The Place of the Human Right to Health and Contemporary Approaches to Global Justice: Some Impertinent Interrogations

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Prefatory Remarks

At the outset, may I offer my profound apologies for not being able to participate fully in this important deliberative event? I stand currently constituted as a being called petitioner- in-person, with sole responsibility, to argue a writ petition filed by some citizens (including myself) against inadequate and unjust rehabilitation and resettlement of the Narmada Dam project affected citizens. The petition stands posted by the Supreme Court of India for full hearing around the time of the conference. Whatever the court decides now at this stage of the completion of the project will constitute secular judicial fate for thousands of affected peoples; and arrest or accelerate the potential for future human victimage--that is violation of the right to be and to remain human and also of human rights norms and standards-- entailed in the pursuit of hyperglobalizing development policies in India.

This presentation is directed towards understanding what if, any, difference may be made for further development of human right to health (hereafter HRTH) in terms of the languages of justice rather than those of human rights. It is a strange happening that languages of justice which antedate those of human rights for a variety of good reasons, have almost disappeared with the emergence and development of the languages of human rights and of the rights-based development and governance.

Let me start by going long while back in time. St. Augustine raised a question: 'What is state without justice but a band of robbers?' Had he been around now to speak with us, he would have raised a similar question: 'What are human rights bereft of justice but playthings of possessive individualism and designer policy goods in the global marketplace of policy prescriptions?' Or

perhaps, we would have changed his mind, too, and stopped using the 'J' word altogether?

Had he chosen this last option, he would have been in the distinguished company of HRTH experts, including our eminent friend Professor Paul Hunt who has laboured so hard to produce a remarkable set of human rights-based indicators for protection and promotion of HRTH. Professor Hunt invites us to consider HRTH '… as a right to *effective and integrated health system*, encompassing health care and the underlying *determinants of health*, which is responsive to national and local priorities, and accessible to all.[1]' An 'effective health system' is now declared as a 'core social institution no less than a court system or a political system[2].' Perhaps, the Conference will discuss this more fully the conceptual reaffirmation of notion of human right to a *'system[3].'* For the moment, it is clear that the languages of human rights fail to keep company with those of justice. Surely, we may ask: 'why so?'

To start with a simple element of explanation, it seems no longer politically correct to speak of 'justice' because it brings to full view the issues of inequity, structural exploitation, impoverishment, and unequivocal duties of reasonable help to those who suffer. Further, languages of justice summon politics of passion and insurgent political action often thrives under the banner 'justice is conflict' which turns into catastrophe in the absence or the collapse of frameworks of dialogical/deliberative politics[4]. Everything then must be done to avoid all this; accordingly the quite politically correct thing for all to do is speak of the 'progressive realization' of the social, economic, and cultural human rights, a form of polite talk among the healthy, well-nourished, and the powerful about the

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[1] See, 'Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health…' UN Doc. E/CN. 4/ 2006/48, 3 March 2006 (emphasis added.) This document will simply be referred to hereafter as "Hunt.'

[2] Hunt, Para 20, page 7.

[3] Perhaps, the Rome World Food Summit Declaration and Programme of Action on the Right to Food (1996) was the first to start this trend; it situated the right to food within the notion of human right to a system of 'food security.'

[4] See, Stuart Hampshire, *Justice is Conflict* (Princeton, NJ, Princeton University Press, 2000.)

enormous constraints they face in eventually doing something for the diseased and variously injured, unhealthy, starving, and the powerless peoples.

