Real Social Contracts for Sustainability?
Philosophical and Political Implications of Social Agreement in Circumstances of Poverty and Degraded Ecosystems

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Abstract. Social agreements, roughly put, are a focused and actual variant of social contracts. They are focused on the agreement of parties to co-operate and they pertain to basic aspects of living and living together; however, not comprehensively but focused on a specific theme or themes such as sanitation, water supply or energy provisions. Unlike hypothetical social contracts, social agreements can be empirically studied. So what is their implication for hypothetical social contract, and beyond that for justice and sustainability? This paper introduces social agreement via a case study of social agreement in watershed development in an arid zone with low-income farmers. Watershed development in this context seeks to restore degraded land and simultaneously local democratic institutions. It is an ecological and social investment with medium-term and long-term benefits, i.e. for both present and future generations. Social agreement makes us rethink some issues in the theory and practice of justice and sustainability: how we frame the relation of generations in intergenerational saving, how we think about stability beyond the nation state, and how agreement is a dynamic process that creates the space for the capabilities required to support it in a just and sustainable way. On the global level, social agreement is a possibility for the affluent to discharge their responsibility via investments in such agreements.

Key words: social agreement, social contract, justice, sustainability, social innovation.

 "Social contract" has become associated with comprehensive and hypothetical reasoning about justice[1]. However, such an approach – the "received view" on social contract – need not exclude philosophical attention to social contracts in practice. I will call the latter "social agreements" so as to avoid confusing terminology. The major philosophical approaches hardly pay much, if any, attention to social agreement. This paper proposes that social agreement provides philosophical and political insights for thinking about various aspects of social contracts and their underlying, profoundly important, concern with agreement (Freeman 2007, 17), and beyond that for the theory and practice of justice and sustainability more generally.

Let me start with some suggestions why the study of social agreement might be of interest in terms of reframing some issues and learning from social agreement for theory

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[1] The most famous 20th century version of this approach is no doubt Rawls' theory of justice (Rawls 1999a). In this paper, I draw on it as my paradigm for a social contract approach. Samuel Freeman helpfully characterizes social contract approaches as a framework for justification in ethics that, however, is used in quite different ways (Freeman 2007, 17ff): interest-based approaches start from the desires of individuals. They model these desires as amoral, and from Hobbes to Buchanan and Gauthier, ask what moral principles it would be rational to choose for individuals with given ends. Right-based approaches start from moral notions. From Locke, Rousseau, and Kant to Rawls they ask what principles of justice ought to be agreed on with a view to these moral notions.

and practice. Agreeing on joint action is an attractive way of doing things, and prima facie not open to the same kind of skepticism that hypothetical agreement has to deal with (e.g. What if anything is the implication of a hypothetical agreement for the real world? Is this not a philosopher's myth?). Social agreement is in a much more straightforward way a source of creating obligation, and it is simply a question of philosophers' humility to remain open to possible lessons from agreement in practice, even if this partly reframes how we think about agreement. As we will see below, social agreement does not require that all members of a state agree on joint action. In action-contexts agreement can be focused on those directly affected and involved in a practical problem; for example a drought or a flood in a watershed, or the energy provision of a district, or access to sanitation in a village etc. It helps rethinking social contract beyond the nation state in an age of ecological crisis and increasing global inequalities. Partial social agreement may be especially important in a context of poverty and minimum justice – or in a problematic political language: in a "development context"[2] – where government is distant, weak or incomplete. In such a context, social agreement is evidence for normative creativity in response to urgent ethical challenges and might offer a model to be supported and fostered via policies. Last but not least, social agreement just as much as hypothetical agreement involves difficult reflection on values, their coherence and implications, role-taking etc. Participants with different backgrounds (class, gender, language etc.) have to agree on joint action with others. The apparent gulf between hypothetical social contract and social agreement may be more of a gradual difference due to different emphasis (i.e. the goal of an elaborate justification versus the goal of dealing with a practical, urgent problem). Again this suggests that much can be learnt about values and justification strategies from real-world contexts in which people may not put much emphasis on elaborate justifications and concept clarifications but in which they are pressured to find ways of agreeing with each other.

