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The international provision of pharmaceuticals: A comparison of two alternative theoretical strategies for global ethics

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Ingo Pies und Stefan Hielscher

The International Provision of Pharmaceuticals: A Comparison of Two Alternative Theoretical Strategies for Global Ethics

Diskussionspapier Nr. 2007-9

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Abstract

Millions of people in the developing world lack access to curative drugs. Thomas Pogge identifies the cause for this problem in a lack of redistribution across borders. By contrast, this article shows that institutional shortcomings within developing countries are the main issue. The different outcomes are the result of diverging analytic approaches: (1) the philosophical approach to ethics versus (2) an economic approach to ethics. The article compares both approaches with regard to how they conceptualise and consecutively propose to solve the problem of providing life-saving pharmaceuticals to the poor in developing countries.

A major common feature is that both approaches stress the importance of institutional design and incentives. However, there are important differences in detail: Pogge identifies the patent protection system as the crucial problem. He opposes compulsory licensing, which annuls patent protection on a case by case basis, as a pseudo-solution. Instead, he suggests separating pharmaceutical research from production. Research should be financed by the state and supplied as a public good to companies. In this way, drugs would be sold at market clearing marginal cost prices. Pogge argues for a large subsidy program financed by the rich which would lead to cheap drug prices that the poor can afford. By contrast, from the perspective of an economic ethics, the problem is not one of transfer but of governance: institutional deficits in developing countries hinder the poor from expressing their needs as actual demand on the market.

From a theory point of view, the major difference between the two approaches lies in how they conceptualise normativity. In Pogge's approach, the role of ethics is to formulate reasons of duty in order to compel the rich to transfer resources to the poor. Here, normativity is understood as an obligation: the moral "ought" is meant to close gaps between the status quo and social imperatives. From the perspective of an economic approach, however, ethics is meant to help identify common interests. Normativity is understood as a heuristics: It seeks to identify and implement institutional arrangements for mutual benefit.

JEL Classification: A12, F02, H44, H51, H77, I11, I18

The International Provision of Pharmaceuticals: A Comparison of Two Alternative Theoretical Strategies for Global Ethics

Ingo Pies and Stefan Hielscher

Introduction

Millions of people worldwide suffer and die from the avoidable consequences of treatable diseases. Those concerned are mainly poor people, especially the poorest of the poor in the Sub-Saharan countries of Africa. They have hardly any access to pharmaceuticals: For their particular diseases, almost no research is done. The development of drugs is not sufficient. In addition, infrastructure for health care is seriously deficient.

It is a moral concern to remedy this grievance. In public discourse, this concern is mostly connected with scandalising finger pointing. It is the global markets and their actors, the pharmaceutical companies and their managers as well as their profit-oriented behaviour that are exposed to serious criticism. In this way, a wrong impression is given suggesting that the problem could be solved by abrogating the mechanisms of the market. Instead, it is crucial to put the mechanisms of the market more effectively into force. It is not viable to improve the international provision of pharmaceuticals without the help or – least of all – against pharmaceutical companies, but only with and by them. For this purpose adequate incentives are needed. Therefore, the core problem is an institutional issue: The framework of the pharmaceutical market has to be improved. It is misleading if, instead of the deficient institutional order, market processes, market actors and their profit motives are in the focus of public criticism.¹

Given these common shortfalls of orientation, ethics, i.e. a theory of moral norms, is needed which counters misleading moralisation and instead demonstrates how moral concerns can be realised under the conditions of the modern world society and its globalised, competitive market economy. Against this background, we appreciate the recent development of several theories that try to conceptualise the problem in a productive way and thus aim at fostering reforms in order to solve it. Hence, it has become feasible to compare alternative theories and to subsequently learn on two different levels: on the practical level dealing with how to solve the problem, and on a theoretical level addressing how to conceptualise it.

The following remarks aim at contributing to this learning process. Thomas Pogge's approach, specialised on issues of global justice, is compared to an economic approach to a theory of global ethics, which is based on rational-choice theory and focuses on the

¹ For a comprehensive analysis of this institutional problem including presentation and criticism of the public debate with numerous references cf. Pies and Hielscher (2007). Generally speaking, this criticism is widespread also in the academic literature. Cf. e.g. Nielsen (2003). Political philosopher Kai Nielsen harshly criticises capitalist globalisation for having made and still making a bad economic situation for people living in poverty even worse. Most importantly, multinational companies and their profit maximising motives are in the centre of his criticism. For critical comments on Nielsen's viewpoint cf. Peffer (2006), Tan (2006), Reidy (2006), Mandle (2006) and Nielsen (2006).

institutional framework. To put it pointedly, the article deals with comparing an *applied* ethics of rather philosophical origin with the *application* of an economic ethics.

The line of reasoning will be developed in three steps. The central ideas of Pogge's approach are reconstructed in section 1: his *diagnosis* of the problem, his *therapy* proposal and the *rationale* of this proposal. In contrast, section 2 highlights the way in which an economic ethics conceptualises both the problem setting and the solution of the problem. In section 3, common features and differences of both approaches are given. Here, especially those aspects are emphasised that could be important for learning processes on a practical and a theoretical level.

Global Ethics I: Thomas Pogge's Philosophical Approach

The philosopher Thomas Pogge is regarded as one of the most prominent representatives of a normative approach to global justice.² The problem of extreme poverty is in the centre of his work. Hinting at the tremendous gap between the rich and the poor worldwide, Pogge conceives extreme poverty as a moral scandal. His ethics aims at contributing to remedy this issue. His approach to ethics regards poverty as a failure to render assistance and generates arguments of justice in favour of a global resource transfer from the rich to the poor.³

Most recently, Pogge turns his attention towards a special matter of poverty: towards poverty-related diseases, particularly towards poor people in developing countries lacking access to life-saving pharmaceuticals. This leads to extremely high – and this is important: unnecessarily high – morbidity and mortality figures due to millions of people suffering and dying from curable diseases. Being a moral philosopher, Pogge develops a diagnosis and a therapy proposal against this moral grievance. It is the incentive deficits of the international pharmaceutical market that are in the centre of his reasoning.

