

# Innocently Benefiting from Injustice

## 1. Relevance relative to the call for proposals

The proposed project aims to provide theoretical and practical analysis of an important, but so far insufficiently studied aspect of moral and political theory, namely the question of whether, and to what extent, an agent can acquire compensatory or rectificatory duties in virtue of being an innocent beneficiary of injustice.<sup>1</sup> Innocent beneficiaries are not involved in any way in the injustice itself. They are merely enriched through the injustice. In the following we refer to the idea that agents can have such duties as the *Beneficiary Principle*. Understanding this principle is important for understanding the nature of our duties as moral agents. Gauging the moral significance of the Beneficiary Principle is of particular importance when considering cases where some agents have innocently benefited, or are benefiting from injustice, and where those that contributed to the injustice itself are either unwilling or unable to rectify it. Examples of this sort include differential burdens and benefits arising from human-induced climate change, historic injustices (such as colonialism), and unjust arrangements of international trade and economic cooperation.

## 2. Background and status of knowledge

Our world is rife with injustice. One of the fundamental questions in moral and political philosophy concerns who should be held responsible for addressing injustice. Most would agree that if some agent contributes to injustice – directly as its perpetrator, or by conspiring or colluding or conniving with its perpetrators – the agent acquires special duties to address it. Call this the Contribution Principle (Pogge 2002; Barry 2005; Øverland 2005; Barry and Øverland 2012a). Many also accept the idea that agents have general duties to assist victims of injustice that are in dire need, if this can be done at moderate cost to themselves. Call this the Assistance Principle (Singer 1972; Barry and Øverland 2012b). These principles are well known, and have been the subject of much philosophical debate. There are limits, however, to the degree to which appealing to these two principles will be adequate to ensuring that the victims of injustice are compensated for their losses. The assistance principle is sometimes thought too weak and general, and may also lack in motivational force—agents ordinarily do not feel obliged to take on more than quite low cost to address injustices suffered by distant others to whom they have no further connection. The contribution principle, on the other hand, gives rise to more stringent duties, and is generally taken to be a very plausible principle for allocating responsibility. The problem, however, is that it fails to apply to all those cases in which the contributors to harm are unable to discharge their duties. With respect to injustices whose effects persist but which were committed in the distant past, for instance, the original contributors may no longer exist. It is in these sorts of cases particularly, that theorists have begun to argue that the Beneficiary Principle is of particular relevance. Even if those who committed the injustice are unable to discharge their duties, or are simply unwilling to comply with them, some agents may still benefit from the injustices. Perhaps these people also have special duties to address the plight of the uncompensated victims.

Public and scholarly debate has only recently turned to the question of whether an agent who innocently benefits from injustice can, in virtue of that fact, acquire special duties to the victim (Barry 2003, Gosseries 2004, Anwander 2005, Caney 2006, Butt 2007; Butt 2009; Goodin and Barry 2012, Haydar and Øverland 2012, Wenar 2006). The importance and potential impact of this idea is apparent. If it is plausible that innocent beneficiaries have special duties to compensate the victims of injustice, this may have very important implications for pressing concerns such as human-induced climate change, historical injustice, and unjust forms of economic cooperation, as well as in a range of small-scale interpersonal situations.

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<sup>1</sup> For ease of exposition we do not make much of the distinction between compensation and rectification in this project description, but notice that this distinction might make a difference in many contexts.

In the case of human-induced climate change, for instance, it is well-known that a substantial portion of those who have contributed to this phenomenon no longer exist. On the other hand, many people, especially (but not solely) in Western developed countries, now reap the benefits of the early industrialization. Can this provide grounds for assigning special duties of compensation to these agents (over and above the duties they may have incurred in virtue of themselves being contributors to climate change)?

Similarly, in cases of historic injustices such as colonialism, the descendants of the original colonizers may now benefit from the injustice committed by their forbears, even though they themselves did not contribute to those injustices. Many will think that these descendants are more likely to have duties to compensate the victims, than other able agents elsewhere.