Going a bit further, reading general theories of justice is hard work, even for the human rightists. The pay-offs of a serious reading do not seem overwhelmingly clear for those who participate in the making of global social policy statements, howsoever insincere, such as the Millennial Development Goals and Strategies[5]. Nor is any grounding in theories of justice required, it is thought, to develop component rights of the already enunciated abstract human rights norms and standards. It is enough to have a niche for a general statement in an international human right treaty or instrument and then hope or pray that the relevant United Nations Human Rights Treaty Body will perform its interpretive wonders! It indeed did happen with regard to HRTH when the Committee on Social and Economic Rights offered a General Comment in relation to 'the right to highest attainable standard of health[6].' No recourse to the Kantian and post-Kantian theory of 'imperfect obligations[7]' inflected its deliberative outcome which famously not just widened the scope of HRTH but also paradigmatically (that is for all social, economic, and cultural rights) affirmed various sorts of state obligations for 'progressive realization.' We are all familiar now with the affirmation of the state obligations to 'respect, protect, and fulfil' and in turn of obligations to 'facilitate, provide, and promote,' the HRTH (see Para 30 of the General Comment.) When such human rights enunciative *embarrassment de riches* remains fully available, why should any one be obligated to recourse to metaphysical or post-metaphysical theories of, and about, justice?

Another element for understanding aversion to justice–talk arises from the fact that most general theories do not specifically engage all human rights norms

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[5] See Upendra Baxi, "'A Report for all Seasons?' Small notes on Reading *In Larger Freedom,'* in C. Raj Kumar and D.K. Srivastava ed, *Human Rights and Development: Law, Policy and Governance* 495-514 at 504-508 (Hong Kong, Butterworth Lexis/Nexis, 2006.) See also, Philip Alston, 'Ships Passing by the Night: The Current State of Human Rights and Development Discourse Seen through the Lens of Millennial Development Goals,' *Human Rights Quarterly* 27:3, 755-829 (2005.)

[6] UN Doc, E/C.12/, 11 August 2000.

[7] George Rainbolt, 'Perfect and Imperfect Obligations,' *Philosophical Studies* 98: 233-256 at 243 *et. seq* (2000).

and standards as we know them. Thus most general theories do not directly and explicitly address the problem of healthcare inequalities and inequities, or right to water, food, shelter, housing, and livelihood. Rather, they address some key conceptions such as 'liberty,' 'equality,' 'fairness' as the virtue of the 'basic structure of a just society' (to recourse to Rawlsian notion.) In the process, justice theories provide a versatile range of conceptual frameworks and normative tools, of immense help to some human rights specific approach to justice. The gifted corpus of Norman Daniels over the past two decades seeks to resituate John Rawls' *Theory of Justice* in the field of healthcare and pursues in the process some new frontiers of justice-theorizing. Not many, however, remain persuaded by the demonstration of the truth of Norman Daniels' saying: '*Justice is good for our health*[8].'

Towards A Rudimentary Understanding of the Relationship between Justice Theories in HRTH Talk

It is perhaps the time to begin clarify generally some relationships between justice theories and HRTH. Of course, we confront at the outset two extreme views that insist on the irrelevance of ethical and philosophical approaches to the tasks of promotion and protection of human rights worldwide, and views that disregard the distinctions between human rights and public policies. The first sort of anti-theory view entirely overlooks the tasks of understanding an ethic of human rights; the second genre disregards the fact that social policies may be based in non-, even anti-, human rights considerations.

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[8] See, Norman Daniels, Bruce Kennedy, Ichiro Kawachi, 'Justice is Good for Our Health**:** *How Greater Economic Equality Would Promote Public Health'. Boston Review* [February-March, 2000.) See also, Norman Daniels, 'Justice, Health, and Healthcare,' Journal *of Bioethics,* 1: 2, 1-16 (2001) and the material therein cited. This latter article will be hereafter simply cited as Daniels, 2001. However, the page references here refer to the downloaded PDF version. One thinks in vain at least material concerning 'bioethics should at least remain in the public domain!

I believe that the understanding justice theories remain both desirable and *necessary* for the development of HRTH. It remains desirable because the entire so-called global policy framework concerning the HRTH carries already some implicit perspectives or theoretical outlooks regarding just healthcare justice; and necessary at least because HRTH entails prioritization of healthcare justice over other related but also autonomous human needs/rights regimes. Already active in both are the habits of thought that posit a distinction between a universal human right to health and a universal human right to healthcare. It has been argued that the former remains less ethically coherent and viable than the latter[9].

