

## Chapter 2

### The Idea of International Justice in Rawls's *Law of Peoples*

*"No international court can ever substitute for a working national justice system. Or for a society at peace."*

Adam Hochschild, *King Leopold's Ghost*

The commonplace observation is that "the publication of Rawls's *A Theory of Justice* was the single most important stimulus to the renaissance of political theory during the 1970s and 1980s"<sup>1</sup>In fact, it may not be entirely incorrect to state that Rawls's *A Theory of Justice* has singularly defined the trajectory of political theorizing since its publication. While the concern of political theory till the publication of this work was predominantly the pursuit of a well-ordered society, since then it has gone on to be the establishment of a well-ordered just society. Justice, after *A Theory of Justice*, has become the single most valued ideal in political thinking, and then rightly so. Allan Bloom, while commenting on the importance of John Rawls's *A Theory of Justice* remarked that this work "has attracted more attention in the Anglo-Saxon world than any work of its kind in a generation."<sup>2</sup>In fact, John Rawls is attributed with reviving the tradition of political thinking which was considered to be in decline, if not dead.<sup>3</sup>

In this work Rawls conceptualizes justice in terms of fairness. In doing so, he is attempting a compromise or perhaps a balance between the principles of liberty and equality. For long, and then particularly in liberal political theory, liberty and equality have been considered to be locked in a uncompromising relationship so that the guarantee of liberty is always expected to be at the cost of equality and vice versa. In his work, Rawls uses the idea of fairness to arrive at a balance between these two important political ideals. Rawls constructs justice as fairness around the assumption that citizens are free and equal and that society should be fair. By

doing so, he hopes to resolve the tension between the idea of freedom and equality, which have dominated the debate between the socialist critique of liberal democracy and the conservative critique of the modern welfare state.

Justice as fairness is Rawls's theory of justice for a liberal society. Throughout this work, Rawls remains committed to the liberal political conception with his aim being the determination of principles of justice applicable in an advanced liberal capitalist society. According to Rawls, justice is the most important virtue. He argues that political orders can be legitimate without being just: justice, for him, is the maximal standard. As he states in the opening pages of his work: "justice is the basic virtue of all social and political institutions".<sup>4</sup> For Rawls, justice as fairness is the most egalitarian and corrective mechanism upon which contemporary advanced liberal capitalist societies can be considered legitimate. He also argues that justice as fairness provides a superior, if not more credible, understanding of justice to that of the dominant tradition in modern political thought, namely, utilitarianism. For arriving at principles of justice, Rawls uses the philosophical tool of the social contract, and in this way follows in the tradition beginning with Hobbes, and carried on by Locke, Rousseau and Kant. The principles that are arrived at have been the subject of appreciation, critique and rejection differently by theorists of almost all persuasions.

Interestingly, while working out the principles of international justice, Rawls once again employs the same tool of a social contract and in some way follows from his arguments made in this work. In fact, Rawls uses much of the arguments made in *A Theory of Justice* to work out his conception of international justice. It would therefore be helpful to begin with an explanation, brief though, of Rawls's arguments in *A Theory of Justice*.

## 2.1 Rawls's Conception of Justice as Fairness

Rawls's conception of justice as fairness is directed at working out a just arrangement of the major political, social and economic institutions of a liberal society. Rawls refers to the arrangements of these institutions as the *basic structure* of a society. While explaining the distinctiveness of the basic structure, Rawls states that "the basic structure is the location of justice because these institutions distribute the main benefits and burdens of social life"<sup>5</sup>. Rawls's focus is mainly on the idea of social or redistributive justice. As such, the basic structure is the focus of any principles of social justice whereby social justice is understood as the redistribution of benefits and burdens which arise out of social conflict and cooperation. Questions of social justice of the basic structure would then include: who will be guaranteed basic rights?; what would be the nature of such rights?; who will be awarded social recognition?; who would have the opportunity for which kind of work?; what would be the distribution of income and wealth?; what would be the structure of property and taxation?; and so on. In arriving at justice as fairness, Rawls assumes that liberal societies are marked by reasonable pluralism and that they are characterized by reasonably favourable conditions – that there are enough resources for it to be possible for everyone's basic needs to be met.