((1)) Pogge's diagnosis consists of two arguments. The first identifies an important characteristic of modern drug production which sends out a tendency for market failure. At present, this tendency is tried to being met with a specific institutional arrangement. The second argument identifies a follow-up problem which is interpreted as a second-order market failure. From Pogge's point of view, this market failure is responsible for millions of people being insufficiently provided with health care.

First argument: Pogge points out that modern drug manufacturing requires considerable R&D expenditure. High-risk innovation is necessary if pharmaceutical companies try to generate the know-how needed for new drugs. The incurred costs for research, development and licensing of the new product have to be added to the actual production costs. If treated as a public good, knowledge generated by the pharmaceutical companies would invite free-riders. Without any research effort of their own, other companies could offer medical products at competitive marginal cost prices. In this way, research-based pharmaceutical companies would not be able to carry through

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² The following analysis of Pogge's approach takes up Pogge (2001a), Pogge (2001b), Pogge (2002a), Pogge (2002b), Pogge (2005a), Pogge (2005b), Pogge (2005c) and Pogge (2006). In general, cf. Pogge (2002a).

³ Cf. Pogge (2002a).

⁴ Cf. Pogge (2005a).

price mark-ups meant to covering their fixed costs. The result would be predictable: Free-rider behaviour would jeopardise the production of the public good. The development of new pharmaceuticals would break down. Pogge concludes: "This is the classic instance of market failure leading to a collectively irrational (Pareto-suboptimal) outcome in which medical innovation is undersupplied by the market."⁵

Second argument: The most common precaution against this kind of market failure is to treat the generated knowledge not as a public good, but as a private one – at least for a certain period of time. Pharmaceutical companies are given the possibility to have their knowledge patented and to obtain a temporary monopoly. By this, research-based pharmaceutical companies can prevent potential competitors during the term of patent from undercutting their product price. Thus, patentees are given the right to sell their patented product at a monopoly price. Pogge recognises and acknowledges the economic background of this arrangement. By selling their products at monopoly prices, companies are able to cover the costs for innovation. But Pogge criticises that this arrangement would lead to a second failure on the market: Due to monopoly pricing well beyond marginal cost prices, many patients do not receive medical treatment at all. According to Pogge, the alleged solution gives rise to a new problem: We react to a shortage of medical innovation in a way that leads to a shortage of pharmaceutical products instead. Thus, one market failure is substituted by another market failure.

Pogge assesses the protection by patents as follows: "[T]he profit maximizing sale price of the invented medicine will be far above its marginal cost of production. This large differential is collectively irrational by impeding many mutually beneficial transactions between the inventor firm and potential buyers who are unwilling or unable to pay the monopoly price but are willing and able to pay substantially more than the marginal cost of production."

The structure of Pogge's problem diagnosis can be illustrated as in figure 1. The Cournot solution (C) for a natural monopoly is plotted in the diagram. For further explanation: The marginal costs of drug production (MC) are comparatively small and additionally assumed to be constant. Due to the huge fixed costs for research and development, the demand is in the range of decreasing average costs (AC).

Pogge's diagnosis says: In a competitive market, the drug amount x_{opt} would be offered at marginal cost prices. However, due to patent protection, research-based pharmaceutical companies may temporarily exclude other competitors and act as monopolists. Therefore, point M is not realised, but point C is. Only the amount x_{mon} is offered at monopoly prices. The shortage brought about by patent protection is indicated with Δx . Pogge argues that monopoly pricing excludes especially the poor in developing countries from being provided with life-saving pharmaceuticals.

⁵ Pogge (2005a; p. 193).

⁶ Pogge (2005a; p. 194).

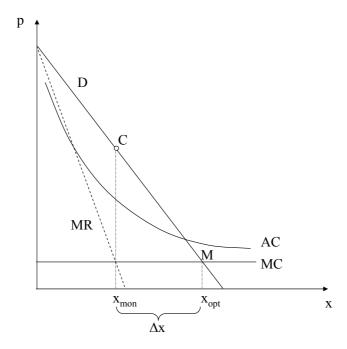


Fig. 1: Thomas Pogge's diagnosis

((2)) Pogge's reflections to derive a therapy proposal can be reconstructed in two steps.

In a first step, Pogge discusses possible options for solving the problem if sticking to the rule of transforming the generated knowledge into a private good. In principle, as Pogge argues, there are two possibilities for expanding the provision of drugs by Δx . The first option is a voluntary price differentiation by the monopolist: If the patentee succeeded in asking a price according to each individual's marginal willingness to pay, he would expand – following his self-interest – the drug provision from x_{mon} to x_{opt} . The second option is an obligatory price differentiation equal to the instrument of compulsory licensing: Within the framework of the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), in case of public emergency governments are allowed to oblige patentees to allocate licences for (the cheaper) production of the required drug. Pogge raises an important objection to both options: He points out that, according to empirical observation, pharmaceutical companies are reluctant with respect to voluntary price differentiation. More importantly, companies do fiercely oppose obligatory price differentiation. Companies would rather accept a uniform monopoly price as they fear re-imports from low-price to high-price markets – due to corruption. Within the patent regime, Pogge concludes, production cannot be expanded in favour of the poor.8

⁷ Cf. Pogge (2005a; S. 193 et seq.).