Let me illustrate all this by a quick reference to the Hunt report. When it says that 'a human rights-based approach requires that special attention be given to disadvantaged individuals and communities' (Para 25, page 8) it seems to adopt implicitly the difference principle enunciated by John Rawls, and as adapted to healthcare justice notions proposed by Norman Daniels. The report also speaks of 'social determinants of health' such as 'poverty and unemployment' (Para 9, page 65.) It further focuses on the Millennial Development Goals (MDG), especially Goal 8, and the affirmation of MDG at the World Summit of Heads of States in September 2005 (P11-17, pp. 5-6.) It is not clear especially in the MDG rhetoric, how far the Goals may after all relate to HRTH. The languages of global policy encasing HRTH enunciation do not further clarify that what is thus being pursued is the 'beneficence-based' model of healthcare or the more stringent model of justice-based healthcare. The former, it has been suggested, celebrates 'a libertarian conception of justice,' remains 'morally flawed' and is 'inadequate when it comes to effecting a just distribution of health care[10] '

[9] See, especially, Allen E. Buchanan, 'The Right to a Decent Minimum of a Health Care,' *Philosophy and Public Affairs* 13:1, 55-78 (1984.)

[10] See, Leonard M. Flack, 'Just Health Care (11): Is Equality Too Much? *Theoretical Medicine* 10: 301-310 (1989.) See also Buchanan, Note 9, at 69-78.

To illustrate, the 'special attention to the disadvantaged persons and communities' as a marker of rights-based approach to health rights reaches nowhere the dynamic proportion of healthcare justice. I could here no better than fully quote Daniels:

> Rawls's 'Difference Principle' permits inequalities in income only if they work…to make those who are worst off as well off as possible. This principle is not a simple trickle down principle that tolerates any inequality so long as there is some benefit that flows down the economic ladder; it requires a maximal flow downward. It would therefore flatten socioeconomic inequalities in a robust way, assuring far more than a 'decent minimum…[11],

Let us also look at the second component of the Hunt report which speaks in the highly ritualized, to the point of being insensible, United Nations rhetoric of the requirements of a human rights based approach for 'the active and informed participation of individual and communities in policy decisions that affect them' and of 'effective, transparent and accessible monitoring and accounting mechanisms' (para 25, page 8.) Obviously, the reference here is to the large arena public governmental decisions. These do not necessarily extend to corporate governance decisions about what kinds of pharmaceutical products may command priority of production policy in terms of research and innovation of diseases, drug safety, pricing, and marketing policies, and aggressive pursuit of 'evergreen' patenting that affect vast masses of the third world humanity. In the paradigm shift from the universal human rights of all human beings towards trade-friendly, market-related human rights of corporations[12], all this policy talk about 'participation' 'transparency,' 'accountability,' and 'monitoring' has a hollow ring to it outside an international framework that invents the category of crimes against health perpetrated by the elected and unelected state policy actors, singly or in combination with multinational corporations and other business entities Incidentally, this was among the proposals I made as an *ad hoc* expert in

[11] Daniels, 2001, at 8.

[12] See, Baxi, *Future*, Chapters 8 and 9.

response to the United Nations Secretary General in 1983, under the overall rubric of crimes against development within the framework of the 'new international economic order'. The first draft report incorporated all my suggestions, soon enough fully excised in the final report! [13].

