



ТЕОРЕТИЧЕСКИЕ АСПЕКТЫ ИССЛЕДОВАНИЯ ПОЛИТИЧЕСКИХ ПРОЦЕССОВ

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ON THE UNIVERSAL POWER OF SOCIOECONOMIC RIGHTS: A COMPARISON BETWEEN THOMAS POGGE AND RAINER FORST

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Abstract. *Introduction.* This article investigates the universal power of socioeconomic rights assessing their theoretical conceptualization and practical implication. *Methods.* Taking theoretical and empirical research into account – at the level of public ethics and political theory – the article carries out a comparative analysis of the elements of global economic justice theory, moral universalism and institutional understanding of human rights of Thomas Pogge and the critical theory of political and social justice and the moral constructivist conception of human rights of Rainer Forst. *Analysis.* On the one hand, Pogge’s cosmopolitan approach underlines serious non-compliance of socioeconomic rights at the global level because of the unjust distribution of rights and duties enforced by the current global institutional order. In this vein, the protection of socioeconomic rights is conceived as a (moral) negative duty not to deprive people of secure access to a basic human rights object, and socioeconomic rights, by imposing upon them unjust coercive social institutions. On the other hand, Forst’s perspective maintains that each right needs to be constructed on the very basic moral right to reciprocal and general justification which is conceived as the most universal and basic claim of every human being. *Results.* Drawing on the above-mentioned outlooks on socioeconomic rights, the universal power of socioeconomic rights is assessed in light of the satisfaction of universal basic needs, whose object is also the object of socioeconomic rights – a ‘conditio sine qua non’ for a worthwhile life – and the justification of the assigned duties at the global level.

Key words: socioeconomic rights, civil and political rights, duties, global justice, universalism, cosmopolitanism, constructivism.

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ОБ УНИВЕРСАЛЬНОЙ СИЛЕ СОЦИАЛЬНО-ЭКОНОМИЧЕСКИХ ПРАВ: СРАВНЕНИЕ МЕЖДУ ТОМАСОМ ПОГГЕ И РАЙНЕРОМ ФОРСТОМ

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Аннотация. *Введение.* Данная статья исследует универсальную силу социально-экономических прав, оценивая их теоретическую концептуализацию и практическое применение. *Методы.* Учитывая эмпирические и теоретические исследования – с точки зрения общественной этики и политической теории – в статье проводится сравнительный анализ элементов теории глобальной экономической справедливости, морального универсализма и институционального понимания прав человека Томаса Погге и критической теории политической и социальной справедливости и морально-конструктивистской концепции прав человека Райнера Форста. *Анализ.* С одной стороны, космополитический подход Погге подчеркивает серьезное несоблюдение социально-экономических прав на глобальном уровне из-за несправедливого распределения прав и обязанностей, которые были усилены нынешним глобальным институциональным порядком. В этом ключе защита социально-экономических прав воспринимается как (моральный) отрицательный долг не лишать людей безопасного доступа к основному объекту прав человека и социально-экономическим правам, навязывая им несправедливые принудительные социальные институты. С другой стороны, точка зрения Форста утверждает, что каждое право должно быть построено на самом основном моральном праве на взаимное и общее оправдание, которое задумано как наиболее универсальное и основное требование каждого человека. *Полученные результаты.* Опираясь на вышеупомянутые взгляды на социально-экономические права, их универсализм защищается в свете удовлетворения общих базовых потребностей, объектом которых также являются социально-экономические права – ‘*condotio sine qua non*’ для достойной жизни – и оправдание возложенных на них обязанностей на глобальном уровне.

Ключевые слова: социально-экономические права, гражданские и политические права, обязанности, глобальная справедливость, универсализм, космополитизм, конструктивизм.

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Introduction. The current global political and socioeconomic transformations, along with the recent global cross-cutting challenges of which the COVID-19 pandemic is a vivid example, are calling the humankind to find moral desirable and practically feasible solutions to transversal problems, such as the global (under)fulfilment of socioeconomic rights. In turn, a comprehensive explanation of the universal power of socioeconomic rights requires a theoretical justification, which outlines the reasons why socioeconomic rights ought to be considered as universal, and an assessment of their practical implementation, which regards how socioeconomic rights are to be realized [27, p. 50] and how the duties they entail can be justifiable [9]. Accordingly, it would be wrong to argue that socioeconomic rights have universal power only because they are not adequately protected – which is, in any, case a fact [22; 23] and the COVID-19 pandemic has also exacerbated socioeconomic inequalities [32] – as well as denying the fact that their under-fulfilment may be to some extent related to the lack of theoretical understanding of their universal relevance. Hence, this article aims at filling up the above-mentioned lacuna and fostering the debate on this topic

addressing Pogge’s and Forst’s conceptions of (universal) moral right and socioeconomic rights seeking to answer the following question: What is the universal power of the socioeconomic rights and to what extent the duties they entail can be justified?

