Locke's day. In historical terms humans have invariably formed parts of social groups and this accent on entirely independent persons seems forced as the basis of an argument. It is a difficulty that Nozick attempts to define what it is proper for a society to do as a whole, through a consideration of what it is proper for an individual to do. There is a failure to accept that the difference in scale from the individual to a complex civilisation will change what is beneficial to all concerned.

In a theoretical fashion, Nozick then moves through a discussion of the role of a protective association to the formation of dominant protective associations and then to a minimalist state. The focus of these imagined associations being strictly limited to security, which reflects Nozick's overwhelming interest in the safeguarding of private property. The argument appears circular, starting and ending at a position that all that matters is protection and security.

Why should the safeguarding of the individual ownership of private property be the one thought which is given this overriding importance? Yet, on the other hand, if private property ownership is assumed to be the primary standard for defining the worth of human life, could this not be taken as a potential argument for re-distribution, in order to make everyone similarly autonomous and free?

Nozick does accept a place for taxation in respect to enforcing security issues. It is difficult to see how this is not a tacit acceptance of a form of re-distribution. Describing tax as 'forced labour' presumably applies as much to this taxation as to any other. Why should a society consent to this form of taxation, in order to gain security, and not have the freedom to consent, as a society, to other purposes of taxation, if they should so choose? Yes, taxation can be seen as a continuous interference in persons lives, but it is not clear why this should be repugnant to people, if it is a practical and sensible method to achieve the aims of that society.

Nozick may well rejoin, but what are the agreed aims of that society? In other words it is only by voluntary agreement that society can legitimatise taxation. Yet some may well not agree that the funding of a police force is legitimate, yet Nozick argues for a minimalist state. If tax is legitimate in order to protect against hazards of theft and

bodily harm, why exclude natural hazards, which would include HIV/AIDS? These have a similar effect of violation of the person.

### **Criticisms of Nozick – entitlement theory**

The ‘statement of entitlement theory’ is fundamental to Nozick’s position and is very individually orientated. The principle of ‘justice in transfer’ is the least controversial and is aimed to exclude obvious moral breaches of stealing and fraud. The principle of ‘justice in acquisition’ is however much more complicated. This is particularly true when viewed from a historical perspective. There are two main aspects, the just initial acquisition of some aspect of the physical world ownership of our labour and the subsequent ownership of the results of our labour.

In regard to the former, it is not clear how one can justify the first person approaching a natural resource becoming the landowner and then the second person approaching the same resource becoming the farm labourer. How do we justify the first acquisition of an unowned field? Nozick accepts the Lockean proviso that this is acceptable if ‘enough and as good is left for others’. In the 21<sup>st</sup> Century this becomes an unlikely scenario. However if there is fundamental injustice in the first acquisition then this undermines all future transactions.

In regards to the latter, Nozick himself accepts that it is not clear why adding our labour to a product does not simply mean that we have dissipated our resources as opposed to gaining an advantage.

There is no room in this thesis to follow these criticisms of Nozick in any depth. It is sufficient for my purposes to note both that Nozick makes some telling points which are simple and intuitively attractive. These are his statement of entitlement theory with the underlying thought that if we have worked hard for a resource, then it belongs to us and we should have control over its utilisation. However, this notwithstanding, there are obvious areas in which he gives insufficient argument in order to underpin his positions. These areas include his emphasis on individualism, his stress on personal possessions to the exclusion of other foci, his position on the minimalist state and the uncertainties surrounding the justice of first acquisition. These uncertainties are sufficient to allow that Nozick's position cannot be used to negate the types of arguments detailed in Section Two of this thesis. At this stage I will simply take Nozick's approach and examine it in the light of the main arguments identified in Section Two of this thesis. In the process I will show that giving some weight to Nozick's insights, but not accepting his position totally, is not sufficient to overcome the earlier conclusion that morality would suggest that the developed world has substantial responsibility for HIV/AIDS in sub-Saharan Africa.

### **Nozick and Singer's arguments**

Singer's approach has been characterised as an extreme demand wherein our responsibility for ending suffering for others only ends when there is a level position between the aided and the aider. Thus, given the resources of the developed world, there is certainty that the needs of HIV/AIDS should and could be met. Nozick's position would be that if we have legitimately gained our wealth then it is ours to keep, to hoard, or to dispose of, entirely at our own volition. If we choose not to aid persons with



HIV/AIDS then this is our autonomous decision. Superficially, at least, these positions seem diametrically opposed.

I have not advocated a utilitarian application of Singer's arguments. Nozick is exceedingly opposed to utilitarianism. He engaged in thought experiments in order to argue against utilitarianism, the most notable of which would be his concept of the 'Experience Machine' and of an 'Utility Monster' (Nozick 1974 p.42ff).<sup>vi</sup> This does not remove for Nozick a consideration of Singer's arguments. For non-utilitarians the force of Singer's arguments arises from a consideration of beneficence. There is nothing in Nozick's position which necessarily negates the importance of beneficence. Nozick's position would be that it is unjust to be forced by others to donate aid, not that it is morally wrong to aid others. Indeed, this position does not necessarily negate the thought that there is a duty to be beneficent. Likewise there is nothing in Nozick's position which inherently negates cosmopolitanism, even if the focus of his writing tends to be in statist terms. Thus it is perfectly reasonable for Nozick to voluntarily donate to a good cause such as the alleviation of HIV/AIDS in sub-Saharan Africa. In the United States of America, where libertarians are numerically strong, state giving of aid is relatively weak, but there is a higher than average amount of voluntary giving, in world comparison terms, to charities and to non-governmental organisations. The fact that the word charity is used in this context does not prove that the donor must see the action as being supererogatory.

One would note that state giving is currently more efficient due to the economies of scale, and most libertarians would be against state involvement on principle. Nonetheless although more difficult, it would be possible to set up private funds of

sufficient size, such as the Gates Foundation, to address the needs of HIV/AIDS if this was required, to alleviate the consciences of confirmed libertarians.

It is possible that some libertarians would take the position that there is no moral reason at all to be beneficent. That is, that there is no moral reason to do anything to prevent something bad from happening. They may argue that the only matters of moral importance are encapsulated in the principles of libertarianism. If one truly held that there was no moral demand to prevent bad things happening and that there was no reason to be beneficent, then this does remove the force of Singer's arguments. However, to delineate the right to hold possessions as the sum total of morality would seem an unbelievably narrow view of morality.

More commonly, perhaps, would be a position whereby the right to hold possessions is weighed against other competing moral inclinations. Singer's second premise is '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.' It is possible that a libertarian, following Nozick, could hold to this premise, but would then argue that contributing to HIV/AIDS programmes would be ruled out, as it would entail sacrificing something of comparable moral importance. That which would be of comparable moral importance would firstly be our right to hold on to personal possessions, and secondly, if this was gainsaid, our right to behave as autonomous persons, and not to be used as means to an end for another's benefit.

It would be my view that there is clearly some force in this argument. If someone had an absolute commitment to the principle that they had total freedom to dispose of their resources as they see fit and that this overrode all other moral considerations then

Singer's arguments fall on deaf ears. It would nonetheless be difficult to take this absoluteness as a serious moral position. A fraction of a rich man's money is to the rich man only money, to the sufferer from AIDS, it is life itself. If one does accept a principle of beneficence, and does not see the right to enjoy possessions as being the sole sum of morality, then it is difficult to see how the introduction of modest taxation to cover the need of HIV/AIDS can be viewed as of sufficient moral weight to be comparable to the benefits accruing. Similarly, a moderate sacrifice of our resources and time is not in and of itself using people as means to an end in a way which is comparable to the moral benefits of so doing.

However, it is much more understandable, that the extreme demand envisaged by some applications of Singer's proposals, whereby the donor is reduced to the same position as the aided, is likely to be unacceptable morally, when the force of Nozick's position is considered. In calculating that which is morally comparable one is not just considering the end benefit to both persons involved, but one must also factor in both the thought that the donor has some entitlement to their own resources and secondly that the donor should not be used solely as a means to an end. Thus the balance of where comparable moral worth is likely to be found, will be short of an equalising of resources. It is not however necessarily the case that to balance beneficence and entitlement one would have to come to a position of the present *status quo*, as opposed to leave room for contributions which would be sufficient for HIV/AIDS programmes.

In sum Nozick's position does not remove the main thrust of Singer's arguments unless one also held the position that there is no place for beneficence at all. It is open to a libertarian to voluntarily contribute to HIV/AIDS to any level of contribution. However, the extent of the demands of morality, using Singer's arguments on their own,

will depend upon the consideration of what could be seen as being of comparable moral importance, in regard to the sacrifice demanded. There will be some libertarians who will conclude that there are no substantial demands upon them at all. In that sense there is an impasse. It would be my position that one could incorporate much that is plausible in Nozick's ideas such as a *prima facie* right to that which one has justly acquired and in the process exclude the extreme demand of Singer, but nonetheless still include a much greater demand than that assumed through common morality and allow for the full meeting of the needs of a significant and effective HIV/AIDS programme.

### **Nozick and distributive justice**

In Chapter Six I have adopted arguments concerning distributive justice that are both contractualist and cosmopolitan. Nozick like most libertarians firmly rejects all arguments emanating from distributive justice. This raises four possibilities.

Firstly, that his arguments are sufficient to cause a rejection of all arguments based upon distributive justice.

Secondly, that his arguments are sufficient to modify the arguments arising from distributive justice.

Thirdly, his arguments are sufficient to neutralise the effects of the demands of distributive justice on libertarians alone.

Fourthly, that libertarians should incorporate at least some demands of distributive justice into their moral thinking.

Nozick fundamentally opposes distributive justice concepts because he assumes that it involves end state snap-shot analysis, patterned distribution, and potentially theft of property. He cites his 'Wilt Chamberlain example' to argue that even gross differentials in earnings are appropriate and fair, if entered into within the context of a free market economy (Nozick 1974 p.161).<sup>vii</sup> He is against the justification of distributive justice through using the device of an original position, because he believes that such approaches invariably use end state analysis rather than a historical perspective.

Yet, the libertarian position is not without weaknesses. Certainly all goods are not centrally distributed, however, how they are owned in the first place is a controversial matter. Further, the process of repeated transactions, while individually apparently just in themselves, can allow for small inequalities to accrue and become very large inequalities which would appear fundamentally unjust. Nozick argues that the natural advantages of the well off do not violate anybody else's rights and thus the well off are at liberty to enjoy their inborn advantages. However, the arbitrariness of this good luck results in the potential for a very polarised and unstable society. Nozick sees this as a problem, and suggests that differences between individuals will not be a problem when living in geographically isolated communities. This appears weak, in today's interconnected age.

The end result of these processes is likely to be an unbalanced society. It would be in the interest of the well-off to have some redistribution. In contrast to this, the concept of using the stratagem of an original position to establish rules for a society seems manifestly just. Such rules are likely to include some criterion of reciprocity, wherein it is reasonable to expect individuals to support laws which would be acceptable to free and equal individuals, without one taking an advantage over another. This does not mean

that the end state envisioned is independent of the justice of the rules which produced the end state. It simply means that rampant capitalism and potential for instability and huge inequality can be balanced by a concern for those who are not so well endowed or fortunate.

As it stands libertarians will not be moved by arguments from distributive justice. They do not accept the premise of a contractualist position based on an original position as defined through a veil of ignorance. Yet one could argue that their own position leads to a less stable society and is intuitively less just. Again there is an impasse, but I would suggest that their position is not strong enough to negate the arguments advanced in support of distributive justice.

### **Nozick, Pogge and Shue**

While libertarians may shield themselves from the demands of distributive justice they are much more susceptible to the arguments raised by Pogge and Shue. In particular those arguments of Pogge, who accentuates the historical nature of his analysis, the Lockean position that he adopts, and the possibility for seeing economic rights as negative rights. All of these arguments are addressed directly to libertarians.