With a view to exploring these ethical and political implications, I would like to discuss social agreement in the philosophical context of social contract thinking. I take this context to demand a chief concern with social justice and sustainability in the present and between generations. My focus is on an actual case – social agreement for watershed development in poor communities with rainfed agriculture in India – and what might be learnt from it for ethical reflection on agreement as a framework of ethical justification and substantive claims about justice made in terms of this framework. In line with the focus of this special issue, I focus on social agreement at the local level, in a context of poverty and with a focus on natural resources and their sustainable use. No doubt, social agreement can also be studied on other levels – and I will turn to one recent proposal in the sustainability context below and in the final section – … yet, the present focus is clearly a focus of immediate relevance from a justice and sustainability perspective.

The first Rio Earth summit in 1992 is known for putting *sustainable development* on the agenda of governments on all levels (Agenda 21, national sustainability, international

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2] For a detailed discussion, see Rist 1997.

regimes). It aimed to bring together the concern for environmental conservation with the demand for development of those facing poverty and oppression (World Commission on Environment and Development 1987). On this global level, social contract has also played a prominent role in the preparations for the 2012 Rio+20 conference. The WGBU[3] proposed it as an organizing theme of its influential flagship report "World in Transition – a Social Contract for Sustainability" (WGBU 2011). The report calls for a global social contract that preserves natural life-support systems for present and future generations, improves participation by civil society and science on all political levels via "proactive states," which seek to support pioneers of sustainability and that cooperate globally with a view to justice and sustainability. It is a bold proposal for policy-makers that at the same time challenges the focus of many social contract approaches on the nation state and their only limited attention to the natural environment and our responsibility for future generations. Like these approaches, however, the WGBU also understands the social contract not as the "description or definition of actual processes" (WGBU 2011, 299). Towards the end of this paper, I will draw attention to the possible lessons of social agreement also for this policy level. Social agreement in a context of poverty and with a focus on resource management prima facie is an *idea* for development that needs to be scrutinized as a possible *social innovation.* It concerns the "pioneers" that according to the WGBU proactive states ought to promote nationally or as a part of international development co-operation[4].

The next section introduces social agreement via a case study from Maharashtra, India. Sections II-IV discuss philosophical aspects of social agreement with a view to justice and sustainability. Section V concludes and turns to the political level and the proposal of a global social contract for sustainability. The purpose of this paper is exploratory: it seeks to make the case for the philosophical and political relevance of taking social agreement seriously. To this end I highlight various implications and make some putative proposals.

I. A CASE STUDY ON SOCIAL AGREEMENT[5]

For rainfed agriculture, water availability for personal use and for farming depends on the ability to harvest and retain rain in the land. Yet, over half of the Indian territory is degraded; wind and water erosion along with deforestation cause desertification (Ministry of Environment and Forestry, India 2001, 15ff). Such challenges also hold for the Ahmednagar district of Maharashtra, the focus area of this case study.

3] The WGBU is the German Advisory Council on Global Change.

4] Social Innovation here is used in a wide sense as the development and delivery of new ideas (products, services, models, markets, processes) at different socio-structural levels that intentionally seek to improve human capabilities, social relations, and the processes in which these solutions are carried out. See also Nicholls and Murdock 2011.

5] This section draws on joint research for the social-ecological research group GETIDOS (Ziegler, Partzsch, Gebauer, Henkel, Mohaupt and Lodemann 2014).

A major drought occurred in 1972 in the state of Maharashtra: an estimated 25 million people needed help. Subsequently further droughts and near drought situations followed. While these droughts are not reported to have caused famines, they contributed to the poverty of the rural population in Maharashtra, including effects like malnutrition, forced migration, indebtedness and suicides.

Watershed development refers to the conservation and regeneration of water in its relation to the land, vegetation, animals and humans within the draining basin of a catchment. The specification of the drainage area and regeneration potential is a technical task, and typically watershed development is a technical, top-down approach. Yet in the Ahmednagar district of Maharashtra, a participatory approach emerged facilitated by the *Watershed Organization Trust* (WOTR).

WOTR is a non-governmental organization with its head office in Pune, India, a project office in Ahmednagar and nine regional resource centres in the states of Maharashtra, Andhra Pradesh and Rajasthan, as well as a training centre in Darewadi (Maharasthra)[6]. WOTR's goal is "to contribute to poverty reduction and improvement in the quality of life of rural communities in a manner that is upscaleable and replicable". Its vision is that "communities, especially the poor within, be empowered to live in dignity and secure their livelihoods in sustainable ecosystems" (WOTR 2012). Equal participation and community ownership are at the heart of WOTR's vision and its contribution to participatory, rather than top-down, technical watershed development.