⁸ In recent discussions on TRIPS, there is widespread optimism that compulsory licensing might be a solution to the problem. However, Pogge (2005a; p. 195) clearly rejects such hopes. He argues that compulsory licensing is at best a short-term pseudo-solution creating a huge follow-up problem: By abolishing the second market failure, it restores the first market failure. The underlying reason is that compulsory licensing will negatively influence the companies' willingness to innovate ex ante if they have to fear ex post to be negatively affected by political interventions that prohibit high prices, which are needed to recover high research costs.

In a second step, Pogge therefore discusses possible options for an alternative institutional arrangement. The basic idea of his reform proposal is to convert the production of knowledge into a public good and to provide the public good by publicly financing it. The argument is simple: At present, the first market failure is overcome by a monopoly arrangement which results in a second market failure. When trying to overcome the second market failure, the first market failure should consequently be tackled by an arrangement that avoids the second market failure from coming up.

Pogge's idea is that the development and the production of a drug should be distinguished and should paid for separately. This means that pharmaceutical companies would be given a reimbursement for successful research efforts. The financial reward should be determined, in Pogge's view, by the extent to which the new drug reduces the global burden of disease. For drug manufacturing, pharmaceutical companies would earn a sales price on competitive markets equal to the marginal costs of production. Pogge's reflections culminate in the following reasoning: "The reform plan should be attractive for pharmaceutical companies ... by restoring their moral stature as benefactors of humankind" 10.

((3)) Certainly, Pogge is aware of a new, third problem coming up which has to be resolved additionally: If patients are only to pay for the marginal costs of drug production, the question is who should pay for research expenses. Pogge knows that he has to find an answer to this question. And he declares that such an answer must meet two conditions. The task, as he sees it, is "to develop a fair, feasible and politically realistic allocation of these costs, as well as compelling arguments in support of this allocation" 11.

With regard to the first aspect, Pogge clearly states that the rich countries' tax payers should be taking care of the estimated costs of about 70 billion USD. For the population of the rich countries the yearly burden would amount to approximately 70 USD per capita, or 0.25% of their gross national product, respectively. 12

With regard to the second aspect, Pogge claims: "These expenses can be justified with prudential considerations." He mentions several arguments why this should be so. ¹⁴ Three of them deserve special attention:

- First, costs would be shifted not only inter-nationally, but also intra-nationally
 from patients to tax payers. Pogge claims that this would correspond with the
 insurance principle and therefore meet general consent.
- Second, Pogge claims that if the rich countries shouldered the cost of his project proposal, they would document their sympathy for the poor countries. This would contribute to reducing poor people's mistrust against rich countries.

⁹ Pogge apparently wants companies to be granted payment according to their marginal productivity in improving global health. In the following, we do not discuss whether this might be practicable. Likewise, we do not discuss his hope – cf. Pogge (2005b; p. 198-199) – that the new rule arrangement he proposes would provide companies with an incentive to fix their prices *below* their marginal cost. Conceptually, these are minor matters of at best technical importance. Instead, we concentrate our discussion on the paradigm he chooses for generating his arguments.

¹⁰ Pogge (2005a; p. 198). Cf. also Pogge (2005b; p. 121). He says the reform plan "would also aline the moral and prudential interests of the inventor firms…".

¹¹ Pogge (2005a; p. 198-199).

¹² Cf. Pogge (2005a; p. 200).

¹³ Pogge (2005: p. 200).

¹⁴ Cf. Pogge (2005a; p. 200-201).

Additionally, Pogge argues that the tax payers in rich countries are more inclined to accept this kind of efficient aid than humanitarian interventions or government loans.

 Third and finally, Pogge claims that people in rich countries would benefit from a more effective fight against diseases, especially contagious diseases, in poor countries.

These arguments aim at a fundamental convergence of moral and prudential aspects. In addition, Pogge constructs a safety net for the emergency case of a divergence between morality and self-interest. He develops a philosophical justification which rests on his theory of justice. The train of thought can be reconstructed in four steps:

- (a) Pogge starts out his argument referring to the Universal Declaration of Human Rights passed by the United Nations on December 10th 1948. § 28 of the declaration says: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized." Thus a human right, Pogge stresses, cannot only be violated by *actions* of human beings as by torture for instance but by *institutional arrangements* as well. For Pogge this is the case if rule arrangements systematically deprive people of their human rights.
- (b) Pogge proposes to take human rights as a criterion for deciding whether an institutional order is just or unjust. An order should be classified unjust if human beings were systematically deprived of their human rights. He states: "[H]uman rights are the core values of our moral and political discourse, central to how justice is conceived in the modern world. Social rules that avoidably deprive large numbers of persons of secure access to the objects of their human rights are, for this reason alone, unjust (assuming ... that these deprivations are avoidable, wholly or in part, through suitably modified rules)."¹⁶
- (c) According to Pogge, the current international economic order, judged by the criterion of human rights, is to be classified as unjust. He thinks that it would not even fulfil the criterion of minimal justice. From his perspective, it is the status quo rule arrangement which systematically (re)produces poverty, disease, and consecutively the death of millions of people in developing countries. Pogge estimates the rules of today's international economic order as follows: "[M]inimal justice is not compatible with these rules being designed so that they result in a much higher incidence of extreme poverty and in a much higher mortality and morbidity from curable diseases than would be reasonably avoidable."¹⁷
- (d) Pogge argues that his reform proposal would be adequate at least to cure the violation of minimal justice: Costs for the rich, on the one hand, are said to be relatively small and therefore reasonable. On the other hand, the improvement of health care is said to be substantial for the fulfilment of poor people's human rights. Based on this reasoning, he puts forward an argument of obligation: According to Pogge, the answer to the question on why the population of rich countries should be in favour of the proposed reform a reform he characterizes as: "a reform of the global health system that benefits others (poor people in the developing world) at our expense." is: "We

¹⁵ UN (1948). Source: http://www.unhchr.ch/udhr/lang/ger.htm

¹⁶ Pogge (2005a; p. 202 et seq.).