Nozick emphasises the importance of historical analysis. If the various transactions have been just in history, then the end result is just in the present. However, if the various transactions in places are unjust, then there is a need for rectification. Pogge says, that's right, look at colonialism, the slave trade, the exploitation of natural resources by developed countries, the unfair trade barriers which are erected, there is a blatant need for rectification. For his part Nozick does not work out his rules for rectification, although he fully accepts the principle. It may well be that a tax funded welfare system, or even a

cosmopolitan contractualist approach can be justified, if the need for rectification is demonstrated (Kilcullen 1996 p.3). Why are the health infrastructures of sub-Saharan Africa so inefficient? Why are the economies of these countries so inadequate for dealing with the HIV/AIDS epidemic? If this can be shown to relate to centuries of past injustice, then this is a strong argument for libertarians to be involved in reparation and the funding of appropriate HIV/AIDS programmes. I have accepted in Chapter Seven that this, while plausible, is a difficult argument to prove, but it remains a possible area of approach for a meeting of minds with libertarians.

Beyond this Pogge addresses the Lockean foundation of the doctrine of just acquisition. He argues how can the selling of a nation's natural resources by an African elite at knock down prices to the developed world be justified as leaving 'enough and as good' for the rest of that society. How can companies in the developed world benefit in this one sided exploitation and not seek to recompense the masses, who cannot even afford basic healthcare. The whole process is unjust in Nozickian terms and requires rectification. Further, beyond the questionable activities of powerful elites, Pogge argues, and it would appear reasonable, that the present world order positively harms persons in the underdeveloped world and in the process this brings the sphere of economic rights into the domain of powerful negative rights, that is the right not to be harmed. Generally libertarians accept that negative rights bring corresponding duties. If an adequate response to HIV/AIDS cannot be mounted due to economic circumstances, and these circumstances are imposed by the economic world order, then persons in the developed world have a responsibility to intervene by stopping the harm created and making rectification.

Shue makes a related argument that health is such a basic right that it is equivalent to security and should be addressed at the same time as security. In this it is noteworthy that Locke, as quoted approvingly by Nozick, believes that the bounds of the law of nature prevents harm to life, health, liberty or possessions. It seems unreasonable for Nozick to rely upon Locke and yet cherry pick from his argument.

## **Conclusions**

In this chapter I have set out to consider whether libertarian arguments, as articulated by Nozick, are sufficiently cogent to set aside some, or all, of the arguments deployed in Section Two of this thesis. A secondary question would be whether the arguments as already deployed should appeal to libertarians either straightforwardly, or by modifying their views in a way that they might accept or, whether it is likely that the positions are so diverse that libertarians would be untouched by the arguments deployed.

I have suggested that Nozick advocates some intuitively powerful positions primarily in regard to a *prima facie* right to utilise resources which one has justly acquired as one would see fit. This must be accorded some moral weight. When considering this with the arguments deployed in Section Two it would lead to the suggestion that this principle is incompatible with the concept of bringing the aider very close to the same position as the aided, as one might see arising from Singer's arguments and from the difference principle.

Many of the other arguments of Nozick are less robust, particularly the insistence on a minimalist state, the ability to establish a coherent line of just acquisitions and this narrow focus of morality onto questions of the right to hold personal possessions.



Libertarianism as a whole does not overturn the arguments already given, and the conclusions reached, in regard to an obligation existing to fund an effective programme for HIV/AIDS in sub-Saharan Africa.

In regard to whether the arguments of section two should be convincing to a libertarian I would suggest that they should, unless a libertarian were to hold that the only thing that matters in morality are these libertarian principles. Arguments from distributive justice are in truth unlikely to succeed in this context, although this shows a weakness in the libertarian position rather than in distributive justice. Arguments from beneficence are more likely to be successful and would only require an acceptance of a pluralist perspective to see these as an obligation, rather than as a matter of supererogation. It is likely that a good case can be made for reparation in terms acceptable to a libertarian and in that context it is also possible to believe pragmatically that the involvement of state apparatus might be justifiable. Similarly, there may well be telling arguments from a rights based perspective. The sum would be that a libertarian may not respond to all the arguments given, but there should be sufficient potential agreement to allow for an effective response to HIV/AIDS in sub-Saharan Africa.

## **Chapter Nine**

### **Self-Interest**

#### **Introduction**

In this third section of the thesis I have begun to consider a range of arguments raised to negate or reduce the demandingness of the moral duties predicated in the second section. I have started this process by alluding to libertarianism and have suggested that the basic intuitive insight which is given is that if we have justly earned a resource then it is ours to do with as we will. The arguments as a whole are relevant to this thesis as they oppose the view that justice demands that we may be called to give sacrificially to the underdeveloped world. I have suggested that these arguments are sufficient to militate against accepting an extreme demand, but do not negate giving adequate support for HIV/AIDS projects.

In this chapter I am going to address a related series of arguments which in some ways are particularly addressed against the demands of beneficence. I am going to raise the question of the legitimacy of giving consideration in our moral judgements to self-interest. This has been touched on already with libertarianism, where it is assumed that we have a right to consider our own interest. Here I will pursue the question of whether we have a duty to pursue our self-interest and if so, how strong would this prerogative be. In regard to the structure of this chapter I will briefly consider, and then reject, some positions which put great stress upon acknowledging a duty of self-interest. Secondly, I will consider some positions which would seek to minimise any possible conflict between self-interest and morality. This latter will primarily relate to ancient Greek

philosophy and from the modern day, writings by Scheffler. Thirdly, I will mention Bernard Williams and then assess a position adopted by Cullity that it is morally correct to assume a modicum of self-interest when making moral considerations. I will conclude that self-interest is a relevant feature which should be acknowledged in any moral scheme, but it is not of sufficient strength to deflect the major conclusion pursued earlier, that we should accept our responsibility to substantially assist with HIV/AIDS in sub-Saharan Africa.

### **Approaches to morality which emphasise the place of self-interest in morality.**

Ethical egoism is the normative ethical position that moral agents ought to do what is in their best interest (Rand 1957 p.70ff). This is diametrically opposed to moral altruism, which latter holds that moral agents have a primary responsibility to help others. As such it does, on the surface at least, clash with the views of beneficence assumed in Singer's arguments as utilised in Section Two of this thesis. The only reason that this might not be the case would be if one could successfully argue that it is always in our interest to be beneficent.

We should not however overstate the effects of egoism. As altruism does not necessarily stipulate a harming of one's own interest, so egoism does not require the deliberate harming of another's interest, that is the practice of malevolence. Negative results to others, if present, are simply a by-product of the requirement to favour one's own interests.

There are intrinsic difficulties with ethical egoism if it is propounded as a system to be adopted by all, rather than one to be held to covertly by an individual. As each

individual's self-interest is likely to eventually conflict, it seems difficult to see how one ethical egoist can encourage another person to follow the same philosophy. Similarly, if pursuing one's own self-interest well is designated a moral good, then at the same time it is likely to inhibit someone else pursuing their self-interest, which is presumably a moral bad. This appears paradoxical.

More fundamentally is the difficulty that ethical egoism has no formal regard for a duty of beneficence. Yes, it can make place for beneficence, but the same equally could be said about malevolence. There is a sense in which the consistent ethical egoist is unmoved entirely by the arguments cited of beneficence, distributive justice, rights and rectification in regard to the question of HIV/AIDS in sub-Saharan Africa. Yet it is difficult to see why the self should be placed on this pedestal so far above that of others. Intuitively it is for most morally distasteful and would be categorised simply as selfishness. The difficulties with ethical egoism are such that it does not form a major part in current ethical debate and for those reasons will not be discussed further.

Similar comment could be made of existentialism. This is a term applied to a loose school of psychologists, philosophers and theologians, who accentuate the living, feeling, thinking human being as the focus of philosophical discussion. The roots of this movement can be traced back to Kierkegaard and Nietzsche. Its greatest prominence is found in writers such as Heidegger (although he rejected the term) and in particular the French writers Sartre, Camus and Simone De Beauvoir.

My purpose for mentioning existentialism here is not however to engage directly with any remaining existentialists, but to highlight the fact that there have in recent times been philosophers who somewhat eschewed the rational arguments of traditional philosophy

and put their emphasis upon the phenomenological experience of being human. In adopting this approach they accentuated that to be human means to have drives, wishes, desires and the need to maintain room for personal development. To deny this insight is to deny something which is fundamental to human nature. A full following of the existential imagination may well lead to moral chaos or even to residual thoughts of ‘might is right’ and the nightmare of Nietzschean supermen. Nonetheless, a moral philosophy which removes all room for moral options and at the same time all room for personal human development is intrinsically suspect.

**Approaches to morality which attempt to minimalise potential conflict between morality and self-interest.**

Ethical egoists would define the content of morality by various approaches adopted out of self-interest. If we follow our own interests, then we will be acting morally. A similar position is postulated in ancient Greek Philosophy through the employment of a moralised notion of an agent’s best interest. What does it mean to act morally? It is to be virtuous. Why should we be virtuous, because this places us in the best situation that we can be in. It is thus in our best interest. In recent decades there has been a revisiting of these themes from modern virtue ethicists (Bennett 2011 p.17). Although this latter is topical, this will not be pursued within this thesis, due to the complexities and word space demands of opening up a whole new subject area.

Surprisingly perhaps, there are echoes of this Greek thought in Singer’s thinking. Surprising because Singer is a utilitarian, for whom partiality to self is seen as being thoroughly inappropriate. Indeed, Singer happily contrasts morality with self-interest. “We can never get people to act morally by providing reasons of self-interest, because if

they accept what we say and act on the reasons given, they will only be acting self-interestedly, not morally” (Singer 1993 p.323). However, when posing and answering the question ‘Why should we be moral?’, Singer ends by saying that living an ethical life is a way of “transcending our individual concerns” and “offers a meaning and purpose in life that one does not grow out of” (Singer 1993 p.334).

This is akin to combining virtue ethics with existentialism. He is saying that it is not in our interest to live ethically, because for him living ethically involves the potential for extreme sacrifice. This is not just a matter of a lack of short-term gain. It is not even in our long term interest personally to live ethically, however, it is for the good of others that we do so, and in a transcendental sense it is for our own good, because it gives us a positive focus for our lives. It helps us to craft a meaning for our lives to which we can properly dedicate ourselves. Thus, in a circular fashion, Singer does arrive at a point whereby it could, and perhaps should, be in our interest to act morally at all times, even with a very demanding view of morality, as long as we define our interest in this particular way.

It would however seem that these various approaches suggesting that acting morally is in our best interest are reliant upon either reducing the demands of morality or / and defining our self-interest in a way which seems different from that which would normally be considered as being in our interest.

### **Scheffler**

A further approach to the question of how to interlink morality and self-interest is adopted by Scheffler. Scheffler does not see self-interest as being in itself moral, but as a

factor which needs to be considered when we are considering morality. In contrast to either a clear choice between morality and self-interest, or defining morality by self-interest, he suggests that the relationship between morality and self-interest should be seen as one of potential congruence. He does not say that we have a duty to follow self-interest, but he accepts that we have a prerogative or permission so to do. That is, to weigh our own interest differently from the way we weigh others.

He argues that :-

- a. Morality needs to be capable of being integrated into human life. Thus within generous limits, morality makes room for personal projects and relationships.
- b. People have powerful interests to be moral. As a person acquires moral motives, that person increasingly begins to shape their projects as far as possible to avoid conflicts with moral requirements.
- c. It is a practical social goal to achieve a fit between a person's motivations and the demands of morality (Scheffler 2008 p.117-119).

Scanlon appears to agree with this general approach. He believes that there should be a mutual accommodation between morality's demands and an individual's projects. Moral requirements should leave room for other values and these other values should have a built in sensitivity to moral requirements (Scanlon 2000 p.161, 514).

