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**APPROXIMATIONS TO THE MORAL
RESPONSIBILITY OF THE CREDITORS**

**Javier Iguñiz
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Javier Igúñiz Echeverría

RESUMEN

Se atribuye a la crisis de la deuda el aumento más masivo y rápido de la pobreza en América Latina. Por esa crisis se ha denominado a los 80 "la década perdida". La campaña Jubileo 2000 presiona a los acreedores en base a una fuerte exigencia moral. El objetivo de este trabajo es desentrañar las diferentes facetas de esta exigencia. ¿Por qué los acreedores deberían asumir responsabilidad en el esfuerzo por reducir la pobreza de América Latina? Después de todo esa pobreza es antigua y es la consecuencia de muchos factores, aparte de los pagos de la deuda externa o la condicionalidad impuesta sobre los gobiernos de los países endeudados. Por eso, es importante responder lo mejor posible a preguntas como ¿Quiénes son los acreedores? ¿Qué tipo de responsabilidad tienen los acreedores hacia lo que se denomina la deuda social? Cuando de lo que se trata es de hacer un caso práctico, esto es, obtener resultados en el campo de la deuda, la respuesta puede no ser evidente. En este trabajo utilizamos varios conceptos como libertad de agencia, agentes y acciones colectivas, y deberes positivos para elaborar un caso de exigencia moral.

ABSTRACT

The fastest massive increase in poverty in Latin American modern history is commonly attributed to the debt crisis. The 80s of this ending century have been called "the lost decade". The Jubilee 2000 campaign presses for placing a strong moral exigency on the creditors and must lay a solid foundation for its request. The purpose of this paper is to unravel the different facets of that exigency. Why should the creditors assume responsibility for reducing Latin American poverty? After all, poverty in Latin America is ancient, and is the consequence of many factors aside from payment of the external debt or the "conditionality" imposed upon governments in indebted countries. Therefore, it is important to give the best possible response to the questions: Who are the creditors? What type of responsibility do the creditors have toward what is being called social debt? Once we try to work out a practical proposal the answer may not be so evident. In this paper, some concepts as freedom of agency, collective agents and actions, and positive duties among others are used to produce a moral case.

APPROXIMATIONS TO THE MORAL RESPONSIBILITY OF THE CREDITORS*

Javier Iguíñiz-Echeverría[#]

INTRODUCTION

The fastest massive increase in poverty in Latin American modern history is commonly attributed to the debt crisis. The 80s of this ending century have been called “the lost decade”. The Jubilee 2000 campaign presses for placing a strong moral exigency on the creditors and must lay a solid foundation for its request. The purpose of this paper is to unravel the different facets of that exigency. Why should the creditors assume responsibility for reducing Latin American poverty? After all, poverty in Latin America is ancient, and is the consequence of many factors aside from payment of the external debt or the “conditionality” imposed upon governments in indebted countries. Therefore, it is important to give the best possible response to the question: What type of responsibility do the creditors have toward what is being called social debt? It must be clear from the beginning that our topic is not about the undoubtedly important individual responsibility of the governments of debtor countries although some of the consequences of our analysis will apply to them.

In our analysis we will have in mind the relationship between the *rising* debt and debt payments and the *increase* in the number and proportion of the poor partly because it is empirically strong enough, and theoretically easy to manage. In spite of that, the question of assigning responsibility to the creditors is not so simple. As one notable jurist we will quote often has said, “In premises such as hunger, impoverishment, the absence of sanitary conditions, illiteracy, etc. we are dealing with states of things that comprehend millions of passive individuals, and whose causation is, in any event, the result of an enormous number of heterogeneous actions and omissions, of very diverse events and tremendously diversified contexts” (Laporta 1986, 58). This complexity is an obvious problem for a legal approach.¹

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jiguini@pucp.edu.pe . <http://macareo.pucp.edu.pe/~jiguini/>

¹ Perhaps that complexity of causes explains why the external debt was no longer a socially and politically significant topic until the proposal of the Jubilee and the recent economic crises have returned it to the stage.

We believe it is necessary, then, to delimit the economic facts we are dealing with, and the agents and actions involved.