A third case concerns the beneficiaries of persistent systemic injustice. Some theorists, notably Thomas Pogge, have argued that the citizens of western democracies contribute to world poverty because they collectively control the governments that uphold global institutional arrangements that foreseeably impoverish severely a large proportion of the world's people (Pogge 2002). His arguments have been criticized on the ground that individual citizens do not seem to contribute in any meaningful sense to such systemic injustice, given that the influence they yield through casting their vote every three or four years, paying their taxes, or through their ordinary consumption behaviour is extremely small (Øverland 2012). In addition, many global economic institutions are not really subject to democratic control. However, even if individual citizens cannot be said to contribute to imposing a global institutional order that harm the poor, it seems easier to show that the citizens of many wealthy countries benefit from the current world order. If Pogge's claims concerning the injustice of the current global order are correct and if the Beneficiary Principle is morally significant, then this will ground special duties on the part of the citizens of these countries to the global poor.

The Beneficiary Principle has recently become the subject of increased attention – and support – among political theorists. It seems clear both that it has a certain intuitive plausibility, and that its implications may be important and wide-ranging. The debate concerning this principle, however, is nascent, and many questions are still unanswered. The principle is defined, understood, and justified in different ways. The justifications, and the hypothetical examples employed to support them, often run together different moral reasons, and the precise role and function of the fact of having benefitted from injustice in the context of a wider account of distributive justice, is seldom explained. For example, sometimes the victims are left so badly off in the examples presented that most theories of distributive justice would mandate assistance (Gosseries 2004; Butt 2007). It is thus hard to separate the intuition that we ought to assist others who are in great need from the intuition that we ought to compensate an agent the injustice towards whom we have ourselves benefitted from. In other cases, the benefit in question looks very much like being in possession of misappropriated goods (Butt 2012). It seems uncontroversial that one ought to return such goods. But this can be explained in terms of restitution, a familiar notion that depends on a theory of property rights. If someone owns the car that the thief left in my driveway, I should give it back. This does not by itself entail that I should compensate for other benefits that might accrue to me as a result of some injustice. It also seems uncontroversial that the Beneficiary Principle is supposed to ground something additional to the duty to return misappropriated goods of this sort. The question, then, is whether or not it is possible to devise examples that would support the Beneficiary Principle in its own right, rather than drawing their force from other features of the situation.

A further set of questions concerns whether and how the Beneficiary Principle is sensitive to the presence of other factors. For instance, does it make a difference whether or not an agent is the *intended* (as opposed to accidental) beneficiary of injustice (Goodin and Barry 2012; Øverland and Haydar 2012)?

The Beneficiary Principle thus stands in need of substantial clarification. This project therefore aims to a) assess the normative force of the Beneficiary Principle, b) consider the extent to which the Beneficiary Principle interacts with other factors (such as intention), and c) assess the implications of the principle – once properly understood – for some practical dilemmas.

### 3 Research questions

#### 3.1 Theoretical

1 a) *Examine the relationship between the Beneficiary Principle, as a corrective principle of justice, and general accounts of distributive justice.* This question pertains to how the Beneficiary Principle is to be understood in relation to more general theories of distributive justice. According to Butt (2009, ch. 2) the Beneficiary Principle belongs to the domain of corrective, rather than distributive justice. The relevance of this point is easily seen if we consider the Contribution Principle. If an agent harms another, he should undo the harm. This judgment does not depend on any background theory of distributive justice. Egalitarians, for instance, would not generally argue that perpetrators of harm should only compensate to the extent that they are worse off than their victims are. (Though other theories of distributive justice, for instance total utilitarianism, are more likely to curb the autonomy of the Contribution Principle.) It is not clear that the Beneficiary Principle is autonomous in relation to distributive justice to the same degree as the Contribution Principle. Most often, the Beneficiary principle is interpreted as a secondary principle of corrective justice. Some authors hold that it applies only if those who have contributed to the injustice are unable or unwilling to undo his harm (Caney 2006: 472-3). Others, however, argue that the principle applies more broadly, such that there is a firm presumption that beneficiaries of injustice should disgorge their benefits, regardless of whether the contributors of the injustice can be compelled to compensate the victims fully (Goodin and Barry 2012). We therefore aim to situate the Beneficiary Principle within a larger context of distributive (and corrective justice).