Rawls argument begins with the idea that citizens do not deserve to be born into a rich or a poor family, to be born naturally more or less gifted than others, to be born female or male, to be born a member of a particular racial or cultural group, and so on. In other words, the starting places where citizens begin their lives and which go on to shape their destiny and existence is undisputedly or purely or morally arbitrary and unjustified. In Rawls's words, "the natural distribution is neither just nor unjust; nor is it unjust that persons are born into society at some particular position. These are simply natural facts. What is just and unjust is

the way institutions deal with such facts.”<sup>6</sup>Since our starting places are morally arbitrary, we thereby are not entitled to the benefits and/or burdens of social conflict and cooperation. For example, the fact that a citizen is born rich, upper caste, able-bodied and male is morally arbitrary and provides no just reason why he should be favoured by social and political institutions. The main question which lies at the heart of *A Theory of Justice* is then: what are the principles of social justice which could be employed to correct the effects of morally arbitrary starting places by redistributing in a fair manner?

It is important to explain Rawls’s idea of the citizen, or the conception of the self. As mentioned in the first chapter of this study, any theory of justice necessarily begins with a conception of the self and the other, and for Rawls, the citizen encapsulates this conception. A citizen, for Rawls, is one who is free – being entitled to make claims on social institutions in her own right as well as being responsible for planning their own lives; equal – by virtue of having the capacities to participate in social cooperation with an equal political status; reasonable and rational – being endowed with the capacity to abide by fair terms of cooperation, even at the expense of their own interest, provided that others are also willing to do so. It is this conception of the self which lies at the foundation of Rawls’s theory of justice.

The two central ideas at the heart of justice as fairness are that of the original position and the veil of ignorance. For Rawls, the way to think about what would be a just or fair organization of society, and one which would correct the moral arbitrariness of starting places, is to imagine what principles would be agreed to by people who were denied any knowledge of certain peculiar facts about themselves. Principles of justice, which are “to govern the assignment of rights and duties and to regulate the distribution of social and economic

advantages” should be understood as what would emerge as a hypothetical contract or agreement that would be arrived at by people ignorant of particular aspects of their own beliefs and circumstances.<sup>7</sup> The intuition being captured here is that which links fairness to ignorance, or more appropriately blindness. Blindness has been an important precondition for the efficacy of justice. For example, if I do not know which of the five pieces of cake that I am cutting I am going to end up with, then it makes sense for me to cut the pieces fairly. Similarly, if people do not know who they are going to be, then it will make sense for them to choose fair or just principles to regulate their society.

Some questions which could facilitate the understanding of Rawls’s theory of justice are: what exactly is it of which people are ignorant in the original position? What information does the veil exclude? Why should we consider it appropriate to regard them as ignorant in such ways for the purpose of thinking about justice? What substantive theoretical claims about justice does the veil of ignorance embody? In presenting Rawls’s ideas, I will first give an understanding of his principles of justice, and then discuss the two arguments or justifications he gives for that answer.

Rawls’s ‘general conception of justice’ consists of one central idea: “all social primary goods – liberty and opportunity, income and wealth, and the bases of self respect’ – are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favoured”.<sup>8</sup> In this ‘general conception’, Rawls ties the idea of justice to an equal share of social goods, but he adds an important twist. We treat people as equals not by removing all inequalities, but only those which disadvantage someone. If certain inequalities benefit everyone, by drawing out socially useful talents and energies, then they will be acceptable to everyone. If giving someone else more money than I have promotes my

interests then equal concern for my interests suggests that we allow, rather than prohibit, that inequality. Inequalities are allowed if they *improve* my initially equal share, but are not allowed if, as in utilitarianism, they *invade* my fair share. We can think of this, as Rawls says, as giving the less well off “a kind of veto over inequalities, which they would exercise to reject any inequalities which sacrifice, rather than promote, their interests”.<sup>9</sup> Here, Rawls seems to be working with the idea of just inequalities and unjust inequalities, or just equalities and unjust equalities: while just inequalities and equalities are fair, unjust inequalities and equalities are not. This is the single, simple idea at the heart of Rawls’s theory.