This comparative research can be significant, in particular, for the Russian scientific context, and, in general, for the global scientific debate for two main reasons. Firstly, the Russian Federation has always been at the forefront in the dissemination of socioeconomic rights, and their defence as relevant fundamental rights, since the time its predecessor, the Soviet Union, signed and ratified the *International Covenant on Economic, Social and Cultural Rights* (1966) and pushed other nations to join the Covenant. Secondly, in political philosophy and international relations, the dominant theories in the Russian scientific context are those of (moral and political) realism and statism [14] which are sceptical towards any form of universalism and believe that shared conception of moral norms and the practical enforcement of the fair distribution of rights and duties are possible only within the borders of a political community [18]. However, the international debate on universal fundamental

rights and the fair global distribution of rights and duties is gaining momentum throughout the world and a comparative analysis of two of the most preeminent theories on these matters is important for the Russian academia in order to be aware of the recent trends in the global normative and political theory. Accordingly, Russian scholars can further develop the scientific discussion with their noteworthy contribution critically opposing these rising arguments or integrating them into their (usually realistic) understanding of fundamental rights and justice. As a matter of fact, one of the two authors object of this analysis has already tried to include some elements of the realistic tradition – which has, by the way, ancient and robust roots and is still widespread in the international scientific context (it is left aside in this analysis just for a matter of time and focus) – in its critical theory of transnational justice [11]. Indeed, Forst recognizes the importance of cultural peculiarities in the elaboration and implementation of fundamental rights meanwhile also describing the global context as an important context of justice [9, p. 227; 8; 10] let alone of protection of fundamental socioeconomic rights and seeking to avoid parochialism and cultural positivism when it comes to define fundamental rights and their universal power [11, p. 452].

Methods. The article makes use of a comparative methodology which discusses the universal power of socioeconomic rights in the light of the argumentations sketched out by the cosmopolitan theorist Thomas Pogge and the critical and constructivist theorist Rainer Forst. Hence, the theory of universal justice, moral universalism and institutional understanding of rights of Thomas Pogge and the critical theory of political and social justice, the moral and political constructivist conception of rights and the really basic right to reciprocal and general justification of Rainer Forst will be examined in order to probe the universal power of socioeconomic rights and the duties they entail at the global level.

Building on different philosophical cum political backgrounds, both authors have worked to adequate and push further the theories of their mentors, which have been crowded the debate on this topic, to the current global challenges and the newest developments of global interactions and cultural contaminations. Accordingly, the theories of these two authors are apt to delve into

this topic for two main reasons. Firstly, in general, Pogge belongs to the analytical philosophical tradition while Forst is closer to the continental one: their opposite approach to the topic makes them appropriate for a comparative discussion. Secondly, in particular, Pogge draws his institutional conception of universal rights on Rawls understanding of justice and fundamental rights, while Forst, as a member of the last generation of the Frankfurt school, draws his interactional and constructivist conception of universal rights on the theories of Jürgen Habermas and Axel Honneth.

On the one hand, Pogge's cosmopolitan approach focuses on the current unjust, *qua* unfair, distribution of rights and duties at the global level founding the universal power of socioeconomic rights on their fully status of universal fundamental rights as human rights. From the practical point of view, Pogge maintains that the current global economic order, upheld by persons, *qua* individuals, and peoples, *qua* nation-states [29], replicates the unjust global socioeconomic inequalities and argues for more egalitarian reforms, such as a global resource dividend to tackle global extreme poverty. On the other hand, Forst argues for the moral and political construction of fundamental rights on the right to reciprocal and general justification. Accordingly, the latter right is the basis of the justification of all the other concrete rights insofar as a claim is reasonably justifiable when is reciprocal, i.e. impossible to be rejected by someone that raises it for him/herself, and general, i.e. impossible to exclude the affected person's objections to achieve general agreeability. From the practical point of view, Forst also assesses the global socioeconomic inequalities as disgraceful however looks at them as a problem of unjust distribution of (justificatory) power in the global context of force and domination shaped by one-sided and large coerced cooperation and dependency rather than interdependence. Accordingly, Forst claims for a more just transnational order, such as the terms of international trade established by the WTO, which have to be adequately justified to and by those persons and peoples that are subject to that order and are affected by those norms.