Drawing on its practical experiences over the last two decades, WOTR developed the Wasundhara approach for joint implementation of its approach to watershed development together with villages. 'Wasundhara' is a Sanskrit term meaning "flourishing earth" and for WOTR, connotes compassion, caring, co-responsibility and harmony. More technically it is an acronym for "**W**OTR **A**ttentive to **S**ocial **U**nity for **N**ature **D**evelopment and **H**umanity in **R**ural **A**reas" (Jewler 2011, 6). This watershed development approach has two phases.

Phase 1 (12-18 months): Providing the ground for participatory watershed development

If a village indicates interest in the approach, WOTR offers audio and visual aids for further learning about the approach and organizes exposure visits to villages that have already participated in watershed development. Only if the Gram Panchayat, the local village government, passes a resolution in favour of starting the watershed development process, will WOTR engage more fully in the first part of the watershed development. WOTR initiates self-help groups for women, and there is a *Shramadan*, a required participation in watershed development works for four days. WOTR only continues

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6] WOTR is financed through donations and grants from governments, business and civil society institutions. Of special importance has been multi-year support from Germany via the *Kreditanstalt für Wiederaufbau (KfW)* and the *Deutsche Gesellschaft für International Zusammenarbeit (GIZ)*.

the project if at least 70% of the population participates for four days in a watershed activity. In short, via the Shramadan there is a test to see if the villages not only live up to a formal agreement, but also are able to practically agree to work together on participatory watershed development. So-called participatory net planning then gives each family an improved understanding of their land and its watershed potential; a woman and a man from each family have to participate (for a detailed description, see Joshi and Huirem 2009). WOTR also organizes a participatory wealth ranking. The organisation supplies the categories "very poor," "poor," "middle class" and "better off," and the villagers concretize the categories and classify the wealth distribution in the village. Finally, there is the formation of a Village Development Committee (VDC, formerly Watershed Development Committee or VWC), as well as a Sanyukta Mahila Samittee (SMS) – Joint Women's' Committee – a federation of women self-help groups (SHGs) on the village level. The VDC includes the different geographical and wealth groups of the village based on the prior wealth-ranking exercise.

Phase 2 (3-4 years): Participatory Implementation

In this period, the main implementation of watershed development and socio-economic development are tackled. It includes again a *Shramadan*. With the help of government, as well as development co-operation funds, jobs are created for afforestation, pasture development, soil and water conservation measures, horticulture, agriculture and livelihood measures. Grants and loans are given to women's self-help group activities. The work is accompanied by monitoring and evaluation, including peer-group assessment (villages cross-examine their work). A maintenance fund for the post-watershed development is set up and WOTR assists with building relations, for example, with government agencies. It also assists with making demands, for example, where the government has not lived up to infrastructure promises.

As far as watershed development projects are concerned, by 2011 WOTR has operated in five states of India: Maharashtra, Andhra Pradesh, Madhya Pradesh, Rajasthan and Jharkhand. By 2015, WOTR reports to have been directly involved over 1,815,500 people in 1,992 villages covering 1,329,688 hectares with its approach.[7]

Watershed development and social agreement

The WOTR approach to social agreement draws on a central principle: community ownership. This is a complex and dynamic normative principle. Here it will be introduced in a chronological manner.

WOTR early on launches a test of consent and participation. It asks the members of the village to participate in voluntary four-day watershed development work. Only if at least 70% of the households of the village have participated, will the process continue. WOTR then facilitates the creation of the village institutions, in particular the VDC,

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7] http://www.wotr.org/projects, accessed February 25, 2015.

which is chiefly responsible for the watershed development. Members of this committee are to be selected from each social group and geographical area of the village (D'Souza and Lobo 2008, 125, 131; Jewler 2011): 50% women, representatives from all wealth groups (based on the prior exercise in wealth ranking) and geographical representation is ensured via subdivision in territorial subgroups or wards. These formal requirements for participation in decision-making are accompanied by activities targeted at making decision-making informed and enabling people to participate. Participatory net planning ensures that each household is informed regarding the characteristics and potential of its land. The early initiation of women self-help groups provides women with a forum of discussion prior to, and then complementing the, VDC process. During the project implementation, the VDC and the entire village have to meet at least once every three months. A qualitative impact matrix along with peer-review visits to see the work of others (including a regional award) promotes information flow about the village and between villages. In short, an effort is made that people in the village do not have only a formal possibility to participate but a real opportunity to get involved.