1 b) *Examine the implications of the overlap between the Beneficiary Principle and other theories and principles.* This question concerns the relationship between the Beneficiary Principle and theories of justice according to which agents should only be held responsible for the consequences of their own choice. For purposes of illustration, we can consider luck egalitarianism, a theory of distributive justice according to which "...it is bad – unjust and unfair – for some to be worse off than others through no fault [or choice] of their own" (Temkin 1993: 13). It is interesting that this influential theory of distributive justice tends to pull in the same direction as the Beneficiary Principle. Whenever an agent is unjustly harmed by a particular act, and a different agent innocently benefits from this act, it is clear that neither agent have done anything to deserve their differential fates. Absent further information, those who accept the basic tenets of luck egalitarianism will tend to accept the moral verdicts of the Beneficiary Principle, though for different reasons. Most examples that are presented to provide intuitive support for the Beneficiary Principle do not take this into account. For instance, in an ordinary innocent benefiting case, agent A unjustly harms agent B, and agent C benefits as a consequence. A, who committed the injustice, then disappears from the scene. Many would intuitively accept that C should compensate B. But this may also be accounted for by luck egalitarian considerations just as well as the Beneficiary Principle. It is therefore important to consider the Beneficiary Principle in a wider range of contexts, in order to evaluate the nature of its distinctive moral significance.

1 c) *Examine the plausibility of different versions of the Beneficiary Principle.* This question arises from the fact that there is more than one version of the Beneficiary Principle. One might, for example, formulate the principle like this: "If an agent A benefits from an unjust act x that he did not perform, and an agent B is harmed by x, then, if B did not perform x, A, in virtue of benefiting from x, owes B compensation (which is not to exceed A's gain from x), insofar as no other agent has stronger duties to compensate B" (see Huseby 2012).

But there are other versions of this principle. First, the link between the *particular* injustice and the beneficiary might be thought inessential to it (Caney 2006), such that any beneficiary of any

injustice owes compensatory duties to the victims of any injustice.<sup>2</sup> This raises the question of whether and to what extent different versions of the Beneficiary Principle are related, whether they rely on different justifications, what their different implications may be, and which are most plausible for determining the fair distribution of benefits and burdens when injustice has occurred.

1 d) *Examine the different justifications for the Beneficiary Principle.* In some cases the mere fact that there is a causal connection between the victim and the beneficiary is the factor that is emphasized in justifications of the Beneficiary Principle. Though this is not necessarily spelled out in detail, some of the cases that are presented in order to provide intuitive support for the Beneficiary Principle typically involve this kind of causal connection (Goodin and Barry 2012, Butt 2007, Gosseries 2004, Butt 2012). Causality is often thought to be a morally relevant factor, especially in straightforward cases of contribution to unjustified harm. That is, the agent who *caused* unjustified harm is ordinarily understood to have stringent special duties to make the victim of the injustice whole. However, agents who innocently benefit from others' wrongdoing do not (by definition) contribute to unjustified harm in this manner. Rather, they are affected causally by someone else's causal agency by benefiting from it, while the victim is affected causally by being harmed. If causal connection is relevant to the responsibilities of innocent beneficiaries of injustice, it must therefore be in a different way than for contributors.

But why should causality matter? One proposal relies on the idea that moral agents should be averse to injustice in such a way that they should not only avoid causing acts of injustice, but also be willing to give up the benefits that accrue to them as a result of injustices committed by others. According to Butt: "We make a conceptual error if we condemn a given action as unjust, but are not willing to reverse or mitigate its effects on the grounds that it has benefited us" (Butt 2009: 128). In our project we shall consider the strength of these justifications, and the extent to which they are capable of supporting the Beneficiary Principle.

1 e) *Examine the relation between the Beneficiary Principle and different kinds of benefits.* It seems clear that most authors do not confine the principle to material goods (Caney 2006, Goodin and Barry 2012). However, if nonmaterial goods fall within the purview of the Beneficiary Principle, this raises further questions. For instance, non-material goods are such that several agents may benefit from one injustice, and it is then not always clear in what way the duty to compensate should be distributed among them. We will investigate to what extent the Beneficiary Principle should apply also to non-material benefits, and how it should apply.