A brief sketch of other specific elements which differentiate Pogge's and Forst's views on universal rights and socioeconomic and political

justice can be helpful to understand why their argumentations are apt for the analysis of the topic of this article. Firstly, while Pogge singles out the main minimal characters which a criterion of justice must accomplish, Forst outlines a higher-order principle which makes it possible to evaluate the validity of each claim of justice and to specific rights. In this regard, Pogge focuses more on the content of justice and fundamental rights, while Forst refers more to the (recursive and relational) construction of its principles and fundamental rights. Secondly, concerning the spatial dimension of justice and the claim to basic rights, Pogge has a significantly universal understanding of justice and rights, since he presupposes the principles of justice and human rights as being valid also at global level, while Forst endorses a relatively contextualized approach toward justice and rights since he conceives the context as a ‘*conditio sine qua non*’ for the existence of a ground of justice. Lastly, Pogge does not adopt a free-standing toward justice but openly opts for a specific common measure whose conditions are outlined in order to sketch out a universal minimal criterion of justice, and fundamental rights, worldwide shareable. On the other hand, Forst understands social justice and fundamental rights as constructed on the principle of reciprocal and general justification establishing the proviso for the justification of its claim. In the next section their perspective on social justice and universal fundamental rights will be analysed in order to carry out the investigation of the universal power of socioeconomic rights and their feasible realization at the global level.

As briefly touched upon in the introduction, and as the illustration of their core argumentation will show in the next section, the degree of the research on the universal power remains scarce, although it is gaining attention above all in the light of the rising global inequality in socioeconomic opportunities and conditions and the unstoppable acceleration of the globalization. Making use of a comparative methodology, not only does this article seek to highlight the divergences and the points in common between these theories on the topic analysed, but, also and foremost, aims at pushing a little bit further their argumentations in order to add a new piece in the debate on the universalism of socioeconomic rights. Accordingly, this article seeks to go beyond the two authors’ position

sketching out a conception of universalism of socioeconomic rights which takes together the moral urgency to ensure secure access to the object of basic socioeconomic rights with the political relevance of specific relations which give rise to peculiar, thus more demanding, duties of justice besides the global ones related to our membership to the human community.

In order to provide a satisfactory and comprehensive answer to the research question of the article, the scope of the analysis is restricted to the debate on global justice and the universalism of socioeconomic rights. To this regard, the universal power of socioeconomic rights is examined in the framework of the two authors’ elements of the theory of socioeconomic justice and fundamental rights which outline the principles and norms which should rule intersubjective interactions. Moreover, the fulfilment of socioeconomic rights is analysed focusing on the measures according to which secure access to the object of the socioeconomic rights ought to be equally granted and, therefore, on the organization of an equal distribution of fundamental moral benefits (e.g. claims, liberties, powers, resources) and burdens (e.g. duties and liabilities). Finally, the universal power of socioeconomic rights is investigated vis-à-vis the two authors’ argumentations. The results are drawn upon their understanding of the universalism of fundamental rights seeking to fill up their lack to explain how socioeconomic rights ought to be conceived as universal rights.

Before proceeding, a further clarification is required, as obvious as it may sound. In order to frame the discussion on the universalism of socioeconomic rights, it is necessary to bear in mind that the entitlement, and the respective adjudication, of a right imposes duties (negative or positive) on others and, thus, the universality of a right is linked to the legitimacy or justification (reciprocal and general in Forst’s reasoning) to impose a corresponding duty to others and, because of that, the more rights are demanding the stronger is the justification for their enforceability.

Analysis. In his very basic understanding of justice, Pogge defines social justice as “a social system’s practices or ‘rules of the game’, which govern interactions among individual and collective agents as well as their access to material resources” and a concept associated with “the

morally appropriate and, in particular, equitable treatment of persons and groups” [27, p. 37]. Thus, Pogge endorses an institutional understanding of justice, following Rawls who conceives justice as the “first virtue of social institutions” [28, p. 3].

In order to assess social institutions as just or unjust a criterion of justice is required, which, according to Pogge, should be *single* and *universal* that is accepted by all persons and peoples as the basis for moral judgements about the global order [27, p. 39]. This criterion of justice ought to be conceived in such a way that is able to gain universal acceptance, and meanwhile, to be respectful of the various individual and collective conceptualization of different, and necessarily more demanding, criteria of justice [27, p. 40]. Thus, the universal criterion of justice presupposes a common measure according to which the distribution of benefits and burdens is to be conceived. In this regard, this common measure can be investigated according to the priority which individuals and groups attribute to some values and aspirations, as well as some concrete good, such as food and water, which may be understood as the object of socioeconomic rights. If one is not available to give up his/her particular good – such as power, resources, primary goods, capabilities, liberties, welfare – ought not to claim for social institutions and coercive norms which would deprive others of it. Further on, the article will try to understand the extent to which socioeconomic rights satisfy the requirements of a common measure of social justice.