In a different fashion Finlay would also agree that acting as we morally ought is not always in our best interest. He is quite clear that self-regarding considerations do not

form part of morality. How does he deal with the accusation that the self-abnegation associated with extreme demands of morality seems perverse? He simply answers that we do not always have to act morally (Finlay 2008 p.138-141).

These types of answer would state that it is often in our general interest to act morally and there is in practice a general move in our lives to bring together what we actually want to do with the demands of morality. However, there remain situations where to act morally is clearly not in our best interest. If the demand is unacceptable, then we should ignore it, as there is more to life than being moral. This does leave us with the unfortunate position that the only avenue around the strictures of morality is to behave immorally.

**Approaches to morality that see a place for self-interest without self-interest being the defining point of morality.**

I would commence this sub-section with reference to the work of Bernard Williams. For him the demands of a consequentialist morality are wrong because they are incompatible with living the type of life which is good for a human being. The demands are so great that they overwhelm life and cause alienation from the agents own actions, decisions and convictions. In a most literal sense it is an attack on the agent's integrity (Williams 1974 p.116-117). Morality must leave a place for individual humanity.

I would develop this theme by particularly highlighting the position adopted by Garrett Cullity. He especially addresses arguments related to beneficence although he acknowledges that there may well be other moral considerations, drawn from justice and relationships, which would also need to be considered in order to give a full evaluation of



our response and duties towards others' need. He relates strongly to Singer's writings and accepts that the child in the pond analogy has a force far beyond Singer's utilitarianism. Cullity is however very uncomfortable with the extreme demand arising from Singer's position and seeks countervailing arguments to mitigate that demandingness (Cullity 2004 p.1ff). Cullity considers and rejects a host of possible candidates for reducing this demand. He tries to make matters more manageable by suggesting an aggregative, rather than an iterative, approach to the demand, although he accepts that the argument for holding this line can be weak when faced with a minimal, but nonetheless important demand, from claimant No 1001, after a donor has exhausted themselves with the aggregated demands of claimants No 1-1000 (Cullity 2004 p.88).

Cullity recognises the force of common sense morality when it says "It may be wrong for me to be prepared to do nothing to help another person, but it is not wrong to be prepared to do significantly less for him than I would do for myself." He believes that "Morality must leave room to lead a fulfilling life, rather than one empty of personal fulfilment in the service of others". Yet he can see that the refutation of an extreme demand, must;

- a. Characterise what would be lost in meeting an extremely demanding standard of moral requirement,
- b. Explain why it is legitimate for us to give that up (Cullity 2004 p.88-93).

Cullity begins to take his answer from both Kant and Bernard Williams in saying that to be beneficent to others we must also be beneficent to self, to help others' projects, we must have projects for ourselves. However, while this may well give reason to be beneficent to self, it does not show a reason why we can prefer ourselves over others. It

also is susceptible to the challenge how can I pursue modest life enhancing projects and others then struggle with survival? Cullity needs to move to the next stage of arguing that some partiality to self is legitimate, yet, given that he holds that impartiality is a key factor in morality, he must show that a certain amount of partiality to self is acceptable from the point of view of a view which is impartially detached from one's own.

Cullity approaches this by firstly examining the losses that might occur through following the extreme demand. He states that these would not be superficial but would involve compromising personal relationships, fulfilment of personal projects, and in the process most likely affecting our self-respect, our autonomy, our standing as a bearer of personal rights. He believes that it would mean going to war against our own humanity.

He explores the question of what makes life valuable and cites matters such as friendship, personal projects, community involvement. He asks, why save others' lives, or indeed short of that, why respond to help others with their interests in life? He responds that we should save their lives because they themselves value their lives. He then presumes that they value their lives because they value matters such as their friendships and personal projects and so forth. He believes that it is unreasonable, given the perspective of beneficence, for us to be saving others' lives, if in the process we are denuding our lives of everything that is meaningful in them (Cullity 2004 p.134). There is no rationale in being motivated for others, due to the value of their lives, if we in the process remove all value from our own lives.

Cullity then points out that most persons' lives are not altruistically focussed. Yet he believes that it is generally accepted that there are cogent reasons for helping others despite their lives not being altruistically focussed. However, we do not normally feel a

responsibility to help people to do things that are wrong to do. Cullity believes that this highlights an intrinsic difficulty for the extreme demand position in that it seems to be insisting that we help people to do things (that is living non-altruistically focussed lives), that the extreme demand would itself regard as a wrong way to live. He concludes that the extreme demand itself is internally contradictory and must be rejected. As it is legitimate to save someone who is living a non-altruistically focussed life and it is a requirement of beneficence to help people lead even such a life, then this shows that it cannot be wrong to live a non-altruistically focussed life. The corollary of this must be to open the door within morality for a significant place to be given to ourselves, and to that which is meaningful to us as individuals.

If this were all accepted, would his position be very permissive? Are we allowed to pursue all personal projects, all life enhancing activities, before being required to make any sacrifice for others? Cullity uses the thought that we are all mutually required to help each other in order to limit the expensive tastes which are permissible for each of us to have. He then encourages us to pursue cheaper projects (Cullity 2004 p.153). His eventual position is one which is short of an extreme demand, but which nonetheless remains much more demanding than that expected from common sense morality.

There are some obvious weak points in Cullity's positions. Firstly, there is the question of what one means by impartiality in morality. This will be addressed more fully in Chapter Ten. Briefly, we could understand this in an absolute sense of not showing any preferences one to another. This is how impartiality is often expressed in morality as with Singer. There is also a secondary meaning to impartiality, of the application of a moral rule universally as in a Kantian imperative. The latter would appear to be how Cullity is using impartiality in morality.

As an example, one could posit a moral rule that everyone will favour the second born child in any family. If this was universally accepted and applied it would mean that the second born was favoured irrespective of the character of the first born, or of the character of the second born, or any other potentially material factor. In a universal sense this rule could then be applied impartially, but in the individual sense, from the standpoint of the first born, this application would enshrine partiality. It would seem that if Cullity were instead to wish to hold to partiality in an absolute sense in morals, then partiality to self and to personal projects is unacceptable. He can only hold to impartiality in morality and his position if he embraces the weaker sense of impartiality.

Secondly, there remains debate as to the reason why we should help others. Cullity primarily suggests that it is because they value their lives. Does this mean that we should not stop people from committing suicide? Should the position be better expressed as our reason to help is that we, or perhaps society in general, can see value in the life? Yet if even this was adopted, would it mean that the current common sense morality rules for protecting handicapped children from infanticide should be relaxed? Could instead there be a place for saying that life should be preserved independent of the benefits that it brings to the possessor or to the onlooker? Yet, even this would seem controversial in terms of end of life decisions in persons with no hope of any form of future conscious state. This illustrates the difficulty in stating dogmatically the reasons why we should help someone in need, in a manner which is uncontroversial. If we cannot state the reason for our beneficence coherently then it is difficult to build up further argument in the manner pursued by Cullity.

But beyond that debate Cullity appears to be arguing that we have only reason to help people who are doing morally well. He argues that if a potential murderer's gun was

jammed, then we would not un-jam his gun for him. This is surely reasonable. But this does not mean that if he was knocked over by a bus, then we would not give him life saving treatment. Yet in our giving of life saving treatment we are not necessarily making a statement saying that we believe that it is morally acceptable for people to murder other people with guns. We are saying that there are reasons for saving him, despite the fact that he is a potential murderer. In a similar way the argument that we might help someone who lives a non-altruistically focussed life does not necessarily lead to, or away from, the conclusion that we approve of non-altruistically focussed lives. This is a *non sequitor*, unless we posit the premise that we can never aid anyone who does anything which is in any way immoral, which seems a very great limitation on beneficence.

## Conclusions

The brief surveys conducted in this chapter have been given to highlight the oft expressed difficulty that we intuitively believe that it is morally correct to show some partiality to self. There are various ways to approach this insight and they all have apparent flaws. Some appear to overemphasise the place of self-interest and come in conflict with other strong intuitions and reasoned arguments that there are times when it would be immoral and selfish to prefer one's own interest, over any other demand of morality. Others minimise the conflict and where it cannot be minimised further suggest it might at times be appropriate to act immorally. This latter approach is in one sense irrelevant to the question of what is the moral demand in the situation.

Cullity's approach gives due weight to the intuition that our self-interest has an importance in morality. It would seem however that his arguments in justification for

holding this position have distinct weaknesses, as are his attempts to hold to the position that one meaningfully can be partial to self in a scheme of morality which embraces impartiality.

I would commence with the position that any meaningful view of morality must be able to leave room for strong intuitions, such as our natural inclination to favour self. It would seem understandable that a self-contemplating, rational, moral being would have a particular interest in one's self, aspirations and projects. Despite my criticisms it does seem reasonable, as a generalisation, to say that we value others' lives because we see in human beings the potential for growth and development. Yet why should we value and nurture others' lives and see no need to do the same for our own? This may only establish a like for like nurturing, but the subsequent question then arises do we truly value and nurture our lives, if we show no partiality to the development and fulfilment of our own lives?

To put this negatively, there must be a point in self-abnegation when we are no longer truly valuing our own lives and beyond that point it distinctly calls into question our reasons for helping others? There must be some partiality to self, indeed duty to self, if only to give a context for the whole concept of helping others.

An agent centred life is not necessarily egotistical. Nor is it necessarily hedonistic. Arguing that it is proper to show partiality to self is not to argue that one's sole focus should be on doing what is best for me. It is part of an outlook which gives substance to our reasons for helping others. Further, there can be a place for living a fulfilled life in service for others. In that process, partiality to self is very clearly in harmony with

partiality to others. Nonetheless, the fundamental point remains, that we should not treat ourselves solely as a means to an end for others advancement.

I am not arguing that we have a duty to always act in our own interest. Instead, I am saying that we have a duty to consider our interest and weigh this up against the competing moral demands upon us. More strongly, there is a moral expectation that we should not neglect ourselves. There is a degree of self-effacement which amounts to self-neglect and this is as inappropriate as a degree of self-interest which amounts to indulgence.

How much can we legitimately favour ourselves? Various writers have produced suggestions in this matter which are couched in terms of reason and universality, but which often, quite understandably, reflect the person's own personal life interests (Singer 1995 p.272, Cullity 2004 p.173-183). The delineation of such lists is fraught with difficulty. This makes this approach less practical but this does not remove the legitimacy of some partiality to self as being an appropriate response of being human.

There are many who have deliberately chosen to pursue an altruistic life. There are some who have chosen to pursue an ascetic life. Others choose a monastic life. Such choices may involve a degree of self-abnegation regarding what many would see as acceptable small luxuries of life. Such choices however may well bring their own rewards for the persons involved and be found by them to be very self-fulfilling. In the process in regard to time and resources they may well free up goods and abilities for the service of others.

I am not however particularly advocating this ascetic approach to life. In a situation where persons are taking their moral responsibilities seriously I am not convinced that living a deliberately self-sacrificial life in the direction of altruism, asceticism or

monasticism would be in any sense more praiseworthy than living a full life in another direction. Why not also praise a proficient joiner, a kindly grandfather, an honest and industrious shopkeeper, an artist, a good golfer and so forth? I would suggest that a society consisting solely of people who pursued asceticism, monasticism and exceptional altruism would not be a balanced, productive and fulfilling place to choose to live. Yet such choices for individuals are legitimate and will have a bearing upon their responsibility to subsequently contribute to our group responsibilities for HIV/AIDS in the underdeveloped world. I believe with Scheffler that 'within generous limits, morality makes room for personal projects and relationships and a putative moral system that did not make such room (or over prescribed the direction of these projects) would be no morality at all' (Scheffler 2008 p.119).

Accepting choice in this way and relating this both to self-interest and relationships opens up the possibility of self-delusion leading to self-indulgence, gluttony, greed, and nepotism. Such activities however are not in keeping with our moral responsibilities.