f) *Examine the implications of the fact that benefits from injustice may exceed the harm of injustice.* There can be many beneficiaries of a particular injustice, and each might benefit individually as much as the victim of the injustice has lost (or their collective benefits may exceed what the victim has lost). Do they each owe him part of (the value of) their benefit, or the whole (value) of it? Further, what if the original perpetrator did not die, but was brought to justice and made to compensate for his act. Would the beneficiaries then be off the hook? The answers to these questions are far from obvious. If the Beneficiary Principle is considered to be a subsidiary principle of corrective justice, it seems that compensation from the original perpetrator should indeed annul any duties on the part of innocent beneficiaries. However, according to Butt's understanding of this principle (2009) (and possibly on Caney's (2006)), it does not make a difference whether or not the perpetrator compensates the victims. The beneficiaries should still be so averse to injustice as to give away their benefits. Goodin and Barry (2012) claim that the beneficiaries of injustice should disgorge the total of their benefits, even if the victim is no longer around to be compensated, or has already been compensated fully. But one could also argue that once compensation is made (either by the perpetrator or by each beneficiary giving up parts of their benefits), the slate is clean, so to speak, and any remaining benefits accruing to the innocent

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<sup>2</sup> There are other versions as well. In an early paper, Gosseries (2004: 7-8) considers the idea that innocently benefiting from injustice might create liability to the extent that the beneficiary is also an innocent contributor to harm.

beneficiary can be kept as good luck. Either way, the extent and stringency of compensatory duties based on benefiting from injustice remains a contested question that stands in need of further investigation.

*1 g) Examine the importance of being the intended (as opposed to random) beneficiary of injustice.* According to the Beneficiary Principle, we have a duty to compensate a victim of an injustice if we have benefited from the injustice. When we are the intended beneficiaries of the injustice, our duty to compensate the victim may seem more stringent. For instance, if Pete is the owner of a restaurant that benefits from the destruction of another restaurant in the neighbourhood, Pete may owe the owner of the other restaurant some compensation. But if the other restaurant was destroyed *in order to* benefit Pete, his reason to compensate may seem all the more stringent (Haydar and Øverland 2012). The idea here is that benefiting from injustice always gives rise to some duties, but that these duties may increase and become more stringent, when benefiting from injustice interacts with other factors, such as being the intended beneficiary of an injustice.<sup>3</sup> Goodin and Barry (2012) take an opposing view. We will explore how the Beneficiary Principle interacts with other factors in the project, and investigate to what extent it is relevant for the practical cases such as climate change, colonialism, and international trade.

*1 h) Examine the extent to which the Beneficiary Principle is limited to cases of injustice, or whether it can also be activated in cases of (mere) harm.* So far, we have assumed that the Beneficiary Principle is activated only in cases of injustice. There is some reason to question this assumption. Assume that someone unjustly destroys Pete's restaurant, and that you benefit as a result (though you are not the intended beneficiary this time). Compare this situation with one in which Pete's restaurant is destroyed by a landslide. Again, you benefit as a result. According to the Beneficiary Principle you owe Pete compensation in the first case, but not in the second. When constructing cases like this, the Beneficiary Principle and luck egalitarian considerations come apart, but it is unclear which principle is the more plausible. It would be interesting to consider whether the Beneficiary Principle should be extended to cover instances of benefiting from harm as well as injustice. If so, a further question is whether it makes a difference to the scope and stringency of the resulting duties whether or not an agent benefits from injustice or harm.

### 3.2 Practical

In this project we will study practical contexts in which the Beneficiary Principle may seem particularly salient. These contexts include past as well as current injustices. As indicated above, this project is in part motivated by the limitations of the Contribution Principle, which faces two challenges: 1) past contribution does not generate duties on the part of the present generation, since this generation did not contribute to injustice, and 2) ordinary affluent people today are not responsible for current injustices because their contribution is insignificant or non-existent. The question is therefore to what extent the Beneficiary Principle can ground a duty on the part of current affluent people towards people who suffer as a result of past and present injustices.

#### *2 a) Examine the implications of the Beneficiary Principle in relation to climate change*

Debates about climate change have often turned on the availability of agents suitable for taking on duties to bear the costs of mitigation and adaptation. The Beneficiary Principle has gained some attention recently, mainly due to problems relating to the alternative Contribution Principle, and Assistance Principle (Caney 2005, Page 2008, 2012, Huseby 2012). As noted, the Contribution Principle is thought problematic because many of those who have contributed to global warming are now dead, and the Assistance Principle is by some perceived as too weak. Even if there are many individuals that are able to help others, the connection between this ability and the plight of others does not compel much assent. The Beneficiary Principle may thus appear to be a plausible

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<sup>3</sup> For some slightly different, but related concerns, see Pasternak (2012) and Heyward (2012).

alternative. Many beneficiaries of climate change (that is, those who now owe their well-being in part to earlier industrialization, and perhaps also those who will benefit from a warmer climate in the future) are alive and they might seem to have a morally salient connection to the harm in question.