In order to understand if socioeconomic rights can be assessed as part of this universal criterion of justice, it is worth to analyse the characters of certain basic goods in terms of which the acceptable core criterion of basic justice ought to be formulated. According to Pogge, they need to be basic, broad and abstract in order to be considered so relevant that each human being would recognize them to be valid for an intersubjective, potentially universal, comparability and at the same time not harmful for each human life. Rather than picking a specific type of basic goods – such as power for Forst [9, p. 248], Rawl’s social primary good [28, p. 53], Dworkin’s resources [7, p. 311], capabilities [26] for Sen [30] and Nussbaum [21], Arneson’s welfare [2],

Nozick’s liberty-rights [20] – Pogge opts for a hybrid approach which describes the four aspects in which the demand for basic goods should be severely limited [27, p. 44]. First, basic goods should be defined as the only essential goods without which a conception of a worthwhile life would be impossible. Second, the demand for these essential basic goods should be limited both quantitatively and qualitatively to what Pogge defines as a *minimally adequate* share. Third, not the goods themselves are fundamental but rather the access to these basic goods. Lastly, basic goods should also be limited probabilistically. Indeed, social institutions can only provide persons with basic goods within certain limits. The global socioeconomic order would, thus, be fully just if each person affected had secure access to minimally adequate shares of all basic goods [27, p. 44]. Whether the object of fundamental socioeconomic rights ought to be assessed as a valid basic good will be discussed further on.

Placing the question of how human rights should be conceived, Pogge argues for a validity of moral human rights which are independent of any social order: an idea, according to him, which has been widely and progressively acknowledged since the aftermath of the World War II [27, p. 58]. The acknowledgement of the universality of moral rights is traced back to the common phrase ‘international recognized human rights’ [27, p. 59] enshrined in the UDHR whose Preamble underlines the Declaration to state moral human rights that exist independently of itself and which are entitled to each human being as such without distinction of any kind [33].

Pogge understands socioeconomic rights as universal as civil and political rights explaining their universality in the frame of the universality of human rights. Just to briefly recall the characters which give potential universal status to the general concept of right, the notion of human right, can be seen as “a special class of moral concerns, namely ones that are among the *most weighty* of all as well as *unrestricted* and *broadly shareable*” [27, p. 60]. Its universal appeal may be also reinforced through the coincidence of the object of the basic human needs with the object of a human right, intending the object in a broader sense. Pogge means the object of a right as whatever the right is a right to, such as freedoms-from, freedoms-to, as well as physical security,

adequate food supply, health assistance and standard of living. Even though this work is not so ambitious to precisely single out a comprehensive list of basic needs [17], as basic objects of fundamental rights, an overall and simplistic sketch of what are basic needs can be reached posing the point in negative terms, i.e. the lack of what would make a human being not survive and not live a worthwhile existence. In this regard, one could hardly deny that at least minimum standard of living and a certain degree of freedom can be universally considered as very basic needs, and thus, basic objects of moral rights.

However, intending rights as basically moral claim to something, they necessarily require more or less demanding duties on others. The imposition of these duties, which is carried out by social institution, ought to be properly enforced. According to Pogge's institutional understanding of human rights, "a human right is a moral claim on any coercive social institutions imposed upon oneself and therefore a moral claim against anyone involved in their design or imposition", in other words, human rights should be conceived "primarily as claims on coercive social institutions and secondarily as claims against those who uphold such institutions" [27, p. 51]. Social institutions and persons upholding and continuing them share responsibility insofar as the institutional order imposes constraints on persons affecting their lives and playing an important role in the reproduction of human misery [27, p. 55]. Nevertheless, what is relevant for the purpose of this work, i.e. to understand the justification of the corresponding duties of socioeconomic rights, is the reason why other persons may bear some responsibilities toward the others and, accordingly, which are the duties should justly be imposed on them.

Pogge argues that the moral responsibility of persons, and, in turn, of social institutions entitled to avoid disrespect of human rights, and, thus, insecurity of access to their object, is a matter of negative duties, which have more weight than positive duties, such as the duty to assistance (which Rawls thinks wealth societies owe to burdened societies, but which is not a matter of justice, rather only of humanitarian aid [29, p. 106]). Negative duties consist in duties to not harm the others which "impose specific minimal constraints <...> on conduct that worsens the situation of others" [27, p. 52]. Thus, in order to preserve the

'fairness of the game', any coercive institutional order must ensure certain minimal respect of human rights.