¹⁷ Pogge (2005a; p. 205).

¹⁸ Pogge (2005a; S. 205).

ought to support such a reform, even if it involves significant opportunity costs for us, because it is necessary for rendering minimally just (in the explicated sense of «realizing human rights insofar as this is reasonably possible») the rules of the world economy considered as one scheme."¹⁹

For Pogge, consequently, the rich countries' population is morally obliged to agree with his reform proposal, especially in those cases which are not covered by prudential arguments.

Global Ethics II: The Approach of an Economic Ethics

If global ethics is conceptualised according to an economic ethics, the crucial question is to ask how institutional arrangements can promote moral idea(l)s by making intelligent use of self-interested behaviour. This research programme informs normative semantics by a positive analysis of social structure. It reconstructs conflicts of interest (within a given game) and looks out for rule arrangements by which common interests (for a better game) can be advanced more effectively compared to the status quo. By this, it claims to theoretically prepare consensual conflict solutions.

From this perspective, the problem of the international provision of pharmaceuticals – i.e. the fact that millions of people worldwide lack access to life-saving drugs and health care – appears in a different light compared to the philosophical point of view stressed by Pogge. This is even true – as in Thomas Pogge's approach – if the philosophical reflection to an exceptional extent takes up economic ideas.

The following reflections will at least outline some fundamentals as how an economic ethics conceptualises the problem and, subsequently, develops options for solving it.²¹ The remarks are divided in diagnosis ((1)) and therapy ((2)).

((1)) A functional pharmaceutical market is utterly ridden with prerequisites, especially with regard to its institutional framework. This becomes apparent by means of figure 2.

Pharmaceutical health care can be understood as a value-added process that consists of three steps. In addition to the second step – the one Pogge scrutinised, dealing with the actual development and production of a drug – there is still a first and a third step. In the first step, basic research is financed by the state or by civil society actors and provided to pharmaceutical companies as a public good. In the third step, pharmaceutical health care crucially depends both on a technical and organisational infrastructure.

Technical infrastructure is not merely medical facilities in a narrower sense, e.g. hospitals, in which medicine is administered. For instance, utilities that supply clean drinking water are part of it, too, as they provide a prerequisite for many drugs to unfold their desired effects. Furthermore, good waste management and sewage water systems allow for hygienic living conditions and, hence, are an important health factor as well.

¹⁹ Pogge (2005a; S. 205).

Cf. Pies (2005), Pies and Sardison (2006) as well as Petrick and Pies (forthcoming).
 For a detailed analysis cf. Pies and Hielscher (2007).

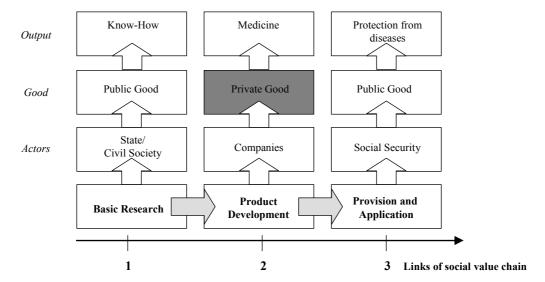


Fig. 2: The health sector as a social value-added process

The organisational infrastructure consists first and foremost of an effective social security system. Social insurance protects people against financial risks related to illness. Different arrangements are feasible. Firstly, within a public health system, tax-financed drugs may be delivered free of charge. Secondly, within a private health system, costs for pharmaceuticals are financed by contributions. Whatever system is decided for, it is important to provide pharmaceuticals in case of illness and to make sure that there is no shortage of drug provision just because of liquidity traps or because people have to shoulder their risks individually when being ill.

From a systematic point of view, it is important to note that the pharmaceutical market has three special characteristics: First, it is put into force by temporary monopolies ensuring innovation. Furthermore, one must not overlook that this market for private goods is framed by two public goods – by basic research and by medical infrastructure.

With respect to the functional deficits of the international market for pharmaceuticals, there is not only *one* problem but there are *three* problems. Besides high monopoly prices and lacking price differentiation, a *second* problem is that most basic research carried out in the rich nations is directed toward their national priorities. Therefore, specific needs of developing countries often times are not taken into account. For their geo-typical diseases only little research is done, which gives rise to the phenomenon of so-called "neglected diseases". A *third* problem is that many people in the developing countries, especially the very poor, have no access to a functional social security system. Thus, in case of illness, an institutional deficit hinders the poor from expressing their needs as actual demand on the pharmaceutical market.

Most importantly, all three problems are systematically interconnected – not only due to all of them having the same cause but also because they act upon one another. This will be pointed out in the following.

The fact that pharmaceutical companies avoid price differentiation can be put down to a widespread problem of governance. Companies fear re-imports particularly due to corruption in developing countries. For the poor countries' governments it is difficult to credibly promise to deliver cheaper drugs exclusively to the needy people. Also, it is well-known that there are many developing countries whose governments rather buy

weapons instead of pharmaceuticals 'in order to protect their people'. This is also a governance problem. Here, democratic feedback mechanisms are missing that would prompt elites to seriously pay attention to the interests of their people. In fact, deficient social security systems are internal governance problems, too. Ultimately, insufficiently activated purchasing power is to be traced back to an institutional deficit.

This institutional deficit is to be located on level three of the social value chain. It has paramount influence on the first two levels: The population in poor countries is often not able to collectively organise its demand (level 3). Therefore, purchasing drugs (level 2) and financing basic research (level 1) is difficult, too. Activating both levels 1 and 2 would actually be necessary in order to protect their interests. Without effective demand, however, companies will surely not show any interest either in providing lifesaving drugs or in developing such products especially suited for developing countries.