The general point I make here is not that such attempts at fostering these human-rights based HRTH approaches are not important; rather, the point is that these remain expedient, rather than principled, in the smooth global social policy prose. Once again I revert specifically here to Norman Daniels for whom , adapting Rawls, '*effective* rights of political participation' entail the working out of the 'fair opportunity principle' that 'assures access to high quality public education, early childhood interventions (including day care) aimed at eliminating class or race [as well one may add gender] disadvantages, and universal coverage for appropriate healthcare.[14],

A deeper reason for participatory rationality worthy of full note here is also offered by Daniels. Because consensus on 'distribution principles' is notoriously hard to arrive at, 'fair process' for arriving at 'critical resource allocation decisions' must attend to what he fascinatingly names as 'accountability for reasonableness[15].' This, I believe, suggests more effectively than the Hunt report phrase-regime an 'attempt to connect views about deliberative democracy to decision-making at various levels, whether *public* or *private*, in our complex health systems[16].'

The Scope of Healthcare Justice

[13] I have produced the full text of my report in Upendra Baxi, *Mambrino's Helmet?: Human Rights for a Changing World* 32-54 (Delhi, Har- Anand Publishers, 1994.)

[14] Daniels, 2001, at 8.

[15] Daniels, 2001, at 2.

[16] Daniels, 2001, at 3 (emphasis added.).

There has been considerable discussion with, and since, Norman Daniel's inaugural work concerning the scope of healthcare justice[17]. I do not here intend to provide a full review of all this, which remains a task of monographic work; but I do wish to highlight some interlocutions that may have pertinence for the further development of HRTH.

First, while the notion that health care constitutes a '*special* social good' (Daniels, p. 56) remains attractive because it fully justifies the case for priority of healthcare justice needs over other needs, and may thus provide a firm basis for a HRTH talk, we encounter some specific problems. It is true, as Daniels and some others, maintain that healthcare needs are distinctive not just because these present question of life and death for masses of unfortunately placed humanity but because various health-impairments entail 'greater curtailment of an individual's share of the normal opportunity range' (Daniels, p. 43.) Clearly, staggeringly high rates of mortality and morbidity , often reproduced along class, caste, race and gender axes, constitute a 'global disease burden' which summon howsoever 'imperfect duties' for concerted social action in way that other related, but distinct, basic human needs do not. Clearly one may also draw some bright lines between insistent healthcare basic needs constantly, as per the Hunt report, in 'need' of conversion of deeply heterogeneous human rights needs into regimes of human-rights based global polices, and other relatively '*non-health* based' though therefore no less *significant* human needs such as shelter/housing, literacy, education, employment. However, because the Hunt report also refers to 'poverty,' or rather impoverishment[18] as a 'social determinant' of violation of HRTH, the issue surely arises how best other heath-related but sill autonomous basic human rights needs may be pursued outside, all said and done, the hegemonic HRTH frameworks? I revert later, in this context, to some exemplary thinking offered by Thomas Pogge.

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[17] Norman Daniels, *Just Health Care* (Cambridge, Cambridge University Press, 1985.) Reference to this work stands indicated by page numbers in parenthesis in the text.

[18] I have always maintained the need to speak of' impoverishment' rather than 'poverty.' 'Impoverishment' directs attention to the fact that people are constantly made 'poor' by willed performances of public policy measures and choice. See, for some further elaboration, my Introduction to Upendra Baxi (Ed.) *Law and Poverty: Critical Essays* (N.M. Tripathi, Bombay, 1989.)

The point about HRTH hegemony emerges rather clearly in the Hunt report that insists, as already noted, on the autonomy but also the synonimity of healthcare system as 'core social institution no less than a court system or a political system.' Were we to deploy the languages of systems analysis, how may the much-vaunted assertions of HRTH proceed to demarcate the relations between a system and its environments? Is the case after all that the other systems (such as the right to food and water, livelihood and shelter, literacy and education) merely furnish 'environments' for the healthcare system? Using the Hunt metaphor of the 'core institution' which is here the 'core' and which constitutes the 'periphery' or (to evoke Derrida) the 'dangerous supplement?' I realize that this way of posing the question is trifle unfair to Daniels, as at least I read him, but the point may not be entirely gainsaid that 'justice' involves a co-equal regard for health-related yet relatively autonomous 'non-healthcare' basic human needs.