The fundamental question of this thesis is how should we respond morally to HIV/AIDS in sub-Saharan Africa. I have argued that beneficence would strongly suggest that we, in the developed world, have a duty to assist in the situation wholeheartedly, and that the force of that duty would be such that it would easily cover the resources that are required. Beneficence, if left unchecked, potentially leads to an extreme demand, which could eventually lead to a position of an equalising of the resources between the helped and the helper. Given the extremity of the need for some individuals, then this extreme demand could lead to a situation of dire need in the donor. At that level life would hardly seem worth living. In that situation, then thoughts of partiality to self would seem likely to come in to play as a legitimate countervailing tendency to the extreme demand. Yet, if



all, or even most persons in the developed world played their part in regard to HIV/AIDS, then the need could be fully met long before this extreme demand scenario played out. Thus in that context it would seem unlikely that thoughts of self-interest could legitimately be seen as a barrier to mounting an appropriate response to HIV/AIDS. The situation may however be different if only a few help and the majority abstain. This will be addressed further in Chapter Eleven.

The thought of self-interest seems less of a factor in regard to the demands of distributive justice and the rights associated with rectification. There may well be an argument that if it is truly just, then it is just irrespective of the consequences. However in justice there is an intrinsic concept of fairness. If the consequences of an aspect of justice are inherently utterly unfair then this calls into question what is the true justice in the situation. Once again the demands of HIV/AIDS, while great, are not overwhelming for the developed world, unless they fall on certain individuals alone. So again the demands arising from legitimate self-interest do not appear to be a barrier as long as everyone or most are playing their fair part.

In summary, there is an intuitive thought that to be human requires some concept of having a proper partiality to one's own interests. This reasonably acts as a counterbalance to the extreme demands envisaged by Singer and by some views of distributive justice. If most play their part, this would not influence the meeting of the needs of HIV/AIDS in sub-Saharan Africa as postulated in this thesis. If most do not play their part, and if it were to be held that we had a responsibility to make up for their loss, then in that situation thoughts of self-interest would be of greater importance and would militate against a full assumption of an extreme demand as implicit in Singer and the difference principle.

## **Chapter Ten**

### **Relationships**

#### **Introduction**

In this third section of the thesis I am considering a range of issues which are frequently held to be countervailing pressures against the demandingness of the moral duties predicated in the second section of this thesis. I have made mention of libertarianism and have considered the argument that we have a right to dispose of our resources as we will, providing that we have justly acquired them. I have next made mention of self-interest and the argument that we have permission to consider our own interests and in extreme situations, a duty to favour our own self-interest. These considerations are sufficient to militate against an extreme demand, but they are not sufficient in themselves to negate the type of level of demand which has been raised regarding the needs of HIV/AIDS.

In this chapter I am going to address a related series of arguments and that is to consider the popular objection that we are allowed, or potentially required, to show preference to those in close relationships to us. This is voiced in the popular saying “Charity begins at home”. In many ways this is a continuation of the argument commenced in Chapter Nine which introduced the question of whether we are morally able, or required, to show partiality to those close to us, in that case to self.

This subject of putative obligations arising from relationships once more raises the question of the need, or otherwise, for strict impartiality in morality. This will be addressed directly as a preliminary matter in this chapter and the conclusion will be that

there is no requirement for absolute impartiality in morality. Following this, I will consider some example relationships which, for the sake of space, will be limited to close family relationships. I will accept that there is a place for giving some precedence to these relationships, and that it is often a difficult matter to balance this responsibility against the previously demonstrated responsibilities to those in greater need elsewhere. I will conclude that giving precedence to those close to us would not normally negate or make ineffective our obligations to others.

### **Partiality and impartiality**

In considering counter-arguments to his position Singer stressed that there should be no partiality in morality. The needs of a stranger's child should count as being as important as the needs of one's own child. With Rawls, there is also a strong flavour of impartiality, as this is intrinsic to his use of the device of the veil of ignorance. However, the issue of permissible partiality is obliquely addressed, in that Rawls drew a distinction between the manifestation of justice within a state or people and that between peoples. For Rawls, the demands of justice in regard to our compatriots were different, and in reality more exacting, than the demands in regard to the distant stranger.

I rejected this view of international justice as described by Rawls and embraced a more cosmopolitan approach. Here, the place of the stranger is given equal prominence to compatriots, although some more moderate cosmopolitans would still balance this against the needs of those to whom we have particular responsibility (Scheffler 2001 p.115-118). In respect to the language of rights, these apply without partiality, but the effect of their application may nonetheless leave room for a differential in responsibility between the distant stranger and the near relative.

Thus many of the arguments of Section Two make use of an underlying assumption of impartiality in morality. However it is particularly Singer and other utilitarians who strongly oppose special consideration being given to those who might be viewed as being close to us. Singer states that we must accept principles of impartiality, universalisability and equality. He quotes with favour RM Hare who contends that it is the essence of moral judgements that they must be universalisable. They must be carried out in all real and hypothetical situations, not only in those where the agent benefits, but also in those where the agent loses (Singer 2004 p.155). Singer particularly warns that family ties are based on sentiment and that they are likely to lead us astray in moral reasoning, seducing us into accepting positions that are based, not on impartial considerations, but rather on our own likes and dislikes (Singer 1977 p.43).

This is consistent with Singer's consequentialism, which is in its nature essentially universalistic and impartial. However, it should be recognised that impartiality has been taken as being a core defining feature of morality by many (Wolf 1992 p.243). Principles of universalisability are in keeping with the Kantian categorical imperative, 'Act only on that maxim which you can at the same time will that it should become a universal law' (Kant 1949 p.80). It is in keeping with the usual application of the rule of law, wherein justice is seen as being blind in regard to the nature and the status of the persons with which it is concerned. Similarly, it fits well with some cosmopolitan approaches to distributive justice, which would object to any thought of restricting any application of the scope of justice to some subset of the global population.

If one wishes to place stress upon certain relationships as in themselves making legitimate particular moral demands, then this does require us to treat persons differently. It does seem that this cannot be squared with the contention that morality must be

universal, impartial and involve treating people equally. How can one address this dilemma?

### **Universalisability and morality**

I would suggest that here one is at least in part producing a false dilemma. One might argue that there can be no accommodation introduced amongst universalisability, equality, impartiality and partiality in morality. Yet one should firstly not overstate the reasons against making an accommodation. I will take first the principle of universalisability. If this is interpreted to mean that to act morally means that all people universally must be treated the same, then recognising special relationships would clearly be immoral. However, this appears circular. We are simply stating the conclusion. We are saying that to act morally means that our moral principles must be applied universally without distinction and thus if they are not applied universally without distinction then we are not acting morally. This is not giving any reason for the belief, it is simply making a stipulation that morality is intrinsically linked to universalisability. Admittedly, making assertions is not necessarily a wrong approach to adopt in regard to the fundamental principles of morality. It does seem that there is an intuitive understanding that moral precepts must be applied universally. However, it must be recognised that it is not a position based upon unassailable argument.

There remains an accommodation which would easily still give expression to that underlying intuition. I would suggest that we can hold to both universalisability of application and the honouring of special relationships. A simple illustration would be to state that all children should particularly honour their parents. Leaving aside the rationale or usefulness of the statement it nonetheless can be seen that this maxim could

be adopted universally, but in the process it would enshrine difference between persons. Universalisability does not imply impartiality (Kagan 1989 p.310-313).

### **Equality and Morality**

What about equality? If we treat people differently due to relationship, does this mean that we are abandoning any concept of the equality of persons? The question here is one of how we are using the word 'equality' or 'equally'. Is it being used as a synonym for impartiality, that all people must be treated in an equal way, then we should move on to the next sub-section. Or, are there other usages of the word 'equality' which remain helpful, yet can be accommodated while paying particular regard to those with whom we have special relationships?

Equality could be seen as an ethical likeness of kind, requiring like judgement and treatment, unless there is a valid reason for making a distinction. Even maxims such as 'All men are equal' can be treated as asking a question, rather than giving an answer. The question being asked is, whether any distinction that habitually is made is defensible (Sabine 1956 p.3, 11)? Thus in this sense, it is meaningful to say that all are equal, but I have a special regard to X, as long as a meaningful explanation can be given for this outworking of that relationship.

Further, if, the meaning of equality is that all persons should be treated as having equal worth, then that can easily be accommodated with partiality to specific persons. The concept that all persons are equal in this sense has always been associated with caveats and limitations. All persons do not have equal characteristics. There are scenarios in which age, height, health, wealth are all disparate and all quite appropriately effect how

we treat another individual. It is difficult in this regard to see how relationship introduces a fundamentally different class from these other descriptive characteristics. Yet as we consider these other differential characteristics, we nonetheless can still hold to an equality of worth, whereby each person must be recognised as having equal human worth, even if there may be good reason for treating them differently.

As an example, two children wish to go on a fairground ride, one measures 1.5 metres and the other 1.3 metres. There is a height limit of 1.4 metres. Only one is allowed to go on. The rule is being applied equitably, the children are equally valued, yet the result is a differentiation between them.

Similar to this, I would suggest a scenario whereby two children of appropriate height wish to go on a fair ride. One is your daughter, the other is a stranger. You pay for your daughter to go on the ride, but not the unknown stranger. In this there is a differentiation. Yet both children may well be equally treasured. It may be that the fact that one is your daughter may not be seen by some as being an adequate reason to favour that one over the other, but to do so does not seem to me to be essentially wrong, based solely on the grounds of equality. The difficulty only arises if we pay lip service to equal worth by introducing discrimination based on unjustifiable differences.

### **Partiality and morality**

I have suggested that it is reasonable to say that one can hold to universalisability and equality in morality and yet hold to the importance of treating relationship as something affecting what we should do. It is much more difficult to say the same for impartiality. Even if one searches for impartial reasons to show partiality, the end result is still, in an

absolute sense, showing partiality. Looking for impartial reasons to be partial seems to be a search for moral respectability. When they are found, and examined, it often amounts to saying no more than one can universalise rules. One could argue that it is desirable to universalise a choice of rules, which would allow for partiality at the level of action, but which must be guided overall by an impartial concern for people's wellbeing. Yet this would appear to be conceding the position to partiality, as it defines overall wellbeing in a different way, in a way which adopts partiality. One wonders at the legitimacy of being able to claim that this continues to be an impartial view of morality. It may be much simpler to accept that one can believe that the relationship between two moral beings matter and that to say this is to embrace partiality. This does not necessarily mean that an obligation based on impartiality and one based on partiality must be given equal weight.

This is a complex area. There are various broad approaches that have been adopted. Firstly that partiality is never justified (Singer 1981 p.114). Secondly, that partiality can be justified, but only if and when impartial reasons can be adduced so to do (Cullity 2004 p.115). Thirdly, that partiality is a non-moral matter which sometimes trumps impartial morality (Wolf 1992 p.255). Fourthly, morality is fundamentally impartial, but it must make allowances for partiality (Hooker 2000 p.28). Fifthly, partiality may at times be intrinsically morally justifiable (Cottingham 1986 p.360).

Many struggle to be consistent in this matter. There is an attractiveness in a proposition that morality must always be approached from a detached impartial position (Feltham 2010 p.2). Yet this often seems a very theoretical aspiration when it is applied in day to day moral decision making choices (Singer 1999 p.309). One might logically say that one should always be impartial, and if, through the pressure of life one is not, then one is



acting immorally. Yet a moral theory which condemns most to frequently act immorally, while following their own moral intuitions, seems suspect. It would be more straightforward to hold that it is not necessarily wrong to be partial in respect to moral decisions. Holding to this would not mean that showing partiality between persons is always acceptable. Nor does it mean that there should be no limits on partiality. A distinction can be made between providing for one's own and nepotism; between providing for one's own and indulgence. However, if, as I have suggested, one should accept that there is a moral basis for some furthering of one's own interests, then almost by necessity one accepts partiality in regard to close relationships as being a positive good.