In order to enforce a more just institutional order – eradicating systemic poverty, hence upholding universal socioeconomic rights – Pogge's most relevant practical proposal is the Global Resource dividend (GDR). According to the GDR, "states can be required to share a small part of the value of any resources they decide to use or sell" [27, p. 203] in order to compensate people suffering from extreme poverty related to radical inequality which is reinforced by an institutional order upheld by wealth states [24; 25]. Even though, at first glance, this argument appears convincing, it has attracted sound criticisms related to the feasibility and efficacy of this reform, because of, for example, the so-called 'resource curse' [19, p. 639] which refers to those countries, relatively poor in terms of wealth and often run by dictators, which are, by the way, plenty of natural resources [1].

According to Forst, first of all, for the concept of social justice to be meaningfully applicable, a 'context of justice' must exist: a context of political and social relations of cooperation as well as conflict, which calls for a just order, the establishment of which the members owe one another [9, p. 15]. In order to speak about justice, interrelations among individual and collective agents are necessary insofar as they require just rules and norms to be enforced. According to this assumption, the quest for justice, and protection of socioeconomic rights, becomes more and more legitimate at the global scale insofar as the interactions among individual and collective agents are getting always tighter. Secondly, "the core idea of a just order nevertheless consists in the idea that its rules and institutions of social life be free of all forms of arbitrary rule or domination" [9, p. 189]. In this regard, avoiding arbitrariness may refer not only to the even-handed requirement for social institutions, but also to their practical commitment to fighting against arbitrariness and domination, which may include morally arbitrary inequalities in socioeconomic opportunities and conditions.

Rather than singling out the most basic values of justice, Forst elaborates the assumptions according to which the question of justice can be considered as valid. Since justice refers to the

interactions among individual and collective agents, its principles must be constructed relationally and, hence, reciprocally and generally justified. Therefore, the highest and really basic principle of social justice which prevails normatively and criterially over all the other values is “the principle of reciprocal and general justification, according to which every claim to goods, rights, or freedoms must be grounded reciprocally and generally, whereby one side may not project its reasons onto the other, but must discursively justify them” [9, p. 194]. The principle of justification, along with the criteria of reciprocity and generality, can be defined as a higher-order principle which goes beyond the classical contents of justice establishing the criteria to evaluate the claim to such content (further on an assessment of the extent to which the claim to socioeconomic rights matches those criteria will be carried out).

As previously underlined, Forst founds social and political justice on the very basic right (and duty) to equal justification. The basic moral right to justification can, thus, be conceived as the right on which all the other rights can be morally constructed and according to which they can be just(ifiab)ly claimed. So conceived, the latter are rights that no one can with good reasons withhold from other persons [9, p. 5].

In Forst’s theory, the criteria of reciprocity and generality are explained as follow: “*Reciprocity* means that no one may refuse the particular demands of others that one raises for oneself (reciprocity of content), and that no one may simply assume that others have the same values and interests as oneself or make recourse to ‘higher truths’ that are not shared (reciprocity of reasons). *Generality* means that reasons for generally valid basic norms must be sharable by all those affected. <...>. Principles and norms can claim to be valid only if they can be agreed to reciprocally (without demanding more from others than one is also willing to concede, and without projecting one’s own interests and convictions on others) and generally (without excluding anyone concerned and their needs and interests), that is, those principles and norms that <...> no one can ‘reasonably’ reject” [9, pp. 6, 80].

Therefore, only those norms which are reciprocally and generally justifiable can be assessed as just and valid so long as they avoid the reasons of some persons to prevail to those

of others and include the reasons of all those affected. Moreover, what is important to understand is that reasons of persons and people are equally worth to be heard and equally count in shaping the distribution of rights and duties and, thus, social institutions insofar they respect the reciprocity and generality criteria which, so, serve as a filter for claims and reasons that can be ‘reasonably rejected’.

According to Forst, the basic right to justification, from which all the other rights derive, is a universal moral right which is in no case possible to deny to a person since no one’s right to justification, the basis of all rights of human being, can be ignored. In this regard, Forst conveys that the moral constructivism, opposed to the political constructivism, shows that “moral persons, both in a given context and beyond it, must grant certain rights to one another, right that they owe one another, in a moral sense” [9, p. 200]. Accordingly, even though Forst conceives of moral constructivism as almost always related to political relations, he seems to leave space to claims of fundamental rights which can also overcome it. Forst argues that, according to the principle of reciprocal and general justification, each human being has a basic right to justification, that is “a right to adequate reasons for the norms of justice that are to be generally in force. Respect of this right is generally required in a deontological sense, which expresses the basic moral equality” [9, p. 195]. As underlined above, the adequacy of those reasons is evaluated according to the criteria of reciprocity and generality which are, thus, the ground on which reasons can be disqualified if they are not reciprocally and generally justifiable. As a consequence, there is a basic right to equal justification which does not presume, however, strictly material equality. In any case, Forst admits that “fundamental justice is recursively and discursively determined with reference to the necessary conditions for fair opportunities for justification” [9, p. 197]. That is to say that persons in a context of justice ought to be correspondingly provided with the opportunities, power, goods, liberties to exercise the right to justification. This is relevant because without these basic means, among which the most important is the *justificatory power* [9, p. 196], persons and peoples are not enabled to autonomously uphold and justify rules and norms,

such as those enforced by the WTO in relation to the global trade, which to some extent concretely affect their existence and, thus, ought to be justified.