Second, Daniels' view that health care need should be ordered in terms the and the consequence that individuals and peoples have healthcare 'rights and entitlements defined within a set of basic institutions governed by the fair equality of opportunity principles' (p.54) does not go so far as to affirm each individual human being's coequal human right to health. What stands rather fully affirmed here is a close cousin of the shorthand that Paul Hunt after all offers by way of a universal human 'right to *effective and integrated health system*, encompassing health care and the underlying *determinants of health*, which is responsive to national and local priorities, and accessible to all.' It still remains important to recall the discussion in the preceding section of the many ways in which this offering constitutes a 'poor cousin' to what Daniels has in full view. What then may follow in terms development of the HRTH[19]?

Fourth, some thinkers insist on a broader scope for justice theorizing related to the development of HRTH , which would combine further diverse concerns, such as ways of financing/resourcing healthcare systems, cost-

[19] See Kenneth F. T. Cust,' Justice and Rights to Health Care,' *Reason Papers* 18:153-168 at 156-57, (Fall, 1993.)

containment, health care technologies, and the range of self-inflicted health problems[20].

To aggravate, fifth, the scope problem surely the crucial move from theories of justice to those of bioethics at least invites engagement form healthcare justice theorists with the posthuman condition constituted by new technologies of disembodiment such as signified by the continuing erasure of bright lines between human, animal, and the machine, especially via artificial intelligence, bio-/ and nano-/ an Star Wars type developments in military technologies. For those conference participants interested in the entailments of the posthuman on the HRTH discourse, I only here offer a commercial: please await the publication of my new book *Human Rights in a Posthuman World* (ETA late 2007.) Seriously speaking, however, the 2006 Hunt report fails to engage the discourse of the posthuman in all it varied implications for HRTH.

Circumstances of Healthcare Justice and Approaches to Global Justice

We also need to attend the scope of healthcare justice theorizing in terms of what Rawls named as 'circumstances of justice' (though he had situations of scarcity or superabundance in view.) Clearly, though I sincerely hope that I am wrong here, much of the HRTH, and also human-rights based development, talk elides the distinction between war and 'civil' strife-torn circumstances of healthcare justice and the relatively stable contexts of peaceful (or pacified) rights-based development policy regimes. In the latter genre, issues concerning access to potable drinking water, adequate housing, sanitation, humane opportunities to make a living, immunity form environmental degradation and other similar global public goods (to evoke a currently well-beloved UNDP phrase-regime) like literacy, elementary and primary education make a good deal of ethical sense. However, this peacetime concern for circumstances of justice

[20] Flick cited at footnote 10 at 306-398. Incidentally, his call for 'constitutional model for healthcare justice' while no doubt important remains undeveloped which perhaps the Hunt report HRTH indicators may further develop.

furnishes little or no warrant for un-mindfulness about, in the superbly enchanting, and cruellest, United Nations phrase-regime, 'human rights in difficult situations.'

The 'difficult situations' as regards HRTH occur in various contexts of organized collective political violence. First, in 'severely divided societies' (to here invoke a gifted and poignant phrase of Donald Horowitz) both the incumbent governmental regimes and insurgent ones engage in violence that creates conditions destructive of the culture of HRTH as well institutional availability of healthcare systems. The so-called 'civil' wars vary in intensity, duration, and immediate and long term effects. Second, the histories of the early, middle, and late phases of the Cold War need to be fully acknowledged in any global social policy for healthcare and the approaches to global justice as well theories of healthcare justice must take account of some duties of reparative health justice. Third, a program of economic sanctions pursued unilaterally or within some international legal framework imposes intergenerational health costs inviting again some consideration of reparative health justice. Fourth, the stated objectives and conduct of the ongoing two 'terror' wars, the war *on* 'terror' as also the war *of* 'terror'[21]deserve close scrutiny on the healthcare justice platforms. Fifth, so do mass disasters caused by multinational corporations (of which Bhopal, Agent Orange, and Ogoni-land furnish archetypal narratives[22].) Sixth, nor may the producers off HRTH, and healthcare justice theorists, be altogether be left of the hook, as it were, as and when their narratives remain rather ambivalent concerning the near-absolute disregard, and violation, of healthcare justice rights of undocumented aliens, migrant workers, persons caught in the vicious webs of human sexual trafficking, and many others equally