The economic dimension of control over the environment is the other side of the community ownership principle. It is one thing to own land, another thing to hold land that is valuable. The challenge in rainfed agriculture in an arid zone is one of increasing the productive value of the land and reducing the risk to agriculture from drought or insufficient water availability. If it is not possible to live on the land throughout the year, stable political participation is clearly also not possible. Changes in the material value of land for livelihoods are indicated by changes in the monetary value of land, in the crop yield, in the effective time during which agricultural employment is possible in the village, and linked to these, changes in primary migration (here understood as migration due to lack of employment in the village[8]).

Thus, the community principle can be unpacked in terms of a) a voluntary and practical test of willingness to participate, b) creation of a (regularly meeting) institution according to inclusive membership rules, c) accompanying efforts to make decision-making informed, and d) an approach to the natural resource base (watershed development) aimed at making it possible to live from and permanently on the land. In this way, a "real social contract" emerges in time. The aspect of real agreement is also appreciated as such by the participants; or as VDC members put it in a feedback evaluation of the approach: "consent of all is always the basis of obligation" (Joshi and Huirem 2009, 42).

With a view to Indian history, we could call such social agreements on the local level Ghandian moments[9] in village democracy. So what is the implication of these agreements emerging from a development context of poverty and degraded resources

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8] I owe this point to Balachandra Hegde.

9] In plural, because I think that further instances of such social agreements can be found, for sanitation see Ganly and Mair 2009 and Ziegler 2012.

for philosophical social contract approaches, as well as for the policy proposal of a social contract for sustainability?

II. JUSTICE BETWEEN GENERATIONS

In hypothetical social contract theory, again following Rawls' lead, a two-stage model of responsibility for the future is widely discussed. In a first accumulation phase, members of society have to make compulsory savings up to the level where there is sufficient capital (in a wide sense of the word) to maintain just and stable institutions (Rawls 1999a, § 44). Once this level is attained, no further compulsory savings are required. The saving is limited to the maintenance of what is required for just and stable institutions. On the Rawlsian perspective, further savings beyond this level are optional; on a luck egalitarian perspective there should also be a prohibition of further savings on the ground that such savings would be at the cost of the least well-off in the present generation (Gosseries 2005).

The first stage faces empirical and evaluative questions. The obvious empirical question it raises is: why is capital accumulation necessary for the establishment of just institutions? According to Axel Gosseries (drawing on work by Adam Przeworski), capital accumulation might make institutions more stable. The opposition in a rich country has something to lose: an affluent style of life. The opposition in a poor country has nothing or relatively little to lose (Gosseries 2004, 217-22). Social agreement in the case above supports this argument. In the watershed case, resource poverty means practically that people cannot live from agriculture throughout the year. The result is forced seasonal migration with high costs to stable village culture and especially to children and their education possibilities. With successful watershed development, agriculture throughout the year becomes possible. Migration becomes a matter of choice rather than necessity.

The central normative question on the first-stage of the model is why earlier generations should save for later generations. As already Kant remarked in his *Idea for Universal History*,

> it is disconcerting here, however, that previous generations seem to have pursued their arduous endeavors only for the sake of the later ones, in order to prepare for them a level from which they can raise even higher the structure that nature intended; and that nevertheless only the later generations should have the fortune to dwell in the building which was the work of a long series of earlier generations (albeit without this being their intention), without themselves being able to share in the fortune that they themselves had worked toward. (2006[1795], 6).

The Kantian-Rawlsian reply is that liberty takes priority over wealth and income, and that therefore some constraints on wealth are legitimate if they are invested for the sake of setting up just institutions (Gosseries 2004, 217ff and 2005, 44).

For those who remain troubled by this argument, not least because of the priority of liberties over economic aspects of justice, the social agreement case is instructive. I

will first set out the first generations savings challenge in this case, and then return to the normative challenge.

Watershed development is a straightforward example of an investment in natural (and social) capital. From ridge to valley, the land is worked on to increase rainwater harvesting and reduce water run-off via catchments and dams. Simultaneously farmers are asked not to extract groundwater from deep wells to facilitate groundwater replenishment. A ban on felling trees and free grazing is meant to promote soil erosion and improve water retention. In short, this is both "arduous endeavor" and clearly a demanding social discipline for poor farmers in an arid environment. To be sure, first benefits already may be available in the medium-term of 5 years; still, this is a long time for farmers facing poverty.