From this perspective, the actual problem is not to be found on level 2, but on level 3 instead. The problem is not primarily that, given a certain demand, the price is too high, but rather that the demand itself has not yet been articulated successfully on the market. Figure 3 helps to further illustrate this argument.

Pogge sees the problem in expanding pharmaceutical production from x_{mon} to x_{opt} in order to close gap Δx . He strives for a push strategy, i.e. to make the drug supply cheaper by subsidies. According to the view developed here, the actual problem is that the drug demand is not organised due to institutional deficits. If the demand were expressed correctly – say with the help of a social security system –, the overall international demand would increase from D to D'. In case of uniform monopoly prices, the supplied quantity of pharmaceuticals would rise to x_{mon} ; the new Cournot equilibrium would be C'. If furthermore the governance problem were solved along with the social security problem, then a price differentiation could be organised which would expand the quantity to x_{opt} .

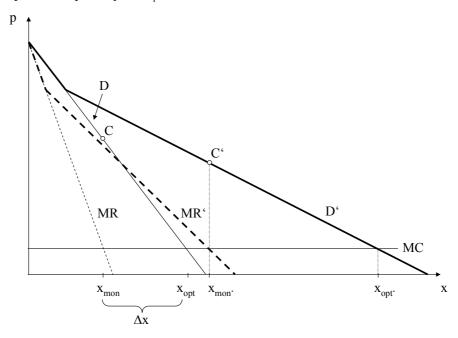


Fig. 3: Problem diagnosis from the perspective of economic ethics

This diagnosis suggests that one should seek for a pull strategy which addresses the problem as a governance problem and tries to find a solution by activating common interests.

((2)) With regard to contagious diseases it is relatively easy to find prudential arguments based on actors' interests: Epidemics break out in countries where public health care is worst. Therefore, it could be advantageous for the industrialised countries – especially in times of increasing cross-border activity of both people and commodities worldwide – to support developing countries in their fight against pandemics that might affect rich and poor countries alike. For example, the international prevention against the avian flu or against the HIV pandemic is only as good as the least prevention efforts taken in the countries of Sub-Saharan Africa or in East Asia. It is worthwhile to provide for vaccinations and measures abroad because the effect of protection per Euro – nota bene: the effect of protection for the own population! – is higher abroad. As successful prevention measures against epidemics require a general improvement of the medical infrastructure and the water supply, too, the preconditions for a promising fight against regional infectious diseases can be created at the same time.

Consequently, a possible therapy proposal could look like this: Industrialised countries compensate developing countries for prevention measures against supranational infectious diseases; they meet the costs that developing countries are not capable or not willing to incur by themselves. By such trades, conferring benefits in exchange for counter-benefits, the international provision of drugs could move a big step ahead.

However, the scope of this argument is limited. It does not suffice to solve the whole problem. Here is the reason why: With regard to the institutional framework of the pharmaceutical market, provision and research are interlinked systematically. Without provision, there is no market incentive for manufacturing. Likewise, there is no drug manufacturing without basic research. This means that for putting the international pharmaceutical market into function for poor people, the provision problem and the research problem have to be solved simultaneously. Accordingly, all three steps of the value chain have to be activated. It is not enough to raise the level of protection against internationally contagious diseases. In addition, it is of utmost importance to stimulate basic research against so far neglected diseases and to provide the poor with an access to life-saving pharmaceuticals.

Admittedly, it will certainly be difficult to organise the required transactions between the industrialised countries and the developing countries merely in the field of health policy. Within the health sector alone – addressing both the provision and the research problem –, developing countries are either not able or not willing to provide the required resources for cooperation. The lack of contributions by developing countries hampers cooperation: Without counter-benefits, there is (too) little incentive to provide benefits in the first place.

However, if negotiations were linked across sectors, international cooperation could make progress. In order to motivate industrialised countries to do research in the field of diseases that have been neglected so far, the following issue linkages might be helpful: Developing countries could promise structural reforms that are of mutual interest, e.g. to open markets, to provide secure property rights and to establish the rule of law. Thus, currently poor countries would become promising partners in trade and cooperation.

Conclusion: The health problems that arise in the context of a currently ineffective international market for pharmaceuticals cannot simply be solved by policy measures within the health sector alone. Instead, there is an additional need for package deals exceeding the health sector. They can foster international cooperation by identifying options for linking benefits and counter-benefits, thus enabling mutually beneficial interaction between partners of equal rank.

Finally, one aspect may be emphasised that is still not given enough attention in the public discourse, although it actually plays an important role in the context of successful development cooperation: It would be naive to trace back health care grievance in developing countries merely to a lack of money.²² Rather, the causal factor is a democracy deficit, i.e. an internal governance problem in developing countries.²³ This is to say that in many cases the elites in poor countries lack incentives to set the political agenda in a way that would broadly benefit not only themselves but the rest of their population, too. Prevalently, these elites set their priorities differently.

However, it is politically feasible to influence these priorities by generally increasing the sensitivity for humanitarian matters. From such a perspective, it is crucial...

- to ascribe a higher priority to the health problem within development politics,
- to embed development cooperation into a strategy of democratisation and sustainable economic growth and
- to put matters of good governance in developing countries on the top of the international policy agenda.
 - 3. Comparing Theories: Alternative Theoretical Strategies for Global Ethics
- ((1)) When comparing both approaches, at first glance the similarities are virtually astonishing. There are at least five common aspects:
 - Both approaches explicitly acknowledge that companies are able to behave as moral actors.
 - Both approaches explicitly acknowledge that from a moral point of view it is primarily the institutional framework conditions that provide incentives for entrepreneurial behaviour.
 - Both approaches acknowledge that prudential arguments are very important in ethics
 - Both approaches formulate criteria for proposals and hence make high claims on normative recommendations.