I would thus reject any view which would make impartiality an absolute presupposition of morality, partly for negative reasons. Firstly that it is so far from any current conception of common morality as to appear absurd. Secondly that it condemns almost everybody to living a life of immorality. These reasons are not conclusive in themselves but they are pointers to a potential problem.

Positively I would adopt the same position as Scheffler when he argues that human beings are creatures with values and to reject partiality in a systematic way would be to set ourselves against our own nature (Scheffler 2010 p.99/100). It does seem unreasonable to choose to follow a system of morality which is so frankly incongruent with the types of creatures for whom it serves as a guide. I would agree with Cottingham when he argues that an undergirding aim of morality is a flourishing life and the development and expression of love in relationships would appear to be part of a blueprint of human welfare (Cottingham 1986 p.363).

Nonetheless, an embracing of the possibility of partiality in morality does not preclude a presumption in favour of impartiality as the more common moral norm. Thus when eventually balancing together impartial and partial moral claims it is not unreasonable to hold that both are important and both must be considered, but weight can be given to impartial demands.

### **Concentric circles**

If we abandon the concept of absolute impartiality and instead embrace a position which allows partiality, this then raises the questions, whom should we favour, and how much should we favour them? Are there some relationships which are not of moral importance? For instance, could the shared possession of red hair define a morally important relationship? If so, or indeed if not, what rationale can be given for particular relationships being thought of as being of moral importance? Can we see this in terms of interactional relationships, contrasted with relationships defined by common features? How does voluntariness or reciprocity fit into the classification? What weight should be given to the moral importance of a relationship in comparison to other morally relevant matters such as beneficence and justice? Does this moral weight depend on the kind of relationship involved?

Various disparate lists of morally important relationships have been produced. There exists disagreement both in respect to the constitution of these lists and the extent of the responsibilities which ensue. This notwithstanding, the historical lists envisaged, and the responsibilities considered, are not so fundamentally diverse as to make one immediately abandon the pursuit of this question. Hume proposed an early expression of concentric circle morality (Hume 1739 p.145). By this phrase I mean that he believed that we had

varying degrees of responsibility to others, leading out from those who are close to us, to those who are more distant. This pattern of concentric circles has been returned to by a number of writers and is, somewhat guardedly, one which I would adopt, as being a useful description of how one would consider the responsibilities of relationship within morality.

What defines the characteristics of these proposed concentric circles? What makes one relationship more important than another? For Hume, it would be the limits of our affection. He defined this as being strongest to ourselves, the next to relations and acquaintances, and the weakest to strangers and indifferent persons. In the 20<sup>th</sup> Century, Bradley would put emphasis upon the social mores of the society in which we live (Bradley 1927 p.161). Singer, while not personally advocating this position, nevertheless quoted with apparent sympathy, Sidgwick, who lists ‘kindness to parents, spouse and children, other kinsmen, those who have rendered service, friends, neighbours, countrymen, our own race’ (Sidgwick 1907 p.246). Singer notes that such an approach seems acceptable, despite these relationships not all being voluntary in nature, until that is he mentions race.

One potential drawback of a concentric circle approach to morality, is that it appears to be both culture and time specific. What may well seem appropriately our duty and station to Bradley, or reasonable behaviour to Sidgwick, may seem much less obviously so to a modern reader. This may well be why it is often said that one cannot find full agreement concerning the nature of these circles (Scheffler 2001 p.36ff).

There have been attempts to identify underlying factors in relationships which would help to define which relationships are important. This search for underlying

commonality gives rise to a reductionist perspective. In the process, the importance of relationship, *per se*, is reduced, as the underlying factor becomes the matter of moral import. For instance, where marriage is concerned, some would suggest that it is not the fact that two persons are husband and wife which gives rise to mutual responsibility. The responsibilities are derived from the fact that they have made a solemn commitment to each other in a ceremony. The importance of the relationship, is derived from the importance of oath keeping.

This reductionist pursuit of an underlying motivating factor is to help to discriminate between a relationship which appears to count morally and one which does not. There is often a further concern in the reductionist agenda and that is to demonstrate that the responsibilities arising from any specified relationship arise voluntarily. Underlying this is the belief that to predicate responsibility to a relationship which has not involved voluntary agreement, would itself be immoral, as this would be against an individual's autonomy.

I would accept that many meaningful relationships will have strengthening underlying factors, such as the keeping of promises, entered into freely and voluntarily. However, the same could not be said of all morally meaningful relationships. Likewise, I do not believe that it is possible to delineate a list of all morally meaningful relationships, defined by some other independent undergirding factor.

It might be argued that the key issue is not whether there is some undergirding principle outside the relationship which is important, but the fact that we should always be able to give an account of what aspect of a relationship gives rise to obligations. If we cannot do so, then we cannot distinguish between morally significant and insignificant

relationships. There is force in this contention and normally one can enumerate a list of secondary benefits arising from significant relationships. However, this is missing the wood, by concentrating on the trees. There are relationships which are in and of themselves value laden. It is the relationship itself which is significant. This does not necessarily mean that they are valued by the persons in the relationship. But it does mean that these are relationships which are significant in their nature, relationships which one would have reason to value, irrespective of whether the participants in the relationship themselves actually value the situation (Scheffler 1997 p.191, 2001 p.104).

If it is argued that some of these putative significant relationships have intrinsic countervailing moral undertones, then this does not disprove the thesis that the relationship *per se* has moral importance, it simply means that that moral importance must be held in balance with other moral obligations. Thus there may be significant relationships of bonding and friendship among pirates, which might appropriately produce responsibilities one to another, but due to other moral considerations these responsibilities may be set aside.

Many relationships could be viewed as significant from both a non-reductionist viewpoint, and a reductionist approach. In some cases it makes little difference. The marriage relationship could be viewed as being significant in itself, or it could be seen that the responsibilities arise from underlying moral requirements existing within the formation of the relationship or arising from the results of that relationship. Similarly a responsibility of an adult child for their aged parent could be seen as intrinsic to the child parent relationship or they could be seen as arising from obligation from past kindnesses shown. However, in this latter case, if in fact the earlier relationship between parent and child had not been helpful, then in the reductionist view there may well be no ongoing

obligations and on the non-reductionist, obligations will remain. A more marked difference would be found in those relationships, such as that between siblings, whereby one might argue that these are significant relationships from the non-reductionist viewpoint, but wherein there may be no significant relationship at all from a reductionist point of view.

### **Nearest and dearest**

I will not seek in this chapter to explore every form of relationship which might arguably have a legitimate call upon our resources. I will only mention one group, which is the relationships associated with close family, such as spouses or equivalent, or parent child relationships. These would often be regarded as some of the strongest bonds of relationship. They give rise directly to responsibilities which are almost universally acknowledged within all societies. This group is of importance as it can often be used to justify a failure to give meaningful support to others beyond this narrow circle and thus could be seen as a major counter-balance to our duties in areas such as HIV/AIDS in sub-Saharan Africa. It is in the family relationships that a demand that we must be impartial sounds so fundamentally implausible. Singer acknowledges that a review of history would suggest that people find that they cannot consistently live like he would suggest (Singer 1977a p.43). In seeking an explanation for this, he argues that there are evolutionary benefits to a society if there is a tendency for partners to stay together, especially in childbearing ages, and for children to be directly cared for by their parents. He argues pragmatically that a certain amount of partiality in these situations is acceptable as it serves to increase utility. Thus, it should be tolerated (Singer 1977b p.33ff).

It is more difficult to argue a similar case in regard to respect being given to aged parents. Perhaps an argument could be made based on society's expectations. It may make it more likely that parents would care for their young at an early stage, in order to get the response of gratitude at a later stage (Singer 1977b p.34). In arguing in this way, Singer counsels against seeing evolutionary theory as being a justification for the situation, as that would in his view be deriving an 'ought' from an 'is'. It is simply a matter of being pragmatic (Singer 1995 p.114).

Yet to appeal to pragmatism and to evolutionary theory appears to be a mistaken approach to the subject. People intuitively believe that a parent has responsibility for a child, a partner for their partner, and to a lesser extent an adult for their parent. These beliefs do not appear to be fuelled by the thought that in each instance this is the approach that will produce the greatest utility. Neither is it clear, especially with adult offspring for their parent, that it will usually give rise to evolutionary advantage.

A second approach which searches for an underlying theme to account for the responsibilities of relationship is adopted by Slote. For him, what is most important, is the empathy which is to be found in a relationship. Slote would accentuate a common root at the heart of families and he feels that this common root connection gives rise to empathy (Slote 2007 p.28). Similar themes are propounded by others following the perspective of the ethics of caring.

This approach to family relationships does appear problematic. As the adage says, 'you can choose your friends, but not your family'. Empathy for friends is often greater than that found in the immediate family, yet it may not seem intuitive to believe that our responsibility for friends is greater than that for family. This approach also fares badly in

the situation of a parental concern for a wilful disobedient adolescent in which empathy may be in very short supply. However we might grant that significant relationships involve empathy, yet argue that this just makes it easier for us to feel what our duties are, and be motivated to carry them out, rather than in itself giving us a reason to prioritise those to whom we feel most empathy.

The most reasonable explanation for these deep intuitions is to assert that positions such as parenthood, or partnership, are value laden terms, describing situations in which there is an intrinsic responsibility to be partial. Such favouring is less to do with the overall good and more to do with the specific set of roles and relationships which define a person within their own social space. It is not so much to do with how we feel, but more an objective description of the position in which we find ourselves (Shue 2006 p.310). Whether the bonds of near family are approached in a reductionist, or a non-reductionist fashion, they still appear to give rise to considerable responsibility one for another. The relationship itself gives us presumptively decisive reasons for acting (Scheffler 1997 p.200).

Some argue that if we allow ourselves to see immediate family as having particular demands upon us, then this is immoral, as the result will be to consolidate inequalities in and between societies. I would accept that there can be a tension between equality of opportunity for all and special responsibilities towards some. A favouring of one's close family in the developed world may well lead to a lessening of the aid given to help those in the emerging nations. Nevertheless, this does not in itself make a favouring of one's closest to be immoral, yet the favouring of one's immediate family must be tempered by other moral tenets. There is a difference between appropriate parental concern and nepotism. The word 'nepotism' is currently usually used where an agent shows partiality



to family members in a situation where the agent has a duty of impartiality in a particular role. For instance if one engineers preferential employment prospects for family members within an organisation where one has a responsibility to treat all fairly, then this would be nepotism. Presently, if one is excessively generous to one's well-off family and neglect the needs of the needy in developing countries, then this would not be viewed as nepotism. However, if one accepts the arguments of Section Two, that we have strong responsibilities towards the needy in the underdeveloped world then we must get a grip of the partial and impartial duties that we hold simultaneously and accept that an inappropriate concern for our immediate family in this sphere is also nepotism.

How far then should we go with this partiality? I would suggest that we should turn for guidance once more to the earlier discussion on partiality to self. What is appropriate in regard to acknowledging our own personal goals for a fulfilling life? How does that then apply to others? In the context of our children, I would suggest that by analogy we have a responsibility to facilitate them to have access to a life in which they too can pursue worthwhile goals. Thus for example there may be an argument to support offspring with their expenses through college, rather than to donate the same sum of money to third world healthcare (Miller 2004 p.103). This becomes a question of honestly balancing moral commitments. Partiality to nearest and dearest must be capable of being overridden by a commitment to the extreme needs of others. Holding special responsibilities to immediate family does not imply that these are without limit. I would agree with Singer when he says that 'The partiality of parents for their children must extend to provide them with the necessities of life, and also their more important wants, and must allow them to feel loved and protected; but there is no necessity to satisfy every desire that a child expresses' (Singer 2004 p.164).

Once partiality to close relationships is seen as being morally acceptable, will this allow for inadequate funding of HIV/AIDS, for a return to the *status quo* of common morality? This would not be reasonable. Common morality currently justifies almost any excess in regard to material devotion to one's immediate family. The recognition that I am arguing for here, of special partial responsibility does not necessitate a continuation of the *status quo*, and if it were used as justification for this, then this is not making a sincere balanced assessment of competing moral demand.