I. THE MORE RELEVANT FACTS

To deal with this complexity, and determine the responsibilities of agency, by action or omission, that come into play we must start defining those aspects of the general problem of poverty that are relevant to this case. We have a moral debt issue in a good measure because the great leap in the absolute number of poor to the point of registering an increase of the proportion (in spite of high demographic growth) occurred in the first half of the 1980s coinciding with the starting moment of the debt crisis. According to the figures from the Economic Commission for Latin America and the Caribbean of the United Nations (ECLAC or, in Spanish CEPAL), between 1980 and 1986 alone, the number of poor increased by 34 million, while in the entire previous decade it had risen by 23 million. From 1986 to 1990, the number of poor rose by another 27 million. From 1990 until 1997, before the Asian, Russian and Brazilian crises, the process decelerated since almost 4 million more were added (CEPAL 1999, 18).² A clear rupture was registered in the first half of the 1980s, particularly after 1982. This puts the creditors in the middle of the stage for the simple reason that their sudden decision to stop lending was the most immediate or triggering factor in the massive and abrupt deterioration of the quality of life in Latin America during the 80s. Being this unquestionably true, and extremely important, it is not all that matters in a moral approach to the problem. Who are the creditors?

Along the “lost decade” both agents and actions changed. We will see in the core of our argument that they can be seen as mutating according to the stage or aspect of the general problem at hand, and also according to the corresponding ethical conceptual framework we use. The risk with an ambiguous answer to the above questions is to stop our work, once more, in impractical rhetoric. The term “creditors” is not so simple. To unravel the problem we will divide the core of this paper in three parts or moments corresponding to different aspects of the debt problem.

² A small summary of this process, although with less current figures, can be found in Iguíñiz (1999b, 115-123).

II. AGENTS, ACTIONS AND WELL-BEING AT THE TRIGGERING MOMENT

The question of responsibility in the triggering of the debt crisis must be framed within an analysis in which there is an intervening, identifiable action or omission or a set of them, which are executed by someone or some people and which have some consequences that are also identifiable. After all, as Amartya Sen has noted, the analysis of the *situation* cannot be separated from the *action* of the agents that have contributed to it (Sen 1997, 98). It is in that situation, in which the agents and the results for well-being are identifiable, that we can establish, using the term of Laporta (1986, 60) a “causal responsibility”.

A. A case with or without injury

Nevertheless, even in the event that no undesirable consequences occur, moral judgment can also point to the agents. In the language suggested by Sen, the *freedom of well being* cannot be confused with the *freedom of agency* (1997, 63). If someone pushes someone else into the river and the latter is able to get out without injury for whatever reason, the action is still morally condemnable (Sen 1997, 105). Agents can therefore be judged for the nature of their acts with some independence of the consequences of their action. Obviously, this is even more so if they have contributed in some identifiable way to some deterioration, but the case can be separated from an ethical viewpoint, and that is part of our this first approximation to the moral responsibility of debtors.³ Economic analysis and historical experience are key in this type of argument since they have to establish the risk of being injured as a consequence of the action evaluated. That is why it is important to state that any economic analysis and narrative will tell that an outflow of capital will normally have more or less immediate and precisely defined negative effects on the economies. Even if for some peculiar circumstances the effects do not materialize there is moral responsibility in it. This distinction is relevant partly because in a campaign mood both, accused and accuser, usually share a strict consequentialism, and tend to agree that if there is no effect, there is no moral case. In this case, we have strong reasons to think that there is a pushing-to-the-river case.

In spite of the above argument, the problem remains unclear. A movie of the economic process would never show such a simple act as pushing somebody. The way creditors withdraw their capital as speedily as possible is not an easy matter to make a formal moral case.

³ Assigning importance to actions independently of the consequences brings into relief in a particularly acute way that moral analysis cannot settle for assessing the results of actions, as occurs with consequentialism. This does not imply that consequences also count. Sen (1986, 101) proposes that we distinguish between consequentialism and “sensitivity to consequences” to leave room for a less unilateral view of things.

B. Collective action with no collective agent

In the first moment of the debt problem we had a financial panic. In these cases we usually have some sort of collective action with no clear collective agent. "A collective action demands a certain set of agents, each one of whom carries out a specific individual action that, coordinated with each of the actions of the rest, produces a different state of things than would result from only each one of those individual actions" (Laporta 1986, 60). But we have a non-organized coordination of actions that appears to hinder the assigning of responsibility, inasmuch as the action of each individual lender by itself is not what generates the abrupt economic deterioration of the economic situation in Latin America. We can say that, there is no apparent organized collective subject. Thus we resort to terms such as "systemic", "mechanism" or "market"⁴ If there is no collective subject, whom can we complain to? Even so, we do not have a simple sum of individual responsibilities. To begin with, as the jurist Laporta has written, within the typical framework of the analysis of strategies and games, "each one's responsibility can vary in function of the behavior expected of the rest, to the point that it can increase or decrease in function of the behavior of the rest of the members of the whole" (1986, 61-2). This approximation is useful to the description and analysis of the debt problem because, in effect, in cases of financial panic, we have a series of individual behaviors by firms that result from the behavior expected of the rest and are reinforced each day when these expectations are confirmed. But description is not enough. If the moral case is to be practically useful something has to be done about this type of non-organized collective causal responsibility. "The market did it" type of reasoning is comfortable to creditors and radical ideologues but not useful for a serious campaigner.