²² In the academic literature as well as in political discussions, the view is prominent that health problems in developing countries could (and should) be solved primarily by foreign aid. According to this perspective, the problem is conceptualised as a problem of (missing) transfers. As a case in point, cf. Jeffrey Sachs (2005), the UN Millenium Project (2005) or – in the philosophical debate – Sreenivasan (2007). For a critical statement that challenges this popular view, cf. Easterly (2001) and Easterly (2006).

²³ Cf. Olson (2000) as well as de Soto (2000).

• Both approaches reflect their position in society. They aim at incorporating their positive and normative analyses into public discourses.

To be sure, there are also important differences concerning social structure and semantics. As to semantics, both approaches diverge in their understanding of normativity. With regard to social structure, they differently assess development processes of the global society, especially the problem of global poverty. These differences will be developed in two steps.

((2)) With regard to semantics, both approaches intend to instruct social reforms. Therefore, both approaches pay special attention to whether their proposals are incentive-compatible and focus on prudential arguments whenever possible. Thus, neither of the two approaches misses out the self-evident argument that the people in the rich countries can have a self-interest in supporting the fight against contagious diseases in poor countries. However, the two approaches react very differently when there are no prudential arguments left.

Confronted with this problem, Pogge's philosophical approach shifts paradigms. Pogge changes from a 'will-paradigm' to the 'ought paradigm' and generates justice-based arguments. They are meant to oblige the citizens of rich countries to curb their self-interest in favour of the moral point of view, i.e. to provide better health care for citizens living in poor countries. Figure 4(a) illustrates this line of reasoning.

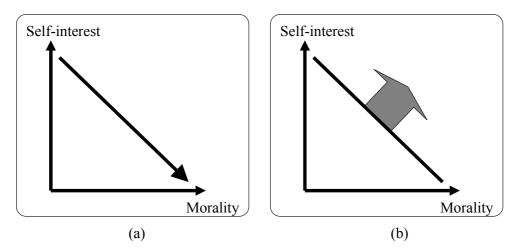


Fig. 4: Line of reasoning: trade-off idea versus orthogonal position

In contrast, the economic approach to ethics sticks to the 'will-paradigm': In case it runs out of good arguments in the narrow field of health policy, it tries to extend the perspective to other sectors as well. Here, the core idea is to perseverely carry on searching for options of mutually advantageous cooperation between self-interested partners. Sometimes, institutional reforms are needed in order to improve the incentives for cooperative behaviour. Such reforms can meet general consent because of joint rule-interests. Economic ethics aims at (creating) a complementarity between self-interest and morality. The underlying logic is win-win, not win-lose.

Within the trade-off between self-interest and morality, Pogge's approach argues in favour of the moral point of view. He wants the rich to make sacrifices in order to improve the situation of the poor. To be sure, he argues that the sacrifices he holds to be necessary are not unreasonable. Therefore, he claims that the rich – at least to a certain

extent – are obliged to relinquish their self-interest. In contrast, the approach of economic ethics tries to overcome this kind of trade-off thinking by identifying a new direction of thought. This so called 'orthogonal position' argues in favour of the moral point of view without compromising self-interest.

The economic approach seeks after arguments in favour of mutual advantage. In contrast, Pogge's philosophical approach searches for arguments in favour of gratuitous benefit. Pogge makes use of the 'ought paradigm' to generate arguments. This reveals a different view on normativity: According to Pogge, ethics is needed to formulate reasons of duty in order to prompt the rich to transfer resources to the poor. Here, normativity is meant as an obligation. Its task is to close gaps, both with regard to prudential arguments and to consecutive issues of implementation. From the perspective of an economic ethics, however, the task of ethics is to help identify common interests. Here, normativity is understood as a heuristics for mutual benefit. Its function is to find or even to invent institutional arrangements for mutually advantageous cooperation. As a consequence, normativity does not aim at the moral 'ought' but rather at a (shared) 'will'. Consistently, the theory programme of economic ethics tries to employ prudential arguments for morality as an incentive for implementation.

That this difference is indeed a striking difference becomes clear as soon as one takes into consideration that Pogge declares his proposal a moral obligation: Following a long philosophical tradition, Pogge distinguishes between positive and negative duties. According to this distinction, positive duties – focusing on actions – are weak claims, while negative duties are strong claims to refrain from certain actions. Pogge now tries to develop an argument which does not merely advance a positive but also a negative obligation. In place of a positive duty, i.e. a weak obligation to help the poor, Pogge argues that there is a negative duty instead, i.e. the strong obligation to stop actively damaging the poor. In order to fulfil this demand, Pogge (re)constructs the following causal chain of reasoning: The rich people in the world are rich, he argues, due to an international economic order which keeps the poor in poverty. The poor are being harmed by an international economic order for which the rich are primarily responsible. Consequently, the rich are to be found guilty of being active accomplices of the sorrow of the poor. Therefore, they are morally obliged to change the international economic order and to encourage reforms for improving the living conditions of the poor. Here, the rich are demanded to make concessions. In contrast to the economic argument, Pogge's philosophical argument does not refer to common interests for future beneficial cooperation but to past guilt instead. According to this argument, the rich have to make the poor up for imperialism and colonialism.²⁴

((3)) With regard to social structure, Pogge's analysis amounts to the diagnosis that the poor simply cannot afford the needed drugs in case of illness. Hence, his therapy proposal is to subsidise pharmaceuticals and have the rich pay for it.