The built up of natural capital – here primarily freshwater, and with it vegetation and soil – requires a further specification of the Rawlsian capital accumulation requirement. In watershed development, work is invested into a fund: water that *regenerates* if properly restored and managed. If this investment is successfully made, water can be sustainably used subject to the fund's regeneration rate[10]. Such a focus on funds is especially important in a context of rural poverty, where there is no prospect of earning income without a prior investment in the resource base.

The Kantian-Rawlsian framing of the first-stage normative challenge is one of a first generation in isolation. "The first generation" somehow has to bite the bullet; for example as a noble act in the name of liberty. But built up or restoration of capital is a constant and diverse challenge. In the age of ecological crisis, the modern assumption of linear progress can no longer be taken for granted[11]. We are increasingly aware and sensitive to generations that are confronted with run-down "capitals," in particular natural capital in the form of depleted or polluted groundwater, loss of forests and soils etc. Depending on the context, there are many "first generations," which urgently have to accumulate (or restore) natural capital if they are to achieve a threshold level of sufficiency and stability. At the same time, there are many "second generations," with respect to this issue, and even more so with respect to other issues, who are well beyond the required capital level of stable institutions.

The discussion in the last paragraph suggests at least three different normative framings of the accumulation problem in the first phase: 1) As a problem solely for the respective first generation 2) Suppose the land is degraded because of a colonial history with tree-cutting for export or because of a global system of cooperation that make direct or indirect freshwater stock-extraction very profitable for some (e.g. sugar cane production), even though not for the locals. Eric Neumayer has shown that there is a correlation between high human development as measured by the Human Development

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10] I focus here on the quantitative dimension. To be sure, water quality is also important for sustainable use. However, it is not the first challenge in the present case.

11] To be sure, already Kant's discussion was cautiously worded. See especially his *Idea for a Universal History from a Cosmopolitan Perspective* in Kant 2006[1795]; and specifically on progress and reason in Kant's philosophy of history Kleingeld 1995.

Index and high unsustainability as measured by the ecological footprint of nations (Neumayer 2012). The high human development of some nations in terms of income, life expectancy and education is throughout correlated with unsustainability: a resource and sink requirement that is above the globally available average per capita. Such global data on environmental (un)sustainability provide evidence for a structural issue and the problems it raises in terms of a negative duty to support those in poverty, because they are unjustly harmed by colonial history or by the present system of cooperation or simply by the fact that there does not remain as good and enough land for the poor to have the development opportunities that the affluent enjoy (Pogge 2002). 3) Suppose a specific issue is relatively independent of external factors and better understood as an endogenous, local problem. Then there still remains the case for a positive duty to assist those in an unstable context (Rawls 1999b). In fact, in the set-up of WOTR the Indian government did accept support from the German government as a matter of development cooperation (as opposed to compensating for ecological debt).

In conclusion, social agreement offers a fresh perspective on one aspect of the problem of intergenerational justice and sustainability. The focus on social agreement suggests a re-framing of the "first generation" problem: it is not only, or not just, a question of the heroic "arduous endeavors" of the first generation but also question of negative justice and duty of assistance for "second generations." It suggests that the monolithic image of development as progress – modeled on the image of the Western modernized, industrialized nations that others have to catch up to – has to be replaced by prima facie many first and second generations subject to specific problems and challenges for meeting at least the minimum threshold of justice and sustainability. Second generations have a possibility to help, and in many contexts may have a justice obligation to support, the built up of natural and social capital required for stable institutions.

This argument is based on the possibility of *local* social agreements for sustainability. But can such agreements be just and sustainable? I will turn to this question via a discussion of the second stage of the intergenerational justice scheme in the next section.

III. JUSTICE AND STABILITY

The Rawlsian social contract approach provides a model of *hypothetical* agreement to *construct and justify principles* for a just and stable society. The principles are designed for the *basic structure of a state and its people.* As society's major institutions have a pervasive effect on the life opportunities of individuals, the principles seek to *comprehensively* create fair opportunity for everyone and reduce the effect of "social contingencies and natural fortune" (Rawls 1999a, 63).

By contrast, the social agreement described above is focused on the *subnational, local level* and is a hybrid of social category (village) and environmental category (watershed focus). There is a basic structure focus (resource management) but it is not comprehensive. The basic structure focus is focused: on watershed development, and not

for example religious freedom, the caste system etc. Justice is a major concern, but this concern is focused on minimum justice: lifting people to an acceptable level of living in dignity within ecosystems (and to be sure a further motivation is that creating conditions for sustainable resource management is a key to all further village development). The community principle invoked to achieve this minimum justice is a dynamic principle; its temporal structure is a key to the unfolding of this social agreement.