Unlike Pogge, Forst does not conceive a clear-cut distinction between moral and legal, or judicial, rights [9, p. 197] rather they are conceptualized in an intermingled way insofar as moral rights represent the core of legal rights as well as moral justification is the core of political justification. Thus, moral basic rights constructed on the right to justification are conceivable in the universal moral context but their validity must be demonstrable in “particular political contexts in which persons demand certain rights as both moral persons and citizens” [9, p. 218]. This contextualized universalism seems to admit the universality of some basic rights, such as fundamental socioeconomic rights, but binds their validity to the potential existence of these rights in a particular context softening their universal power, however without drawing a line between their universal entitlement and their practical realization.

Through the analysis of Pogge’s and Forst’s theories we can sketch out three different but intertwined assessments of the universal power of socioeconomic rights, an argument which is partially left unsolved in their reasoning. The first understands the basic object of socioeconomic rights as ‘*conditio sine qua non*’ for a worthwhile life and investigates the reasons why basic socioeconomic rights accomplish the requirements of a universal criterion of justice. The second reasons on the extent to which the universal power of socioeconomic rights can be founded on the very basic right to reciprocal and general justification. The third – which is the one differing the most from the two authors’ argumentations, thus corresponding to the most original adding contribution of this article to the debate – is based on the fundamental commitment of social justice to avoiding morally arbitrary inequalities and, accordingly, explains how the duties that socioeconomic rights entail can be justified according to their moral urgency.

First of all, it is necessary to clarify some points about Pogge’s reasoning on the universalism of socioeconomic rights. As underlined before, he understands socioeconomic rights as human rights, and the latter as a valid universal criterion of universal justice [27, p. 56].

Accordingly, Pogge takes to some extent for granted the universal power of socioeconomic rights on the ground of the universalism of human rights focusing mainly on the realization, or more properly on the grave (under)fulfilment, of both basic socioeconomic rights and civil and political rights at the global level.

Therefore, the proof of the universal power of socioeconomic rights exploring it in the requirements of a basic criterion of global justice would not only pursue the main aim of this article but it would also be helpful to fill the lack of explanation of the universalism of socioeconomic rights in Pogge’s theory of global justice. Just to recall the main features of the universal criterion of justice, as conceived by Pogge, it ought to work with a thin, modest, not exhaustive, and shareable conception of human flourishing. As a matter of fact, it is possible to conceive some basic means which are universally recognized as essential for each human being beyond any social, ethnic, national, religious difference (whose respect, by the way, is the main reason for this conception to be thin). Without doubt, the object of socioeconomic rights corresponds to many of the universally recognized essential means for a worthwhile life, such as nutrition, clothing, a safe shelter, basic standards of living. Accordingly, socioeconomic rights ought to be recognized as universal insofar as the availability of the enjoyment of their core object is essential for a worthwhile life.

Basic socioeconomic rights, accomplishing the four desiderata of a universal criterion of justice together, are not in contrast with more specific conceptions of human flourishing and other more demanding criteria of justice, which may enforce a greater protection of them [27, p. 43]. Thus, in explaining the reason why socioeconomic rights have a certain universal power, it is also necessary to bear in mind that this universalism ought to be conceived in a really basic sense.

The second argumentation in favour of the universal power of socioeconomic rights seeks to probe the extent to which socioeconomic rights can be universally founded, or morally and politically constructed, on the very basic moral right to justification and how the normative universalism of these rights can be reciprocally and generally justified at the global level.

According to Forst, the emancipatory demand to justice is possible to be made as long as a person has the proper means which let him or her autonomously formulate it, and, thus, be respected as an agent of justification able to ask for and receive justification. If that is true that “victim of injustice is not primarily the person who lacks certain goods, but the one who does not ‘count’ in the production and distribution of goods” [9, p. 2], it is also true that without certain basic goods human beings would not be able at all to exercise their very basic right to reciprocal and general justification.