## **Conclusions**

This chapter has identified and accepted a further demand upon our resources that legitimately limits the force of the moral duties outlined in Section Two of this thesis. This is that there are certain close relationships which many are involved with, which give rise to duties, which should not be ignored, when assessing our responsibilities to others, in such matters as HIV/AIDS provision in sub-Saharan Africa.

The effects of these responsibilities should not be exaggerated. For most, they would be likely to place a limit upon our giving somewhere below that of an extreme demand, because we have special responsibility to others, but not limiting us so much as to stop an effective response against HIV/AIDS. This is similar in nature to the effects produced by the consideration of our own interests and projects in the last chapter.

For a few, however, these responsibilities will be great and potentially overwhelming. An example would be someone who has sole responsibility for raising a severely handicapped child. That person's time, energy and resources, may well be so taken with the immediate need before them, that there remains no reasonable demand upon them to

commit to aiding those overseas in matters such as HIV/AIDS. This is not likely to be a common situation. The question of how one balances all these moral demands will be addressed again in the final chapter. Before this however will be a discussion of the important topic of how do these moral demands work out in a non-ideal world, in which some people pay mere lip service to moral obligations.

## **Chapter Eleven**

### **Fairness in Nonideal Theory**

#### **Introduction**

So far in this third section of the thesis issues have been considered which are frequently raised as being legitimate counter arguments against the extreme moral demands made and provisionally accepted in Section Two. Through Section Three the demand has been moderating through the consideration of competing moral duties. Nonetheless, a very substantial moral duty continues in regard to my subject of HIV/AIDS in sub-Saharan Africa.

In this final chapter of this section, I will consider the question of fairness in regard to how can one ask people to implement moral principles in a nonideal world. That is in a world where one can assume that the overall compliance with any moral principle is likely to be patchy.

Pertinent questions raised are, why should I comply with the moral demands raised by HIV/AIDS in sub-Saharan Africa, if my neighbour does not? Why should my country make positive contributions, if another country holds back? Indeed, to be asked to do so, appears inherently unfair. Yet, one would assume that the legitimate demands of morality should be fair. If the demands that are raised seem unfair, does this not constitute a problem with the proposed moral scheme?

Further, there are practical questions such as to the level of our contributions. Should we contribute at all if others are not contributing? Should we contribute what we would have done if all had contributed? Should we add to our contributions in order to make up for the lack of contributions by others? Does this last suggestion not raise two separate questions of unfairness, that of giving when another does not, and that of in addition being required to make up the loss? Should the level of our contributions take account of our past giving, relative to others, or not? Is it justifiable to compel people to contribute, so that these questions either do not arise, or at least are minimised in their effect?

After an introduction, consideration will particularly be focussed on the contribution of Liam Murphy to this debate. After making some comments on the difficulties with his position, his proposed solution will be rejected. I will conclude this chapter by holding to the position that the question of fairness does not materially influence the force of the moral demands upon us, however it does suggest a number of practical measures which should be taken in order to ensure a reduction in the rates of non-compliance.

### **Individual or collective duty?**

Throughout this thesis, the focus has been on the ethical demands of HIV/AIDS falling on the developed world as a whole, without always specifying whether the demands are to be considered as responsibilities of individuals or societies. I have often deliberately used arguments which would apply naturally to both spheres. Rawls and successors have tended to sharply distinguish matters of individual personal morality from concepts of justice, which latter they relate to institutions in societies. Thus my comments on rectification and distributive justice most naturally outwork in a societal scale. However,

aspects of beneficence and the countervailing thoughts of personal ownership and relationships, relate more clearly to individuals.

The thought of fairness, as being discussed in this chapter, inevitably has within it a comparison between one and another. This can be either one individual as contrasted with another, or in the macro scale, one state as compared to another. Thus fairness can relate to both the individual and societal levels. However claims about fair and unfair distribution of goods between states ultimately themselves do reduce to claims that the distribution of obligations assumed is unfair to individuals.

For fairness to be a meaningful problem a duty has however to fall on more than one individual. Firstly, it is only credible that if it is unfair for someone to contribute to HIV/AIDS and another not, if there is an individual moral responsibility to contribute which falls on both. Secondly, there is a particular sense of unfairness in the matter if it is assumed that the moral burden is to be borne as a group and one fails to participate.

There are some moral responsibilities which are outworked more individualistically than collectively. Feelings of unfairness can arise from both, although they are particular pertinent to collective actions. Consider a deontological responsibility, such as the duty to look after one's own child. There is a sense whereby one has individual responsibilities to one's own child irrespective of whether one's neighbour assumes responsibility for their own child. In a similar fashion, one does not feel that it is unfair to hold that it is wrong to murder someone, just because our neighbour happens to be a murderer. Yet even in these deontological stipulations there is a secondary sense of unfairness arising from collective responsibility. If the neighbour does not look after their child, then society as a whole may have to look after the child for them, and this

may seem an unfair demand on society's resources. If the neighbour benefits from a murder, then we would feel it is unfair if there was no redress from society.

A duty of beneficence can be seen as both an individual and a group matter. There is a requirement upon us all, as individuals, to be beneficent. However, beneficence can be agent neutral. At one level it is relatively unimportant if our neighbour is not being beneficent, when we are. Yet even at the individual level this relative lack of importance changes if it is perceived that our lives are being altered dramatically and our neighbour is beginning to gain some advantage over us through their attitude. The situation is even more complicated if beneficence is seen generally as being a collective matter. In that sense it may be unimportant who actually helps from the group, as long as sufficient help is given. However, while my personal contribution may not make much difference, my contribution as part of a collective movement will do so, and my willingness to contribute becomes important. Even in this situation there is resentment if some in the group appear to be freeloading off the others.

I have employed the phrase 'persons living in the developed world' knowing that it could apply to both individual and state responsibilities. However I have intimated in Chapter One that my basic approach to this complex matter would be to take morality as being fundamentally an individual matter. Thus the demands of HIV/AIDS in sub-Saharan Africa on the developed world fall individually on persons in the developed world. However, the meeting of that demand is often best accomplished through concerted action, taken as groups and societies. In these circumstances there can arise a question of unfairness if one group contributes, and another does not. Further, at the individual level, the demand falls to a greater or lesser extent, depending upon circumstances, on every member of the developed world, and one can feel personally exploited if one individual

contributes and another, without good reason, does not. Faced with these potential unfairnesses, what should one do?

### **Murphy and collective beneficence**

Murphy sees the importance of unfairness as relating primarily to beneficence, although he acknowledges that extreme demands, which highlight unfairness, can arise from other moral principles. He argues that there is generally no settled agreement in regard to the level of obligation from beneficence and suggests that one of the challenges here is the question of what we should do if others are not contributing. Murphy lists four possible approaches to beneficence in this regard, which he names charity, optimising beneficence, limited beneficence and collective beneficence. He quickly dismisses charity as a concept. In common morality charity may well be seen as an outworking of beneficence, but he makes the point that beneficence is a requirement, whereas charity is supererogatory, and as such it is in quite a different category (Murphy 2000 p.5).

Examples of optimising beneficence have been discussed in this thesis through the writings of Singer and Kagan. This leads to a position of potential giving in regard to HIV/AIDS, of an extremely sacrificial level, if required by the need. This position would conclude that if someone does not contribute, then the other person who is prepared to contribute, must take up the slack and contribute more. Murphy notes the potential problem of overdemandingness in this position. He himself shies away from defining the problem strictly as one of overdemandingness, because he suggests that this requires greater certainty than he can give regarding the appropriate level of demand, nonetheless he concludes that this position is untenable (Murphy 2000 p.6, 69).



Under limited beneficence Murphy sketches the positions which in this thesis have been illustrated both by Scheffler and Cullity. Scheffler deals with the demandingness of beneficence by factoring in a predilection for one's own projects. Cullity deals with this in a similar fashion and also adds that beneficence must be approached in an aggregative fashion. An aim of both approaches is an attempt to fix an upper limit on beneficence. Thus there will be some attempt to take up the slack caused by others' non-involvement, but there would potentially be a limit whereby someone can say, 'enough is enough'. Murphy believes these positions to be unworkable as Scheffler's predilections would be swamped by a situation of dire need and Cullity's aggregative tendencies are susceptible to a minor demand from one last person in need (Murphy 2000 p.64-7).

Murphy's own approach is to suggest a 'compliance condition' in which the demands on the complying person should not exceed what they would be under all giving full compliance to the principle. He argues that the optimizing principle is so counterintuitive because it violates this compliance condition and technically not because of overdemandingness. We should promote the well-being of others up to the level that we would do if everyone was doing the same (Murphy 2000 p.7, 76-87).

He quotes with guarded approval Cohen when he says :-

Burdens and life's benefits ought to be fairly distributed, and no-one is morally required to take on more than their fair share of a burden because of someone else's defects, any more that he is morally permitted to receive more than his fair share of a benefit just because someone does not take up their share (Cohen 1981 p.67).

He also argues that it is unreasonable to be called wrong if one is not prepared to take up another's slack, when you have already contributed your full communal share. In that case you are being blamed in a similar fashion to the one who did not do anything in the first place, in that both are being termed morally in the wrong (Murphy 2000 p.91).

### **Difficulties with Murphy's position**

It is interesting that under conditions of full compliance Murphy's position leads to the same moral demands on individuals as Singer's. In that situation, under conditions of extreme need, both positions would give rise to the same conclusion, which many would designate as an extreme demand. Further, the demand would be no less for Murphy in the situation of partial compliance, as each would still have to be responsible for the level of demand generated under full compliance. The difference only arises in a situation of moderate demand, such as with HIV/AIDS, where Singer would expect persons to begin to make up the difference caused by others' non-contributions.

Murphy's position does not therefore necessarily get rid of the assumed problem of an extreme demand. Murphy argues correctly that the negative perception of the severe nature of the extreme demand depends, in our current situation, on the problem of minimally expected compliance, rather than the size of the need (Murphy 2000 p.12/13). However if the need was greater, then the extreme demand would in fact remain.

One question is as to whether fairness, in and of itself, is sufficient to militate against a perceived moral demand. There is a sense in which Murphy himself concludes that it does not. In the situation in which one contributes and another does not, then Murphy believes that it would be appropriate for the person who is willing to contribute to

continue to contribute up to the level that they would have done before. Yet is this not unfair? The fair response would be that the person who was prepared to contribute should no longer do so. However Murphy assumes that they should, presumably as an acknowledgement of the fact that the moral demand of beneficence overcomes the problem of unfairness. Then why does that same moral demand of beneficence not continue to overcome unfairness and demand a further contribution to make up for the others lack?

The fundamental question is why should someone else doing wrong persuade others that it is appropriate for them also to do wrong?

The argument borrowed from Cohen appears weak. It is not necessarily a matter of bearing someone else's burden, it could as easily be defined as a matter of bearing our own burden, just readjusted. There is a sense in which when one member of a group fails to contribute then this automatically changes the nature and size of that group and the demand of beneficence proportionally rises. One might counter that this is only true if someone is owed something by a formally constituted collective and that this is not the same of populations, especially given my earlier contention that beneficence is initially an individual responsibility. However, without pursuing that point further I would respond that some of our putative obligations, such as reparation for current financial economic order, are clearly related to formally constituted collective groups.

Again in respect to the arguments deployed from Cohen it is not clear that in every case it is reasonable to say that we would not appropriate another's benefits. In situations, wherein they were to be wasted, why not divide the benefits amongst those who will take them? There are certainly formal situations such as taxation systems and state benefits

where his rules would hold true. Yet in these situations there are penalties attached to non-compliance and the surplus of benefits are used in other ways. It is not clear that that formal situation transfers closely to the general moral demands of beneficence.