The comparison suggests a number of concerns with a view to social agreement as a just and stable approach. First, a local social agreement no doubt has organizational advantages but it also comes at a cost: how can it achieve stability given that it is embedded in the larger structure of the state and its coercive power? What benefit has even the most democratic local social agreement for example in the context of a corrupt bureaucracy or of market forces that necessarily strongly impact agriculture and all other commercial activity in the village? Second, next to the hierarchical problem of higher power, there may be a problem with overlapping issues. Focus on one theme such as watershed development leaves other justice issues untouched. This is morally unsatisfactory, and it is instrumentally problematic because for example gender, class or caste divisions can become an obstacle to the stable achievement of social agreement. For example, affluent groups may seize all benefits from watershed development.

Research on villages with watershed development based on social agreement confirms the concerns with hierarchy in social agreement. The state "interferes" for example with water programs of its own and already established hierarchies of class, gender and caste cause serious limitation to social agreement in watershed development (Kale 2011). Interestingly, however, social agreement in this case also indicates at least two, interrelated ways of addressing this problem.

First, watershed development is to be "scaled up" as WOTR puts it. The practical meaning of this unusual expression is that people are to be constitutively included from the beginning (bottom "up"), but not just in one village but in many ("scaled"). The more successful this scaling strategy, the stronger the possible coalition power of such villages in the face of top down or external interference. The scaling strategy includes advocacy work on the regional and governmental level to change legislation in such a way to make it supportive of the local watershed approach. Over the last two years moreover an attempt at "clustering" of villages is emerging: villages working together against external pressure (for example market pressures for agricultural products). However, it would be a mistake to think of scaling as the "replication" of a model in the sense of a copy. Rather, the goal of scaling is to adapt the principles of watershed development to the respective context.

Second, in addition there is what could be called, by analogy to the WOTR expression above, *scaling deep*. In response to the problems with established gender, caste and wealth hierarchies, WOTR expands its watershed development approach. First the relation to gender, then the relation to wealth was included in the approach. For example, women self-help organization groups are separately started prior to the village watershed

development; and since the early 2000s WOTR includes a wealth-ranking and wealth-sensitive contribution scheme as part of its approach.

Such responses of scaling up and scaling deep are certainly not capable of *guaranteeing* justice and stability (but to be sure there is no such guarantee on the national level either). Not least as with climate change there is an external threat to water availability – especially longer periods of droughts, more severe rain falls, new climatic patterns – that is not only beyond the power of any individual village but even of any individual state or even of the affluent states together (Stern 2010)[12]. Still, what the study of social agreement shows is an aspect that is quasi absent in the received social contract discussion: learning and scaling as a response to obstacles encountered. I will turn to the relation of this response to the policy level of a global contract for sustainability in section five.

In addition, the study of social agreement highlights the implications of a pragmatic aspect that has always been there in social contract approaches but the implications of which have not been paid much attention to. In the theory of justice, this pragmatic point is present when Rawls focuses on the nation state, and here on specific issues so as to get the, in his view, most urgent and relevant challenges right. In as much as such a pragmatic point is a response to an urgent moral issue, for Rawls arguably income and racial inequality in the post-world war United States, such pragmatic focus is as understandable as is the WOTR focus on watershed development in an arid area with farmers pursuing rainfed agriculture. What the social agreement case suggests as one important additional consideration is the way in which an approach deals with additional or emerging challenges concerning justice and stability. The capacities to learn and to scale have to the best of my knowledge been very much understudied in the philosophical discussion of social contracts and of justice more generally.

IV. JUSTICE AND SOCIAL AGREEMENT

This section turns to three objections to social agreement as an approach to justice and sustainability as such, and as facing similar problems as social contract thinking in general. An ethical objection to social agreement is due to the concern that social agreement has insufficient normative content to make it a contribution to justice and sustainability. Why could not the Mafia or any other robber gang make a social agreement?