An apt clarifying example may be that of climate change mainly caused by the excessive pollution of affluent countries and wealth persons [4; 31] that use an amount of the common resource of the atmospheric capacity to absorb CO₂ much larger than persons living in poor countries [34] which, however, shoulder much of the burden related to climate change, such as massive desertification. What does it make impossible for those persons to exercise their very basic right to ask justification for the actions of persons which are responsible for unduly harming them? It seems clear that some pertinent means, such as knowledge and basic standard of living including food, water, a safe shelter, health, in addition to a basic justificatory power and a structure to justification are required in order to make persons enjoy their very basic right to reciprocal and general justification. Therefore, the ‘empowerment’ of persons that does not fully count as addressee and actor of justification is a constitutive element of the entitlement of the very basic moral right to justification to each person. Accordingly, the universal power of basic socioeconomic rights, insofar as they provide a person, as agent of justice, with the capacity to exercise their right to justification, seems to be justified by the principle of justification itself and able to be constructed on the right to justification.

Even though Forst’s defence against objection to socioeconomic rights seems less powerful than that of Pogge who explains their violation as an unduly harm and delves into the negligible charge that affluent persons and peoples should shoulder to ensure secure access to the basic object of socioeconomic rights, what is relevant here is the recognition of the fact that socioeconomic rights can be justified both

reciprocally and generally and thus can be morally, and also politically, constructed on the very basic right to justification. Indeed, Forst argues that “human rights to certain material goods are to be justified with reference to the necessary conditions for establishing a justified basic structure as well as – and this is crucial – with reference to the minimal standard of a life worthy of a human being, which may be justifiably withheld from no one, given the present level of available resources. In this sense, human rights are not only rights to certain freedoms but also rights to goods, the demand of which can be justified both reciprocally and generally” [9, p. 226]. According to this reasoning, basic socioeconomic rights cannot be denied to anyone, and their respect, along with their adequate realization, is a (reciprocally and generally justified) duty of each human being and social order.

If the basic moral right to justification is the paramount right whose entitlement ought not to be denied to anyone, therefore, basic socioeconomic rights, along with civil and political rights, are the required and essential justificatory conditions through which the basic moral right to justification can be concretely exercised by everyone. In this sense, the basic socioeconomic rights can find the source of their universal power in the moral right to justification insofar as their existence and enjoyment are indispensable for avoiding the exclusion of a person from the global realm of justification. As a consequence, it is possible to argue that the universalism of basic socioeconomic rights, constructed on the very basic rights to justification, is justified in moral terms and even not hardly realizable in practical terms. However, according to Forst, the existence of these rights ought to be recursively recognized in a context of political and social relations of cooperation as well as conflict, which calls for a just order, the establishment of which the members owe one another, i.e. in a context of justice. The extent to which the embryonal fast growing global socioeconomic order can be considered as a proper context for justice is debatable, even though there are few doubts on the fact that the global intersubjective interactions are so intensive that they call for at least a minimal just order so that also Forst admits that “the global context is, thus, an important context of justice and responsibility in addition to the more particular political ones” [9,

p. 227]. Indeed, the global intersubjective interactions have reached such a level that everyone is to some extent affected by the decisions of others and, thus, to the same extent, they must be considered part of a (global) context of justice. Moreover, if the claim to minimal socioeconomic rights is morally founded and potentially reciprocally and generally justifiable, the inexistence of a basic structure to ensure their enjoyment makes this claim even more urgent.

A third argumentation to assess the universal power of socioeconomic power is related to the justification of their corresponding duties according to the essential commitment of social justice to fight against (socioeconomic) inequalities which are morally arbitrary such as those related to fate and social contingencies. This defence seeks to take together the moral desirability and the practical feasibility of socioeconomic rights, envisioning their universal power in the light of the moral urgency of the secure access to their object and the existence of political relations in which this claim can concretely be framed.

The entitlement, and the respective adjudication, of moral and legal rights impose moral and legal duties on others and, thus, the universality of a right is linked to the legitimacy or justification (reciprocal and general in Forst's reasoning) to impose its corresponding duties to others. Accordingly, the lower is the secure access to the basic object of fundamental rights, the more justifiable ought to be considered in imposition of the corresponding duties.

To start with, an idea of the justification of duties related to socioeconomic rights can be outlined in the light of the Kantian common possession of the surface of the Earth [13, pp. 117–119] and the Lockean proviso according to which “no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others” [16, p. 12]. Indeed, these two argumentations may envision a partial justification of the duty to let others enjoy basic socioeconomic rights as a negative duty not to harm them unduly (and, in case of harm, as a duty to provide for adequate compensation).