In contrast to this view, economic ethics focuses on situations of collective selfharming. This specific viewpoint results in identifying social dilemmas on each of the aforementioned three levels of the social value chain: On the third level, a social dilemma occurs amongst the poor. They lack the possibility of organising themselves

²⁴ Laying the focus on the past is generally disadvantageous for ethics, especially for a global ethics that – under conditions of a pluralistic (world) society – cannot simply take a universal value basis for granted. The common ground required for a peaceful coexistence and – what is more – for a productive cooperation must be conceptualised not as a given historic fact but as a challenge, which to meet is a future task. This argument is further developed by Pies (2003) and Pies (2004).

for collective action. As a consequence, the poor are undersupplied with public goods, namely with technical and organisational infrastructure. As a result, in many developing countries there is no functional health insurance system. Therefore, the risk of illness has to be covered by a small group of few family members instead of distributing the risk amongst a large group of many citizens. In addition, liquidity problems often hinder the poor from articulating their need as actual demand on the market in case of illness. Based on this, a social dilemma between suppliers and demanders exists on the second level. As many poor people are deprived of coordinating themselves as demanders on the market due to institutional deficits, many possible transactions simply do not take place although both market sides would benefit from them. However, the social dilemma on the third level of the value chain does not only have an effect on the second level, but also on the first level: It is responsible for the poor being undersupplied with both pharmaceuticals and basic research for so called neglected diseases.

Against this background, the crucial question is: To what extent could the people of rich countries be interested in helping the people in poor countries to overcome their internal governance problems? The answer to this question is: If it were possible to identify social dilemmas between rich and poor countries – i.e. to identify situations in which both sides have a joint rule-interest in realising a win-win potential²⁵ –, then it could also be feasible to find counter-benefits by poor countries in return for benefits provided by rich countries. However, benefits and counter-benefits must be linked in order to create the expectation of a mutually advantageous cooperation.

Overall, the economic approach concludes that the core of the problem is not to be found within the industrialised countries but rather within developing countries, since it is their internal governance deficits that cause health problems. In order to solve these problems, the poor need international cooperation rather than gifts. To support this viewpoint – and to simultaneously oppose Pogge's line of arguments – three empirical results can be stated:

Firstly (fig.5): Since about 1820, modern growth economies are spectacularly successful. By economic productivity growth, Western societies improved their living standards dramatically – first Europe and North America and, at a later stage, also Japan. Until 1820, the statistical data available show that the average per capita income virtually did not change. From the beginning of the Industrial Revolution on, however, a growth process has increased 25-fold the average per capita income in the Western industrialised countries. Western societies have experienced an increase in wealth that has never occurred before in human history. Furthermore, it is remarkable that since 1900 the rest of the world – explicitly including all developing countries – has started to join this growth process.²⁶

²⁵ For a technical overview, cf. Buttkereit and Pies (2006).

²⁶ Consequently, it is false to believe that global injustice does increase due to the poor becoming poorer and the rich getting richer. Before 1820, all world regions had been equally poor. After that, a growth dynamic started, from which since 1900 no continent on earth is excluded anymore. Currently observable global income differences can be traced back to different growth processes. – However, there is a region which since 1970 does not unfold any dynamic growth: Sub-Saharan Africa. The consequences of this economic stagnation are dramatic. In Sub-Saharan Africa, both the absolute number and the relative share of people living in extreme poverty have been growing constantly within the last 20 years. No other region in the world has experienced such a development. Cf. Chen and Ravallion (2004). From the viewpoint of economic ethics, it is essential to find out about the *local* peculiarities which hinder a few countries on earth from joining the global growth processes.

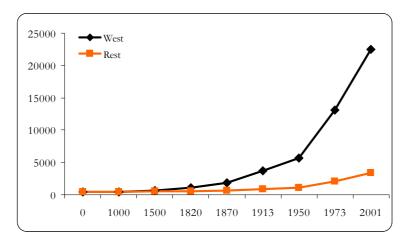


Fig. 5: Per capita income 0-2001²⁷

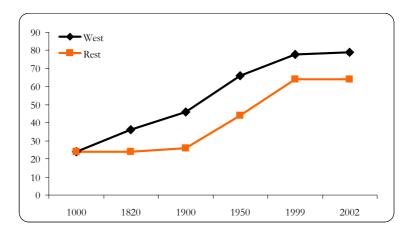


Fig. 6: Life expectancy 1000-2002²⁸

Secondly (fig.6): The average life expectancy is an important indicator for health.²⁹ Between 1850 and 1950 in the industrialised countries, this indicator has almost doubled. Life expectancy rose from 36 to 66 years. For the purpose of comparison: Around the year 1000, average life expectancy was about 24 years in the Western countries. Within the next 820 years, life expectancy only rose by 12 years.³⁰ In the rest of the world an even more astonishing development took place: By 1900, average life expectancy was maximally 26 years. In 1950, this figure had already increased to about 44 years, in 2002 even to 64 years. This is to say that the rest of the world obviously managed to benefit from the technological progress of the West despite significantly lower per capita income levels! With regard to health issues, the general convergence of

²⁷ Source: Maddison (2005; table 2, p.7). Countries in the category "West" are: Europe, USA, Australia and Japan. The data are calculated on the basis of the 1990er US-Dollar.

²⁸ Source: Maddison (2005, table 1; p.6). and Maddison (2001, p. 31). Countries in the category "West" are: Europe, USA, Australia and Japan. The average life expectancy relates to women and men at their time of birth.

²⁹ Other important indicators for public health are infant mortality and the frequency of disease (morbidity). Both indicators show the same trend as changes in life expectancy at birth. ³⁰ Cf. Maddison (2005, table 1; p. 6).

industrialised and developing countries is much more dynamic than with regard to income.³¹

Thirdly (fig. 7): Countries with high per capita income generally show higher life expectancy data, too. In academic literature, this correlation is referred to as the "Preston curve".