On the interest-based approach to social agreement, this question is a powerful one: what would stop a number of self-interested people to gang up to their mutual advantage? It is, I submit, difficult to provide a convincing answer as context-dependent strategic possibilities may always undermine the possibility of justice. On the right-based approach to social agreement, the matter looks different. On this perspective, social agreement is

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12] Interestingly though, climate change adaptation has already become a theme of social agreement too, for example via the introduction of meteorological stations that inform farmers more efficiently of weather forecasts. For more information see the project on climate change adaption see http://wotr.org/climate-change-adaptation (accessed May 10, 2013).

an attempt to work out in practice principles and institutions for working together based on already widely held normative intuitions about justice. These intuitions are part of a deeper democratic culture, and as the case study shows, it is an ethnocentric fallacy to believe that such intuitions are only held in "the West"[13]. The general goal and challenge of social agreement is as such not very different from hypothetical social contract: given our general and vague pre-commitments to justice and sustainability, what would be the principles and institutions for living together in a just and sustainable way? In case of social agreement as discussed the focus is not on private scheming for private gain but rather on public discussion for living together in dignity (which of course includes personal benefit as well). If this is correct, then the ethical objection has prudential value – scrutiny with respect to self-interested, private scheming – but it is hardly a knockdown objection to the study and practice of social agreement.

One standard objection to social contract approaches is that national contracts insufficiently take into account externalities that negatively affect distant others (i.e. in space). This is an important point with a view to climate change effects and unequal emission levels, water scarcity and virtual trade in water etc. The social agreement studied here reverses the perspective: it takes the perspective of groups that are clearly badly off with respect to a central issue for minimum justice. In this case, the externality objection turns into a justification of support. It can provide justification why the affluent have a negative duty to support such bottom-up real agreements in view of colonial history and the effects of global systems of cooperation. Still, this point only is valid to the extent that the social agreement at issue concerns such approaches at the threshold of generating the conditions of living in dignity and with just and stable institutions.

This takes me to a second standard objection to social contract: the focus on moral actors and their agreements for mutual advantage tends to ignore or insufficiently deal with moral patients such as babies, non-human animals, living beings in general etc. (Jamieson 2010, 316; Nussbaum 2006). With a view to social contract in a context of poverty this objection needs to be reframed. The focus of the social agreement discussed here is to create conditions of moral and political agency, and hence the "real freedom" (Sen 1999) that is required for environmentally responsible behavior. As people in poverty and unstable contexts hardly can be expected to act morally with respect to the environment – a point that is readily acknowledged in the received view in the discussion of circumstances of justice, held to only obtain in contexts of moderate scarcity – the expectation of moral concern and responsibility for non-human others is hardly justifiable *below* a threshold level. And it is practically counter-intuitive to raise this concern with people that have below average ecological footprints, and that leave significant environmental space for other living beings in comparison to the more affluent. In my view, the environmental

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13] For India this case has been made in detail by Amartya Sen in his 2005 book on Indian culture and history.

ethics question therefore rather leads to an important follow-up question: what happens and ought to happen if a group reaches such a threshold level? This *is* an important further question. With a view to this question, and again drawing on the case of social agreement I would only like to propose one consideration with a view to it. If social agreement is an attempt to publicly work out just and sustainable conditions of working together, there is no logical reason why such a workout ought to necessarily exclude concern for moral patients. To the contrary, such concern would seem to depend very much on fully working out the pre-commitments of social agreement, along with the cultural, religious and educational sensibilities of the group involved, and how they would like to make an agreement with a view to moral patients. In short, there is no logical reason why social agreement ought to be an exclusive agreement to mutual advantage of moral actors; rather, there is an open question how social agreement may incorporate moral patients.

Social contract theory can be focused on the question of generating obligation and justifying the coercive power of the state or (though this is not necessarily exclusive) it can be a tool to help us figure out what is just. While the last objections were focused on this latter question, let me also turn to the first question. Even if the approach is based on a community principle, is it not externally imported (by WOTR) and the focus on social agreement therefore really superficial, and possibly dangerous? According to a Humean objection to the social contract argument, the argument is simply descriptively false because people typically do not explicitly consent to any social contract. We could at best speak of tacit consent. But then what is the value of tacit consent for generating obligation? Social agreement seems to be open to a variation of the tacit consent concern. True there is real agreement. But, what choice do people in poor conditions really have *not to* consent? Are there, in such conditions, not always very subtle possibilities of forcing people to agree?