Negative duties are generally assessed as stronger than the positive ones, since the former are considered as less burdensome than the latter and, for this, some, such as libertarians, argues

against the universality of socioeconomic rights underlining the burdensome (positive) duties they entail [27, p. 70; 29, p. 106]. Besides arguing for the fact that the secure access to the basic object of socioeconomic rights is (also) a matter of negative duties (recalling Pogge reasoning), this part seeks to explain the justification of the corresponding duties which socioeconomic rights entails undercutting the sharp distinction between negative and positive duties and considering the moral urgency of the fulfilment of their object.

A duty to provide (basic) socioeconomic opportunities, i.e. to provide secure access to the basic object of socioeconomic rights, can be also explained in the light of the principles of redress of morally arbitrary socioeconomic inequalities. Indeed, since human agents do not deserve opportunities deriving from social contingencies and fate, they ought not only to bear responsibility to avoid harming another unduly but also a partial responsibility to make arbitrarily disadvantage persons enjoy secure access to the object of socioeconomic rights. Furthermore, the justification of this duty can be reasonably accepted as it entails a negligible burden comparing to the wide variety of benefits for the worst-off. As a matter of fact, we can think about the example of a billionaire obliged to consider as just duties, say, a tax, which would ensure many people secure access to the object of the right to food, insofar as this is reasonably possible and concretely feasible. Not only does this example clarify how the corresponding duties of basic socioeconomic rights are justifiable but sheds also light on how the relation between duties and rights can be understood according to the assessment of the measurement of the lower burden of the former vis-à-vis the greater benefit of the latter.

Result. Combining the three argumentations sketched out in the analysis, it is possible to conclude that socioeconomic rights ought to have universal power within the minimal threshold which ensures a worthwhile life [12, p. 71] and which in no case everyone would deny for him/herself, in relation to the secure access to their minimal objects and in a shared ground of justice, i.e. a context of cooperation as well as conflict, such that of the current global socioeconomic order. To sum up, since everyone would recognize the core object of socioeconomic rights, in term of basic needs, as essential for a worthwhile life

and fundamental socioeconomic rights cannot be denied without excluding a person from the global realm of justification, and thus violating their very basic right to justification, fundamental socioeconomic rights ought to be recognized as universal. It is crucial to bear in mind that the universal power of the claim to the basic object of socioeconomic rights is related to the moral urgency of the secure access to that object, the negligible burden it entails to others and the extent of the (global) ground of justice, shaped by global institutions and transnational agents, in which the claim is practically enforceable.

Furthermore, it is plausible that the overall under-fulfilment of socioeconomic rights, along with the rising in socioeconomic inequalities at the global level, may be due to a general reluctance toward the recognition of the universal power of socioeconomic rights. Indeed, the scarce attention they use to catch in the promotion of global social and economic institutions, along with the spread denial of a universal position equal to the civil and political rights, may be the reasons which, at least partially, explain the ongoing disrespect of these rights. Therefore, this supposition – which is, by the way, not more than a mere speculation – looks at the asymmetry in the theoretical attention and the practical realization of these rights as a potential reason for the under-fulfilment of the secure access to their basic object. The latter ought to be ensured not only because would it entail negligible burdens on the side of persons that should shoulder it, but first and foremost because of the universal power of the socioeconomic rights and the relevance of the secure access to their basic object for a worthwhile life.

Accordingly, the main findings of the paper lie on the reconsideration of socioeconomic rights according to their relevance for a worthwhile life, the reasonable justification of the duties the counterpart ought to bear and the overall positive result of the relativeness of their fulfilment. These considerations, above all the last one, may sound extremely ambiguous and, for this, require further explanation. The innovative point this paper seeks to unfold corresponds to the embryonal sketch of a new approach toward rights which recognizes the universal power of socioeconomic rights considering, however, their relative scope and realization. Moreover, accepting the universality of different, and sometimes conflicting, categories

of fundamental rights, it is impossible to deny that an absolute fulfilment of all of them is a chimera (and also the absolute fulfilment of only one of them may be considered as impossible [27, p. 180]). The main issue at stake here is that no system of rights can avoid the potential conflict rising in the attempt to fulfil different fundamental rights due to the inner interrelation among them. In any case, if the potential conflict rising among rights must not be denied, it is also necessary not to deny the potentially mutual reinforcing of different rights [15, p. 6; 3; 5; 6; 35]. Accordingly, the universal realization of socioeconomic rights can be ensured only through reforms which take into account how rights are related one another and how their corresponding duties are morally justifiable and practically enforceable. One of the main directions of further research will, thus, be the theorization of the investigation of the right balance between different rights and the best viable and feasible way to establish the universal secure access to their basic object along with the explanation of the limits of the global protection of basic rights due to reasonable national resistances.

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