[21] See, for this distinction, Upendra Baxi, "'The War *on* Terror and the 'War *of* Terror': Nomadic Multitudes, Aggressive Incumbents, and the 'New International Law,' " 43 *Osgoode Hall Law* Journal 1-36(2005)

[22] See Upendra Baxi, 'The 'Just War' for Profit and Power: The Bhopal Catastrophe and the Principle of Double Effect', in Lene Bomann-Larsen and Oddny Wiggen (eds.) *Responsibility in World Business: Managing Harmful Side-effects of Corporate Activity'* 175-201(Tokyo, The United Nations University Press, 2004.)

subject to a denial in retail and also wholesale of social, economic and cultural human rights.

It is also clear healthcare justice-theorizing needs to approach the tasks of justice outside territorially organized states/societies and peoples because stopping at national frontiers impoverishes HRTH approaches. Transboundary health risks continue to grow apace, the most recent being the instances provided by 'mad cow,' SARS, and the avian flu and some industrial mass disasters like oil spills or nuclear meltdowns create adverse health consequences that respect no territorial or ideological frontiers; they affect human health of us all in various ways.

All this leads us towards understanding what implications emergence some nascent approaches to global, or as some would designate this planetary, justice[23], may have on the state of art of healthcare justice theorizing. There are on my count perhaps no more than five and half thinkers who have wrestled with the problematic of global justice and I speak with you here only as that better or worse half!

There is unfortunately no theoretical agreement concerning how the tasks of fashioning a theory of justice across borders may be fully addressed. Yet, we ought at least to note the fact that the great Rawls in his *Law of Peoples*[24] declined to extend the difference principle to global justice theorizing on the grounds of respect for the moral autonomy of communities of rational and reasonable and decent, when not fully liberal, peoples; this further animated his rather Spartan conception of duties of assistance, beyond the situations of natural disasters and some obligations of mitigating societies burdened with unfavourably natural circumstances (for example, landlocked societies.) In contrast, both Charles Beitz and Thomas Pogge, in particular, have consistently questioned this approach and in its place have offered normative approaches

[23] See as to the 'planetary,' see Larry Lohmann, *Carbon Trading: A Critical Conversation on Climate Change, Privatization, and Power: Developmental Dialogue* 48 (September 2006.)

[24] Cambridge, MA., Harvard University Press (1999)

that fully sustain alternate visions of global justice[25]. I particularly invite your attention to two recent articles by Thomas Pogge: 'Human Rights and Global Health: A Research Programme (2005)[26] and 'Responsibility for Poverty-Related Ill Health' (2002)[27]. Because I have already overrun my time and your patience, I will not dwell in any significant detail celebrating what I believe to be its many-splendoured contribution in particular for a global justice healthcare theory. A couple of general remarks will have to perforce suffice.

In his 2005 article, Pogge actually says, or comes very close to saying, that contemporary human rights values, norms, and standards, especially the Universal declaration of Human Rights, provide standards of critical morality and ethic of understanding for a theory of, or about, global justice. In the 2002 article, Pogge maintains the familiar cosmopolitan position which argues against forms of compatriotism (that is the notion that we owe moral obligations to co-nationals and few, if any, to non-nationals[28].) Specifically, he develops a HRTH stance here in which probelematizes this distinction to the point of the assertion that the 'foreigners' medical conditions in whose incidence we are materially involved have greater moral weight for us than compatriots' medical conditions in whose incidence we are not materially involved[29].' Pogge further distinguishes between a 'passive concept of justice' depending, and even defending, healthcare justice 'solely on the distribution of relevant goods and ills they bring about' contrasted