The question of it being inappropriate to describe both the person who did not contribute at all and the person who refused to go beyond the original contribution, as being morally in the wrong, also seems a weak argument, if it is used to show that this situation should not exist. It seems quite a simple matter to declare that someone who breaks a promise is wrong to do so, and someone who murders someone is wrong to do so, while, at the same time, being able to differentiate the degree of moral turpitude involved in both cases. This discrimination also can apply here, even within the application of one principle, and this removes the perceived difficulty.

Singer raises a telling objection to Murphy's position in the form of a further form of the child in the pond story (Singer 2009 p.144/5). He paints a picture of ten capable adults around a shallow pool and ten children in that pool drowning. He suggests that five adults wade in immediately and pull out a child each. To their consternation they note that the other five adults have continued their journey leaving the five remaining children to die. He finds it impossible to believe that it would then be appropriate to say that they have done their fair share and the adults who saved the children have no moral reason to go back into the pool to rescue the remaining five.

Murphy makes mention of an earlier version of this story, using the example of two adults and two children. He responds that there may seem to be a reason for the helpful adult to go back in to the water, but this should not be seen as a moral responsibility.

This does seem weak and one might suggest that most would respond, not by saying that the helper may go back in the water, but that they must go back in.

Murphy also argues that this analogy does not really count as an argument against his approach as it envisages a rescue situation and that is quite a different position from the question of the outworkings of beneficence. Again this seems weak. There are failings in the various formats of the child in the pond analogy, as there commonly is in any argument from analogy. Nonetheless, these analogies do seem to be quite robustly associated with the idea of beneficence. Even accepting that this may well be categorised as a rescue situation, the underlying reason advocating the need to rescue, in most cases, would be beneficence.

## **Conclusions**

If something is morally right to do, then it remains morally right to do, even in a situation whereby another refuses to do it. If it is morally right not to torture rabbits, then it remains morally right not to torture rabbits, even if someone else is doing so, and even if that other person receives some benefit in the process e.g. rabbit stew. To push this analogy further, there may well be fresh duties arising, which should also be undertaken, that is to take measures to protect rabbits from the torturer. The intrinsic unfairnesses involved do not give us a moral reason to forego doing right. This is not to say that consequences are of no importance. The fact that someone else does not do something which is morally required, may have consequences for ourselves, but it would not follow that it was also appropriate for us also to act immorally. The exact nature of the moral demand may be altered by the fact that the other person has refused to comply.

The motivation for doing right is not approbation from others, good feelings that it may produce in ourselves, or the fear of receiving blame, if we do not conform. It is good to do the right thing, even if this increases the burden disproportionately on ourselves. It may be protested that this is circular, that Murphy would agree that we should do what is right even if it is burdensome, but he argues that it would not be right to make up for another's non-contribution. The primary difficulty with this position is that the moral duty is to help, the burden of that duty is secondary and is largely dependent upon empirical facts regarding the numbers helping. If initially six are helping, and then five are helping, the level of the demand rises, but the moral duty remains to help.

I would also suggest that Murphy is too sharply dividing between an optimising principle of beneficence and a limited principle of beneficence. I am arguing for an optimising principle of beneficence, which is limited by competing moral demands, rather than through establishing artificial ceilings. Murphy is right to say however that in a case of overwhelming need, other moderating demands may in fact slide into insignificance. This is not the case with HIV/AIDS.

## **Sanctions**

However, unfairness is not a matter which should be discounted completely. It is not a reason to legitimately moderate the demand which is upon us in the developed world. However, it is a reason to put sanctions in place, wherever this is possible, in order to facilitate greater compliance with acting morally. If it is wrong to steal, then the fact that your neighbour is a thief is not in itself normally justification for beginning to steal oneself. It is however appropriate to put in place safeguards, such as judicial consequences, so that there are penalties entailed in acting immorally.

If an individual person or state had a responsibility to give, as an example, 5% of their resources to implement an effective response to genuine need in the world including HIV/AIDS prevention and treatment measures, then they are still morally responsible to give this aid even if others do not contribute. If through partial compliance of others that need rose to 7.5% of their resources, then the moral imperative remains, and they are responsible in that situation for giving 7.5%. This response would continue up until the point where the resource demand was such that it could not be made, while at the same time maintaining other comparable moral responsibilities. At times, in these circumstances, the need simply will not be fully met. This would force a Rossian judgment between differing *prima facie* duties and either scaling everything back or, deciding in the specific circumstances, which duties should give way.

It would clearly be better if such a situation did not arise. Ideally structures should be put in place to facilitate as close to full compliance as possible. The greater the number of people acting optimally, the lower the sacrifice required of every person.

In practical terms when collecting within a society, it would be important to maximise the percentage of giving through taxation, as compared to other forms of more voluntary donation. This stress on taxation would be likely to raise the percentage of compliance, would give practical recourse in regard to dealing with the remaining people who do not comply, and at the same time is likely to reduce the psychological stress of both losing the income in the first place and considering the question of unfairness in regard to others (Nagel 1975 p.136).

It would be difficult to construct a system of taxation which dealt entirely with the moral demand, as taxation must by necessity be a crude tool, which cannot respond to every

nuance of the various personal demands that may fall on each individual. However, if the bulk of giving is through taxation, then this would help with the intensity of the problem of potential unfairness.

Where states are concerned, the question of unfairness is more difficult to address. It depends upon the implementation of a world order through agreement and treaty, in which appropriate giving is transparently monitored. In truth this is only feasible if the bulk of the populations concerned accepted their individual responsibilities and thus influenced their leadership to abide by such decisions.

In the situation where the government and society in which we live will not act, through implementing a progressive form of taxation or taking on the fair share of burden for others, what then is the responsibility of the individual? The logic would be that they have a responsibility to act as individuals, up to an appropriate level of giving, where the moral demands are balanced one against another in individual lives. The fundamental responsibility is upon the individual, although a lack of appropriate state involvement is likely to lead to a relatively inefficient and undesirable state of affairs.

The problem of non-compliance in this a nonideal world is a particularly irksome problem and practical steps should be taken to reduce and neutralise the problem. The fact that someone else does not contribute increases the burden placed upon the others, but is not in itself a reason to avoid legitimate moral demands that fall upon us. It may have severe practical effects. If sufficient persons do not get involved, then it would not be possible to mount an effective campaign. This however is an empirical and not a moral question. Even here, helping a little remains better than not at all.



## **Practical conclusions**

In considering the question of the resources required, I suggested that a threefold increase in giving for HIV/AIDS projects would be easily sufficient. Should others argue that a similar increase would be required for other worthwhile projects, such as are defined by the millennium goals, then this in broad terms would bring the requirement for our giving up to a maximum of around three per cent of the developed world's GDP.

I have suggested a scenario of the bulk of the resources coming through states' taxation systems. As in most taxation, that this would be applied in a differential fashion. Some would pay less than the envisaged 3% and some would pay much more.<sup>viii</sup> I would illustrate the affordability by raising the example of a middle income family resident in the United Kingdom and suggest that their tax bill may rise by 8% in order to meet the demands of HIV/AIDS and similar justifiable causes.

Such a rise would be very unpopular. Yet it seems very difficult to seriously argue that it would cause such a substantial change of quality of life, resources and aspirations for self and family, that it could be blocked by a consideration of justifiable self-interest or for most people, of their relationships. It might well mean that each child would not have a television in their own bedroom, that ipods would be less common and so forth. In general, consumer spending would be toned down, and this could have some initial detrimental effect upon the developed world's economy. Yet a change of donation of this magnitude would more than cover the needs for assistance for such issues as HIV/AIDS in the underdeveloped world and would boost their economies stimulating demand. This change, affecting the middle income UK family, would be mandated by a consideration of justice, beneficence and rights.

My comments above were directed at an 'average' middle income family. It may be more difficult to define for every individual a specific point where a demand for giving to others would be morally too much or too little. This does not detract from the contention that if the majority gave serious consideration to the beneficence and justice arguments and weighed them against the competing prerogatives and obligations then the present level of giving would be seen as being woefully inadequate.

I have not yet focussed upon the potential limits of our giving beyond saying that there are limits and that the extreme demand engendered by beneficence, the difference principle and some considerations of rights theory would be counterbalanced. The exact position of that limit is almost a moot point as the resources which are available in the developed world are sufficient to meet any reasonable demand which at present would be envisaged. However, if we envisage the tax burden rising, for the middle income couple, by a further 25%, then an argument could reasonably be made for many from duties to self and to near relations that this was inappropriate. In other words, such a tax burden would be beyond the parameters of any reasonable application of the arguments deployed.

I have been placing a lot of emphasis on the personal because I view moral obligation as fundamentally a matter affecting individuals. I have also emphasised personal reflection including the place of personal intuition and judgement, and I have indicated a potential for choice that is rooted in terms of individual aspirations although set within a clear recognition of duty to strangers. However this emphasis on individual judgement should not detract from the fact that we form parts of moral communities.

I have particularly emphasised the part of community in respect to implementing the conclusions. A consensus agreement on the mobilising of resources within a community would in truth be essential for the successful undertaking of our responsibilities, even though the lack of such a consensus would not in itself remove the moral responsibility from us to individually do that which we reasonably can.

### **Section Three - Conclusions**

In Section Three I have considered arguments which might either refute this provisional conclusion entirely or, reduce the demand envisaged. Libertarianism, the primary negating argument was considered in Chapter Eight. The arguments given were not sufficient to overturn the arguments supplied in Section Two. Indeed, libertarians even on their own terms, were susceptible to some of the arguments already expressed, especially those arising from beneficence and the need for reparation. Nonetheless they had expressed a significant intuitive insight in declaring the *prima facie* right to utilise resources, which one has justly acquired, as one would see fit.

Arguments that there are some presumptive duties to self were considered in Chapter Nine. This was accepted, but they must be held in balance with the strong duties already expressed in Section Two. Similarly in Chapter Ten the whole question of legitimate partiality in morals was considered particularly in regard to significant familial relationships. I proposed that there were close relationships which give rise to legitimate moral demands, but that the strength of these demands is often exaggerated under common morality.

Finally the difficulty was raised in Chapter Eleven of how to apply these moral demands in a situation of partial compliance. I rejected the arguments raised by Murphy and concluded that the fact that others do not comply does not substantially alter the moral demand placed upon the remainder, except in the practical sense that it raises that demand. This is an irksome situation and it should give rise to practical measures to increase compliance.

The overall effect of Section Three is to moderate the strong demands provisionally accepted at the end of Section Two. These various moral demands should be seen as *prima facie* demands and held in balance one with another. In balancing this out the stronger demands are the impartial demands of Section Two. The effect of the partial demands of Section Three is that they are sufficient to moderate against an extreme demand arising from the first section. Considering the demands as a whole the conclusion in regard to HIV/AIDS programmes for sub-Saharan Africa is that we do have responsibility to fully meet the need, or, if very few persons actually meet their moral obligations, to contribute substantially as individuals to help alleviate the need.

## **Section Four**

### **Overall conclusions on ethical responsibility for HIV/AIDS**

## **Chapter Twelve**

### **Conclusions**

#### **Introduction**

This thesis has been concerned with the great need engendered by the current HIV/AIDS epidemic in sub-Saharan Africa. It has outlined the calamitous effects of this epidemic both on individuals and social structures. It has demonstrated that the scope of these negative effects are so great that they are far beyond the resources of the individuals and societies directly affected to cope with mounting an adequate treatment and preventative campaign. Yet such an effective campaign is not requiring unimaginable resources which are beyond the ability of persons in the developed world to implement. Effective approaches have been identified and have been subsumed within the United Nations millennium goals and publicised in related literature.

While the primary research question has focussed upon the investigation and quantification of the developed world's responsibilities for HIV/AIDS prevention and treatment in sub-Saharan Africa, I have not argued that HIV/AIDS is the only legitimate focus of donor aid. This thesis has focussed upon HIV/AIDS largely due to the salient nature of it as an example of a prominent healthcare need which arises in strangers who are in the unfortunate position of not being able to meet the need themselves.