Beside this general trend, the "Preston curve" also shows that the health status of the population does not only depend on economic prosperity. Countries might have differences of up to 30 years as to average life expectancy despite of comparable per capita incomes. This is shown by the (almost) vertical section of the "Preston curve". Conversely, the (almost) horizontal section indicates that countries with little per capita income can have an average life expectancy equal to industrialised countries with per capita income being a hundred times higher. Consequently, the population's health status also depends on internal political circumstances, especially with regard to the supply of public goods. There is a wide scope for political action which is obviously made use of very differently across countries.³²

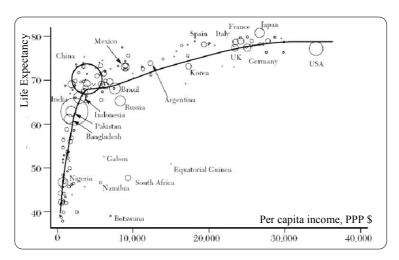


Fig. 7: Preston curve: Life expectancy and per capita income in 2000³³

Thus, from the viewpoint of an economic ethics, the decisive question is not: Who should pay? – This would downplay the phenomenon of poverty as a problem of lacking money. Therefore, posing such a question would support the *economistic fallacy* that simply transferring resources could alleviate world poverty. Rather, the

³¹ Cf. Becker, Philipson, Soares (2005). Admittedly, Africa is an exception here, too – in global terms: the last exception. Economic stagnation has an effect on average life expectancy: In Africa, average life expectancy increased from approx. 40 years to only 52 years in the time from 1950 to 1999. For the purpose of comparison: In Asia average life expectancy increased from 40 to 66 years in the same time. Cf. Maddison (2005, table 1, p. 6) and Maddison (2001, p. 31).

³² Additionally, all developing countries are very similarly affected by the TRIPS agreement. Therefore, it is questionable if it is appropriate to trace back health emergency in some developing countries to the WTO's patent regulations alone.

³³ The first publication concerning the relation of per capita income and life expectancy originates from Samuel H. Preston, cf. Preston (1975). The updated version at hand is found in Deaton (2003): The concentric circles represent different countries whereas the area of the circles is proportional to the number of people living in the respective country. The average life expectancy relates to women and men at their time of birth.

decisive question is: What can the people living in rich countries do — in their enlightened self-interest! — in order to make sure that political reforms within developing countries are implemented in favour of the poorest of the poor. The economic approach interprets poor health care conditions as a poverty problem and traces it back to an institutional deficit keeping the poor from actively participating in markets. Presently, gains from mutual cooperation are lost not only for the poor but for the rich, too. Therefore, both sides share are common rule-interest in making such institutional changes happen that would allow for mutual benefits.

Summary

When comparing Thomas Pogge's philosophical approach with an economic approach to ethics, it turns out that there are both common features as well as differences. By distinguishing three different social arenas and, accordingly, three different groups of addressees, it becomes easy to clarify the characteristics of both approaches.

The first group of addressees is business actors engaging in market activities. Political actors, i.e. parties, members of parliament, decision makers in government and ministries, belong to the second group. The third group of addressees is the democratic public, i.e. all actors taking part in public discourse, including science as well as civil society organisations (CSOs). These three different groups and arenas are inter-related as in figure 8.³⁴

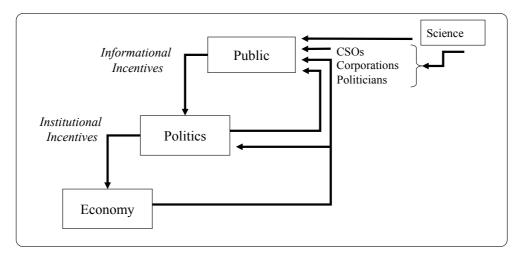


Fig. 8: Three social arenas

In the economy, actions take place according to incentives which are provided by rules determined in politics. In politics, analogously, actions take place according to incentives which are provided by expectations determined in society. In this sense, the economy can be conceptualised as the basic game, politics as the economy's meta game and the public as the meta game of politics, i.e. as the meta-meta game of the economy.

Against this background, the theoretical comparison of two alternative approaches to global ethics leads to four results: Firstly, in sharp contrast to popular patterns of moral communication, neither approach addresses moral appeals directly to business

³⁴ Cf. Beckmann and Pies (2006).

actors or to political actors. Both approaches aim at incentive compatibility and try to avoid any claims that would belong to a *moralistic utopia*. Secondly, both approaches address their arguments towards the open discourse in a democratic public. Both approaches conceptualise their arguments as a scientific contribution to society's collective self-enlightenment (third arena: public) and self-government (second arena: politics). Thirdly, both approaches focus on prudential arguments, i.e. on a compatibility and even complementarity between self-interest and morality.

Only the forth result reveals a systematic difference: While Pogge's approach applies a normative fallback option, the economic approach to ethics systematically sticks to its prudential heuristics. This is why the two approaches react differently when faced with the same problem: Apparently, within the international health policy arena, the scope of convincing prudential arguments is limited to fighting contagious diseases. Hence, Pogge shifts paradigms in order to tackle the problem and – as a safeguard for seemingly insufficient prudential arguments – supports his proposal with arguments of obligation. Furthermore, he tries to increase the normative urgency of his arguments by advancing not only positive but also negative duties. In contrast, the approach of an economic ethics expands the policy agenda in order to allow for cross-sector issue linkages by which international win-win potentials can be realised. From this point of view, the international health problem cannot be solved by health policy measures alone, but it gets closer to a solution if it is integrated into the general agenda of cooperative efforts for sustainable development.

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³⁶ Als Download unter http://ethik.wiwi.uni-halle.de/forschung.

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