Indeed, moral responsibility has to move one step upward touching those institutions, like the market, that is sometimes presented as a spontaneous creation of individuals interactions in society. That this is a very practical issue has been seen when creditors organized themselves immediately after the panic in order to save themselves from an eventual crisis of the financial order. The moral case points to the rules of competition in the financial market, and more precisely to actual organizations that have the power either to influence them or to create organizations that can do the regulatory job. The newly created Paris Club and bankers' Steering committee in New York are examples of such restructuring of the apparently spontaneous and impersonalized market institution. A more recent example of this is the current discussion about the required "new financial architecture". Those organizing and participating in such a debate, openly or not, are more

⁴ In a search to find reasonable explanations and to rule out others, ECLAC states that, "in fact, it would be fitting to argue that what "failed" during the 1970s was not the lenders, nor the bankers as such, but rather the 'market.'" CEPAL 1990, 27. In this publication, the meaning of market is

or less the same agents behind the first stage of the debt crisis. In fact, a key proposal of the Jubilee 2000 campaign is to regulate in different, more symmetric, manner creditor-debtor relations.

Still, this does not make the case absolutely clear. In fact, part of a campaign is to *create* responsible organizations. In the same way as the accused try to make themselves as diffuse, and as invisible, as necessary to avoid moral and legal cases, the accuser has to *build* a opposite counterpart. That implies, creating the interlocutor when there is none or pushing it out-of-closet if it is hiding behind institutional ambiguities. This does not have to be necessarily unfair; need not be a scapegoat fabrication as sometimes happens in the economic analysis of international processes and police novels. After all, thanks to our kids, we all know today about fighting mutants. The fact that the G7 acted as a collective body in Cologne, and again more recently in Tokyo, is an example of agent creation. A moral case that includes the search of the morally responsible becomes most of the times difficult. However, we cannot cite the alleged impossibility of disentangling the complexities of the situation or the acknowledged and inescapable “ambiguities in the analysis of responsibility” (Sen 1997, 106) as excuses to avoid moral judgment. But it is also true that no so exceptional mistakes in the process of gradual approximation to those responsible can be costly in terms of energy lost, case distortion, and frustration.

C. Freedom from the market

Acknowledging that moral assessment is not a simple exercise, we can affirm several things with due caution. At some point between the deliberate policies of governments and banks and their reflective and unavoidable actions which pushed the crisis button, there are decisions that, although they occur within limited frameworks of action, are to a point, free decisions. Any financial history recognizes those individuals, private institutions and governments have some margins of action and use them. The over-expansion of dollars during the post-war period, due to persistent US deficits, is one of the forerunners to the well-remembered process. The consequent inflation and, most immediately, the US Federal Reserve’s radically restrictive monetary policy under the administration of Paul Volcker have a recognized relationship with the phenomenal rise in interest rates. There is no financial history that fails to commend the *personal* audacity involved in the decisions of the FED under at the time, and that fails to recognize the immediate economic costs it implied, as well as its efficacy in reducing inflation.

more limited than usual. It refers especially to the propensity to overexpansion and overrestriction typical of the private loan market.

Reform in the financial architecture, changes in international regulation, etc. are practical policy matters for some even if they are unquestionable and revered “givens” to others. Ethical inquiry is involved above all with resisting the “givens”. The market, as any other institution has been and can be designed. Generally, that framework and the discussions pertaining to it are more accessible to the business, political and intellectual elite and, therefore, the responsibility falls back on them especially.

III. COLLECTIVE AGENTS AND INJURIOUS COLLECTION

We have to move into a historically second moment of the debt process, but also, and this is the most important, to a second type of approximations the moral responsibility of creditors. The nucleus of the Jubilee 2000 campaign is debt reduction by the creditors. In the case of that request for debt reduction we have an exigency for pardon that is equivalent to not collecting, to omitting an action of collection by very precise agents, at least governments, multilateral agencies, and bank’s open and institutionalized coordination. Since now we base our argument on the fact that debt *is being* paid, the omission, the inaction, would be to continue collecting. It is fitting to point out this aspect, to establish the nature of the “non-collection” request, as opposed to fighting for “non-payment,” that has been the most typical type of campaign in the 80s.⁵

The requirement applied to the search for responsibilities by collective omission is similar to that by collective action. “What is important to remember is that collective omission produces a different result than is produced by each individual omission. Furthermore, to speak of collective omission we must determine who is, or are, the ‘omitters,’ what concrete omission has taken place and how does it coordinate with the other concrete omissions” (Laporta 1986, 61).⁶

In this second moment a moral, political and even a legal case is easier to make, and perhaps that is the reason why the campaign concentrates on this aspect of the debt problem. We have, in fact, new agents (this time, as we know well, asymmetrically organized), new action (debt collection), and new consequences (difficulty to reverse the initial damage).