It is worth noting here the extent to which the success of this strategy rests on which version of the Beneficiary Principle that is supposed to ground the duties. According to several authors, before some point in time (suggestions range from 1980 to 1990), it is hard to argue that pollution constituted an injustice, due to the polluters' lack of information and knowledge about the consequences of their actions. If that is the case, and we think that the force of the Beneficiary Principle is grounded in our condemnation of the initial act of injustice, the Beneficiary Principle will have to encompass mere harm in order to address parts of past pollution.

*2 b) Examine the implications of the Beneficiary Principle in relation to colonialism.* Cases of historical injustices such as colonialism share some features with human-induced climate change. Notably, the original perpetrators of injustice are often not available to fulfil their duties. If it can be shown that descendants of colonists now relevantly benefit from their forebears' injustices, while the descendants of the victims continues to suffer from the unjust harms inflicted on their forebears, the Beneficiary Principle will have a potentially large impact. Moreover, it may be argued that the current beneficiaries were indeed at least partly the intended beneficiaries of the past injustice (Haydar and Øverland 2012).

*2 c) Examine the implications of the Beneficiary Principle in relation to unfair international trade*  
As far as international trade is concerned, affluent countries have benefited unduly from international trade as a result of superior bargaining power. And it is quite difficult to deny that in many cases they acquired this power in a way that has involved a great deal of wrongdoing (Stiglitz & Charlton 2007). If the poor and affluent had comparable bargaining power, different agreements on international trade and many other policy areas would have been made and it is very unlikely that the affluent would enjoy the benefits of inexpensive labour and favourable terms of trade to the extent that they currently do. In the case of trade in extractive resources such as oil, affluent countries often benefit a great deal from resources that are inexpensive *because* their sale is used to benefit some ruling elite rather than the population of the exporting country (Pogge 2002, Wenar 2008).

It is worth noting that these three cases (2 a-c) involve some complicating features. First, they concern collectives rather than individuals, and secondly, they (especially the first two) concern justice across generations. Both of these factors may raise issues that are not, as such, integral to the Beneficiary Principle. Throughout the project we will therefore also pay close attention to cases in which contemporary individual agents are differentially affected by acts of injustice for which the perpetrator is either unwilling or unable to compensate. The three cases above are not chosen because they are necessarily the ones best suited to illustrate the implications of the Beneficiary Principle, but because they are important in themselves, and because this principle has potential (though perhaps interestingly varied) implications in each of them.

#### **4 Approaches, hypotheses and choice of method**

Political and moral theory presupposes a method of justification. This project will proceed on the basis of what has proven the most resilient and useful method of moral and political argument, namely what John Rawls (1971) has termed *reflective equilibrium*. Reflective equilibrium denotes the process whereby one's considered first-order judgments about ethical issues are bound together by second-order principles. Predictably, this process will lead to the discovery of first-order judgments that do not fit into the scheme constituted by the second-order principles. These first-order judgments must then be evaluated in terms of their centrality and convincingness. On the basis of such an evaluation, these judgments are discarded or revised. Alternatively, a renewed search for second-order-principles is conducted, so as to avoid revising or discarding the first-order

judgments. In this process, neither first-order judgments nor second-order principles are privileged. Both are open to continual evaluation. The purpose is to reach a reflective equilibrium in which one's judgments and principles are balanced in a coherent scheme (Rawls 1971: 48-50).

The advantage of this procedure is that it combines two sources of justification that both seem integral to ethical and political argument, namely considered judgments and internal consistency (Sayre-McCord 1996). By acknowledging both sources, Rawls's procedure strikes a reasonable balance. A further advantage is that the procedure seems to provide an intuitive fit with the way ethical argument is carried out in practice. We do, to a certain extent, rely on a set of deeply entrenched judgments that we are reluctant to give up unless persuasive reasons tell us otherwise. And we do seek to ground these convictions in higher-order principles, in order to formulate a coherent ethical theory. If our judgments cannot be made coherent, we have reason to revise either our theory or some of our judgments. It might be thought a flaw in Rawls's theory that he does not indicate whether to revise judgments or principles in cases of conflict, but this is as it should be. It would be hard to know the answer in advance.

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