True, WOTR externally sets principles as a condition of getting involved (voluntary trial test, inclusive membership criteria, getting informed); yet at the same time the approach thereby gradually creates the conditions for people to be in a better position do decide for themselves with respect to watershed development. Put differently, poor people may in fact have no or very limited choice in the initial stage – though formally they can of course always reject to work together with WOTR in the first place – but they do have an improved choice at a later stage, including opting out (secondary migration out of choice, or agreeing not to continue the approach). The WOTR approach brings together a public gathered by an issue (watershed development) and in the process moves this public in the direction of an empowered demos. This observation suggests a further insight from social agreement: creating just and stable institutions is not just a matter of "capital accumulation", it is just as much a matter of creating spaces in the respective context for participants to develop their capacities. Social agreement generates free support; it does not just presuppose it.

V. CONCLUDING REMARKS

In the paradigmatic case of the received view, Rawls' theory of justice, social contract thinking clarifies the demand of justice in a process of reflective equilibrium between intuitions and considered judgments on the one hand, and principles of justice on the other hand. Social agreement is a dynamic equilibrium between intuitions and considered judgments on the one hand, and practical principles to achieve minimum justice and sustainability with a view to specific, practical issues such as freshwater supply, sanitation and energy provision. The social agreement studied here focuses on the restoration of a fund (freshwater) that is a central requirement for health and wealth for present and future generations.

Philosophical social contract approaches have not paid much attention to such social agreements. This paper suggests some first reasons why the study of social agreement is philosophically relevant. First, it suggests that we ought to rethink some issue of intergenerational justice and stability and how they are framed. As argued in section two with a view to the two-stage model of intergenerational justice, it seems parochial in an age of ecological crisis to focus the accumulation phase in terms of an image of a first generation conceived of in isolation. With a view to degraded ecosystems worldwide and their frequently severe and direct implications for the poorest, the task of accumulation – here restoration of freshwater as a natural capital – ought to be discussed just as much as a negative duty of "second generations" in more affluent places that are typically linked in various ways (colonial history, current systems of global and economic co-operation, effects of overuse of eco-space by the affluent on the eco-space opportunities of the poorest) to the respective "first generation" (who might have been better off in the past). The linear image of progress implicit in social contract thinking from Kant to Rawls here is replaced by a discussion of complex responsibilities of present generations for each other and for future generations. Social agreement as studied here affords a revised Rawlsian ethical perspective: the perspective of those least-advantaged with a view to social-ecological dynamics in a globalized world. Also, social agreement highlights the importance of agreement beyond the nation state. Rather than jumping to the "global state" the focus here has been on the public gathered by a specific, local issue co-defined by an environmental category (the watershed). This in turn revealed a novel concern with ensuring the stability of social agreement: learning and scaling (section III). What are the capacities required to respond to new and upcoming challenges – such as climate change effects – so as to make an approach not just stable but also resilient? What are the capacities required to do so in collaboration with others? Finally, I noted as a third important and open issue how social agreement deals with the threshold issue once the watershed has been restored. There does not seem to be a necessity for social agreement to follow the economic growth logic rather than aim at what Mill called a stationary state,

or to exclude moral patients from consideration in the agreement. Could social agreement stably prevail at a threshold level and without economic growth? In this paper, I could only raise these questions as worthy of further attention, and as additions to the discussion of stability in the received view.

Social agreement is also of global, political relevance, and here I would like to return to the social contract for sustainability. According to the WGBU proposal, such a contract would centrally involve proactive states promoting pioneers for sustainability. "Pioneer", in the proposal, refers to innovators for sustainable, low carbon ways of doings things that ought to move from the niche to the mainstream. A closer look at the WGBU-report shows these pioneers to be primarily associated with countries or even regions (the EU) that take first moves in the direction of low-carbon economies, as well as cities, companies and NGOs that form coalitions in this direction. Social agreement, developed by social innovators such as WOTR in watershed development or Gram Vikas in sanitation, suggests a pioneer approach beyond the nation state or the innovativeness of companies and truly in the spirit of a social contract for sustainability. However, so far this approach appears to receive much less attention in comparison to technical and national level political approaches, even though reasons of justice and sustainability can be given for the support of affluent groups in support of this approach[14]. They offer substantive ideas for sustainable development. In particular, the case study above suggests as key aspects of such social agreement a) guidelines of fund restoration, b) guidelines for the unfolding inclusion of those directly living on the territory of the fund, c) and in view of the always to be expected obstacles to real social agreements a capacity for learning. So should social agreement receive more attention, also politically, in the global political discussion of sustainability?

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14] In his cosmopolitan proposal for a global resource dividend, Thomas Pogge does not specify specific actors on the expenditure side of his dividend for meeting basic needs (Pogge 2002, chapter 8). Here too social agreement is worthwhile considering.

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