Presently there is already recognition both of the need and somewhat tentatively of a duty to meet that need. In this area, the current giving by the developed world tends to run at

around 30-40% of that which the United Nations has identified as being the minimum required. There are many factors in respect to the reasons why such a shortfall has arisen, however a major factor is that this level of inadequate giving is in keeping with that which would be regarded under common morality as being within our reasonable moral duty. Common morality tends to accept that there are limits upon that which can reasonably be demanded of us. These limits are relatively low. Some individuals may go beyond these limits and this is commendable, but this is viewed as being supererogatory, and is not a moral requirement upon us all. There is some talk of justice in this matter, but this again is reflected somewhat paradoxically in an expectation of voluntary charity giving.

### **Positive arguments**

In contrast to common morality I have adduced a series of moral arguments which would each advocate a positive duty for people in the developed world to give substantially of their resources in order to establish an effective preventative and treatment regime for HIV/AIDS in sub-Saharan Africa. Each of these arguments, considered separately, would suggest a level of giving which would easily deal with the demand.

Although personally a utilitarian, Singer appealing to the wider moral community placed his accent upon the concept of beneficence. He pursued this through enunciating moral premises and also with a telling analogy of the child in the pond. His approach was largely followed by Cullity and Unger, and was further echoed by a utilitarian such as Kagan. This gave rise to an extreme demand which was of such a magnitude that it clearly would lead to sufficient resources being made available for the purposes of



HIV/AIDS as it would potentially lead to a near equalising of resources between the aider and the aided.

In regard to distributive justice I initially considered Rawls's views. I noted that his own position does not directly deal with the questions arising in this thesis, at least in a positive way, as he does not focus on health, nor does he apply his most exacting conditions across national boundaries. Yet Rawls's own position is a lot more radical, even in my subject area, than some might suggest. He envisages structural support to burdened societies which would allow them to make changes in their institutions which are likely, even at the level of basic governance, to considerably improve the lot of persons affected by HIV. He also leaves open the question of the supply of humanitarian aid in terms which is likely to apply directly to a devastating disease such as HIV/AIDS.

However in considering Rawls's approach, my preference, like Daniels, was to allow greater emphasis to be placed upon health as an appropriate subject for distributive justice. More importantly I rejected limiting the application of distributive justice to the boundaries of a state, in favour of an overtly cosmopolitan approach. Nonetheless I preserved the concept of a choice being made through a 'veil of ignorance', which I would see as being one of the considerable strengths of Rawls's contribution to the debate. This led in turn to a discussion as to what such representative persons would actually choose. One clear candidate for their choice remained Rawls's difference principle, but a difference principle which is applied globally, rather than nationally. Arguably, another could be the introduction of a utilitarian principle. At the least, that choice would be of a robust minimum floor income position. All of these variations in regard to distributive justice were arrived at through means of a veil of ignorance procedure. It remains a live question as to which specific approach would be adopted,

however, if they were applied globally, they would each lead to a dramatic difference in the resources available for HIV/AIDS in sub-Saharan Africa. They would easily entail sufficient resources being made available to meet the millennium goals of the United Nations in this area.

Arguments were then considered which arose from restorative justice with accent being placed upon Pogge's works. The initial emphasis here was on historical redress, considering egregious wrongs such as slavery and colonialism. One difficulty here was the reliable establishment of baseline comparators and difficulties with the question of what might have transpired if history had in fact been different. While some emphasis might nonetheless still be given to such historical matters, giving rise to a need for reparation, there was a more substantial matter to be considered and this was the question of the current trading conditions in the global economic order. It would appear that it could be cogently argued that the current global economic order perpetuates and aggravates global economic disadvantage. This in itself would serve as a subsidiary, but independent, argument for at the least substantially helping with HIV/AIDS in sub-Saharan Africa. This is because some of the reason for these societies being unable to meet their own needs would be the ongoing negative and destabilising activities of the developed world.

In addition to these initial arguments from Pogge I also advocated various rights based approaches derived both from Pogge and Shue. Pogge assumes that his rights argument would give rise to a modest demand of up to 2% of each rich country's GDP. In this suggestion he specifically allots a place for making a major effort to combat AIDS. Shue's approach in which he endeavours to give a reason for advocating positive rights including some economic rights, appeared stronger. However, at a political level, an

overall approach which receives general intuitive agreement in respect to rights would be to adopt the Universal Declaration of Human Rights (UDHR) and implement them. With these rights as a guide, if actually implemented, sufficient resources for managing the HIV/AIDS epidemic in sub-Saharan Africa would become available.

These different arguments, as adopted by myself, taken singly, or viewed as a group of disparate arguments, all positively advocate a position wherein the developed world has both responsibility for HIV/AIDS in sub-Saharan Africa, and also such a level of responsibility that the needs can easily be met in terms of resource allocation.

I have set against this conclusion the challenge from libertarianism, as exemplified by Nozick, that although there may be good in meeting HIV/AIDS need, there can be no duty to supply such a need. If resources are justly acquired they are for the autonomous disposal of the owner alone. Nozick's approach affects both the duty to give aid and the means of giving aid, as in regard to the latter, state involvement in the process would become unacceptable.

However the position that libertarians hold in regard to the moral necessity for a minimal state is not convincing. Yet, even this is more of a practical question and, although it would be an inefficient means of supplying sufficient aid, aid could be potentially arranged without the direct use of state apparatus. The more substantial question is whether libertarianism has overcome the collection of arguments raised in Section Two.

It would be my view, as propounded in this thesis, that it has not. It should be noted at the outset that libertarians would agree with the need for reparation and thus if the arguments of Pogge in regard to the global economic arrangements were accepted by

them, they could not argue that goods had been justly acquired. More fundamentally it would appear that libertarians set personal property rights up as being almost the sum of obligation. While this may well be a caricature of a complex position, nonetheless it does illustrate their overly focussed view of morality. A libertarian may advocate no duty of beneficence, see no reason to apply positive rights, and see no need for distributive justice, and thus escape the force of many of the arguments presented. Nonetheless this position does not appear to be morally compelling, and instead is simply arguing from an artificially narrow view of morality.

This is not to say that there is no intuitive force in some aspects of libertarianism. There is a sense in which it appears right to state that one should have use of what one has justly created. Nonetheless this intuition could be sufficiently honoured through the idea that one should not be forced by morality to give away all of one's resources to needy persons. Thus I would accept that libertarianism gives argument against the most extreme demand of Singer, or insight as to why we find these demands disturbing, but not against the much more moderate demand of HIV/AIDS in sub-Saharan Africa.

In this thesis I have also considered other possible countervailing duties and have raised the questions as to whether we have any special duty to ourselves, and whether we have any duty to those who are in special relationship with ourselves. I have argued that we have not just permission morally to consider ourselves, but we have a limited duty to self, that is to our own self-interests and our own projects. I have also argued that we have special duties to those who could be classed as near to us, through relationships. These partial duties however need weighed against the positive impartial arguments deployed regarding the more extreme needs of others, and once again I would suggest that they would be sufficient to protect us from extreme demands, but not from the moral

requirements of a more modest nature such as arise from HIV/AIDS in sub-Saharan Africa.

In this thesis I have also considered two more theoretical objections. Firstly, that it is unreasonable that morality should be so demanding at all. Secondly, that it is unreasonable that we should be under a moral duty to assist others, if other persons who are in a similar position to ourselves are standing by and doing nothing.

In regard to the first I have concluded that there is nothing in morality which intrinsically would lead us to the presupposition that it cannot be demanding. If a moral tenet, after due consideration, appears to be both proper and demanding, then so be it. However these difficulties arising from demandingness are in practice reduced by adopting a pluralist view of morality. In regard to the second the conclusion has been that while it is unfair that one contributes and another does not, and it would be reasonable to put measures in place to minimise this unfortunate scenario arising, it does not give excuse to abjure an act which is morally required.

In conclusion, does the developed world have responsibility for resourcing the provision of an adequate HIV/AIDS prevention and treatment in sub-Saharan Africa? Yes it does. Further, the responsibilities construed are potentially demanding, even with the full consideration of legitimate countervailing personal obligations. These are well beyond the current *status quo*. However, if this moral position was generally accepted and implemented, the meeting of that need, would nonetheless not be overly burdensome.

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## **NOTES**

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### <sup>i</sup> **Mainstreaming**

The term ‘mainstreaming’ does not imply prioritising HIV over other issues, but rather it is a matter of addressing it within a broader framework, rather than as an isolated issue. It is not making a comment about the importance of HIV *vis a vis* other discrete conditions, but instead the concept behind the term is part of my response to any criticism of unduly prioritising HIV.

### <sup>ii</sup> **Imperfect Duties**

Kant drew a distinction between perfect and imperfect duties. A perfect duty must be fulfilled under all circumstances and specifies a particular action, while an imperfect duty may be overridden and allows a significant degree of freedom in deciding how to comply with it. A perfect duty such as the duty not to lie, establishes a necessary goal for an action. An imperfect duty, such as the duty to support the poor, allows exceptions and various ways in which it may be satisfied. (Bunnin 2004).

### <sup>iii</sup> **Reparative Justice**

The underlying concept of reparative justice is the need to offer redress to victims of human rights violations by the parties responsible for these violations.

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iv     **Distributive Justice**

Distributive justice as a term covers a range of theories which are concerned with a socially fair distribution of goods within society. Like reparative justice this may lead to a re-distribution of resources between individuals, but unlike reparative justice this re-distribution does not predicate a direct connection between individuals whereby one has caused direct harm, or benefitted from direct harm, to the other.

v     **Why Be Beneficent?**

I have assumed that there will be general agreement that in some circumstances, we are morally obliged to practise beneficence. Why should I make this assumption? Is this simply an assertion? These are not simple questions. It is popularly accepted that being beneficent is a good thing, but as is frequently the case with moral principles, to fully justify this statement against all detractors is difficult.

In the 18th Century benevolence was viewed like an innate moral sense, akin to aesthetics (Hutcheson 1725 p.66). We see benevolence and we know that it is virtuous. However, how does someone who enjoys violence see beneficence? Presumably differently.

In the 20th Century Ross merely asserts:-

... some duties rest on the mere fact that there are other beings in the world whose condition we can make better in respect of virtue, or of intelligence, or of pleasure. These are the duties of beneficence” (Ross 1930 p.21).

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Beauchamp and Childress in turn take their lead from another member of the Scottish Enlightenment, David Hume. They base the duty of beneficence on a concept of social reciprocity (Beauchamp and Childress 2001 p.174ff). They do however admit that they cannot ground all forms of beneficence in reciprocity.

What is my own position? I would hold that it is not possible to give further justification for believing that beneficence is a fundamental moral principle beyond appeals to our common understanding of humanity. It is a widely held belief in common morality. It resonates down the centuries. I would agree with Maclean when she says:-

“The principle of beneficence ... is a structural feature or element of our every day moral life; it belongs to its framework, or to the scaffolding on which it is built. This is not a principle of which one could be ignorant unless one were ignorant of moral considerations as such” (Maclean 1993 p.199/200).

## <sup>vi</sup> **Utility Monster**

Nozick argues that Utilitarian theory is embarrassed by the possibility of utility monsters who get enormously greater sums of utility from any sacrifice of others than these others lose . . . (Nozick 1974 p.41). One difficulty with this approach is that his thought experiment seems so detached from reality as to lose some of its force as an argument (Parfit 1986 p.150).

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vii **Wilt Chamberlain**

Arguably this example is cleverly chosen but biased because it gives an example of a black American in the 70s gaining financially. It is not convincing against either utilitarianism or Rawls's difference principle as it could be argued that the utility, or pleasure, gained by those who voluntarily attend the match and pay the ticket price is worth more to them than the gain involved for Mr Chamberlain (Fraser 2011 p.2).

viii **Economics**

For the sake of these illustrations I will make a simple comparison between national GDP and personal taxation.