Despite the obvious link between the first and second moment of the foregoing discussion, let us suppose for the purposes of analysis, that we could absolve the non-voluntarily coordinated

⁵ In the context of the “non-payment” campaign key issues we have not dealt with are usually incorporated with good reason. The usury argument is strong given the figures of interest rates charged and what in fact has been paid.

⁶ The jurist continues: “On doing this, we will have designed a complete panorama of the causal status of the collective omission...” (ibid.).

creditors, bank officers and private speculators, of responsibility for generating the crisis. The idea behind this acquittal is to point out that after the initial outflow of capital there was not a unique course of action for bankers and governments. A new act of freedom occurred, and a new moral case can be made. Following this crisis, a new financial order came about that had its own consequences after the initial impact. We are referring again to the Paris Club and other organized unilateral coordinations. Usurious elements are undoubtedly present here.

Therefore, the actions subsequent to the initial debt crisis can be evaluated with some analytical independence from those that originated it. The campaign's request is that the creditors omit carrying out an action to which they have a right legally speaking.⁷ Aside from the nature of the agents we can use a peculiar ethical perspective to the problem. The distinction between negative and positive duties can be incorporated with benefit into the argument. The negative duty to not injure is, in this case, the negative duty to not collect. The positive duty implies avoiding the injury resulting from the debt collection, and the key official term has been "safety nets". We will insist upon this positive duty in our third and last approximation to the debt problem but let us clarify this distinction. As the jurist Garzón states: "If, in the case of positive duties, we understand "benefit" to mean avoiding a bad thing by breaking a causal chain that leads to an injury, it could also be said in the case of negative duties that I benefit someone when I do not initiate the causal chain that ends in injury to the person or his property" (Garzón 1986, 20). In our case, the beginning of the chain can be considered the pushing-to-the-river episode or each agreement to a schedule of payments and, more immediately each charge for the debt service. Interrupting debt collection can be seen as breaking a causal chain. This last side has been the moral core of most campaigns.

IV. POSITIVE DUTIES: GOOD SAMARITAN

In our third and last approximation, and for the purposes of analysis, let us totally separate what has been established under the foregoing subheadings from what follows, assuming there are no grounds for laying responsibility on the creditors for the initial financial panic nor for the policies demanded afterwards of the debtor governments. This will be somewhat like beginning the argument all over again.

We intend to place ourselves more fully into the perspective of positive duties. In a nutshell, "A basic difference... exists between negative and positive duties: the former prohibits actions, the second omissions." (Garzón 196, 19) We have dealt in the second approximations with the negative duty that leads campaigners to morally prohibit the collection. Generally speaking the positive debt

⁷ We reiterate that our analysis does not address the legal aspect of the problem.

owed to those in need of personal or social support is exemplified in the following statement by the late Argentinean jurist Carlos Santiago Nino (1984, 108) “The concept that stipulates our moral duty to prevent any evil or damage that we are able to prevent, compel us to adopt as our life plan, solely that of the Good Samaritan.”⁸ This is because “injuring does not mean only aggravating the situation or changing a positive situation into a negative one; it also means not preventing something bad from happening or permitting it to continue, when the agent could have prevented it or overcome it without implying great sacrifice on its part” (Garzón 1986, 20). The Good Samaritan did not permit it to continue and that parable leads us to our last approximation.

Even in the case the creditors’ actions were not responsible causes of the injuries mentioned here, it would be fitting to establish responsibility based on the simple fact that they had in their hands the institutional and economic possibility of doing something significant to reverse the phenomenal increase in the number of poor during the 1980s. Full innocence in the two previous moments or approximations is no justification for washing one’s hands of the matter. The positive duty to earnestly help is no less significant than the duty to not injure.

Indeed, this is a claim to all those that can help, not only the creditors. However, the creditors’ specific responsibility results from the fact that they are keeping a very close creditor-debtor relation with the poor. Let us clarify this going back to the parable. The responsibility of the Samaritan emerged as a result of something absolutely independent of his participation in the criminal act. It results from the mere fact of passing nearby the injured, and therefore of being able to do something immediately and efficaciously.

There is no substitute for the creditors’ inaction, precisely because of the coordination and capacity for joint action that they created during the 1980s to compel the debtors. The same mechanisms they organized to ensure the maximum possible payment serves perfectly to design collective action for aid. These mechanisms are morally equivalent to “passing nearby” of the parable.

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⁸ We have taken this quote from Juan Carlos Bayón’s (1986, 48) critical commentary of Garzón Valdés (1986).

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