[25] See, for example, Charles R. Beitz, *Political Theory and International Relations* (Princeton, NJ. Princeton University Press, 1979: Beitz, ' Economic Rights and Distributive Justice in Developing Societies,' *World Politics,* 33:3, 321-346(1981); Thomas W. Pogge (Ed.), *Global Justice* (Oxford, Blackwell ,2001); Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge, Polity Press, 2002) and generally, Upendra Baxi, 'The Failure of Deliberative Democracy and Global Justice,' in Okwui Enwezor *et. al.* Ed.) *Democracy Unrealized: Documenta 11_Platform 1* 113-132 (2001; Ostfildren-Ruit, Hatje Cantz Publishers, 2001.)

[26] *Metaphilosophy* 36:1/2, 182-209 (2005.)

[27] *Ethics & International Affairs* 16:2, 72-79 (2002.)

[28] Unusually enough, I have addressed some of these concerns in as arcane a sphere as private international law or the conflict of laws; see Upendra Baxi 'Mass Torts. Multinational Enterprise Liability, and Private International Law,' *Recueil des cours* 305-427(2000.)

[29] Pogge, Note 27, at 72.

with an 'active concept of justice' which 'diverts some attention from those who *experience* justice and injustice to those who *produce* them[30].'

The consequent elaboration of 'relational responsibilities' thus shifting the burden of proof, as it were, on the producers, rather than the victims, or otherwise consumers of healthcare justice, and there are simply no bright lines here, is a more cogent ethical call for 'shared' against 'distributed' political responsibility made in a different context by the lamented Iris Morris Young[31], than is on display on the registers of the MGD and HRTH, or rights-based development, type global policy enunciations.

To be sure, Pogge anticipates fully further theory-contentions and remains philosophically vigilant about these. Speaking entirely for myself, I need to say two things, First, I remain anxious with the identification of contemporary human rights values, standards, and norms with a theory of, or about, global justice, while not questioning at all the use of practical reason for healthcare justice in the contemporary circumstance of justice-theorizing.

My reason for saying this is my belief that human rights languages remain very diverse and signify, among other things, also the languages of governance and the syndrome of shared sovereignty[32]. I would have further appreciated in the light of delineation of circumstances of justice a more adequate elaboration of what I have already named as an approach to global health reparative justice, which goes beyond forms of contemporary impicatedness of the present duties owed by co-nationals to non-nationals to the burdens of inter-generational justice obligations owed by those said to have benefited from such 'ancient wrongs' such as slavery and colonization and some contemporary ones constituted by diverse assemblages of neoliberal and globalizing practices of global governance. However, I believe that the research agendum that Pogge offers in his 2005 article has the potential of addressing further these additional theoretical

[30] Pogge, Note 27, at 74-75 (emphasis added.)

[31] To deploy here the gifted discourse of Iris Morris Young, 'Responsibility and Global Labour Justice/ *The Journal of Political Philosophy* 12: 4, 365- 388 (2004); see also, the literature cited in Baxi, *Future,* Chapter 9.

[32] Baxi, *Future*, at 10-26.

burdens, especially by way of a *programschrift* of reconciliation of market-friendly and trade-related human rights paradigm with the paradigm of universal human rights of all human beings.

All this goes much beyond (to invoke *Hamlet)* the 'stale, weary, and unprofitable uses' of the global social policy discourse that all too often masquerades as HRTH talk[33]. I wonder what more may we ask of a theory of global justice?

May I, by way of a concluding word, make an unusual solidarity request? Because I will have to miss the privilege of a robust exchange of views on this presentation, would it be too much to expect some further sharing of your comments with me? Many thanks in advance!

[33] See, World health Organization Report on 'Public Health, Innovation and Intellectual Property Rights, prepared by the Commission on Intellectual Property Rights, Innovation and Public Health' (2006.) Note also the not too strange inversion in the order of words registered by the final title of the Report and the politics of naming the labours of the Commission!