However, this general conception is not yet a full theory of justice, for the various goods distributed according to that principle may conflict. For example, we might be able to increase someone’s income by depriving them of one of their basic liberties. Would it then be appropriate of fair to bargain off one’s basic liberties for an income appreciation? This unequal distribution of liberty favours the least well off in one way (income) but not in another (liberty). Or what if any unequal distribution of income benefits everyone in terms of income, but creates an inequality in opportunity which disadvantages those with less income? Do these improvements in income outweigh disadvantages in liberty or opportunity? Any general conception of justice would leave these questions unanswered.

It is for this reason that Rawls introduces the need for a system of priority amongst the different elements in the theory. Rawls’s solution is to break down the general conception into three parts, which are arranged according to a principle of “lexical priority”. The principles that are worked out in the Original Position are then:

**First Principle: Principle of Greatest Equal Liberty**

Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.

**Second Principle: Principle of Difference and Fair Equality of Opportunity**

Social and economic inequalities are to be arranged so that they are both:

- a. to the greatest benefit of the least advantaged; and
- b. attached to offices and positions open to all under conditions of fair equality of opportunity.

These two principles contain and carry the substance of Rawls's theory of justice as fairness. They encapsulate his understanding of the relationship between equality and freedom, guised by the value of justice as fairness.

Having worked out the principles of justice, Rawls brings forward two priority rules:

First Priority Rule (The priority of liberty) – the principles of justice are to be ranked in lexical order and therefore liberty can be restricted only for the sake of liberty

Second Priority Rule (The priority of justice over efficiency and welfare) – the second principle of justice is lexically prior to the principle of efficiency and to that of maximizing the sum of advantages; and fair opportunity is prior to the difference principle.<sup>10</sup>

According to these principles, some social goods are more important than others, and so cannot be sacrificed for improvements in those other goods. Equal liberties take precedence over equal opportunity which takes precedence over equal resources.

Rawls first principle which prioritizes the importance of equal basic rights and liberties confirms his commitment to liberalism. Basic rights and liberties must not be traded off against other social goods. The first principle therefore would disallow exempting the rich from conscription because they contribute to economic growth on the grounds that this is a bargaining off of basic rights and liberties in exchange for other perhaps lesser goods. The idea that people should have their basic liberties protected has been the least contentious part of his theory.

Rawls's second principle has two parts. The first part, according to the lexical order, would be the principle of fair equality of opportunity, which requires that citizens with the same talents and willingness to use them have the same educational and economic opportunities regardless of whether they were born rich or poor. In Rawls's words, "in all parts of society there are to be roughly the same prospects of culture and achievement for those similarly motivated and endowed."<sup>11</sup> Since class of origin is a morally arbitrary fact about citizens, justice does not allow class of origin to turn into unequal opportunities for education or meaningful work.

The second part of the principle, in accordance with the lexical ordering, is the difference principle which regulates the distribution of wealth and income. The difference principle allows inequalities of wealth and income, so long as these will be to everyone's advantage, and specifically to the advantage of those who will be worst off. Put differently, the difference principle requires that any economic inequalities are justified only if they are to the greatest advantage of those who are least advantaged. In this way, the difference principle responds to the moral arbitrariness of starting places. A citizen does not merit more of the



social product simply because she was lucky enough to be born with the potential to develop skills that are currently in demand. Yet this does not also mean that everyone should get the same share, such as in a socialist setup. Rawls, being a liberal would certainly not support exchanging the idea of inequality of starting places with the guarantee of equality of outcome. The fact that citizens have different talents and abilities can be used to make everyone better off. Those better endowed are welcome to use their gifts to make themselves better off, on the condition that their doing so also contributes to the good of those less endowed.

These two principles are Rawls's answer to the question of justice. For Rawls, it is important that the same method of reasoning that explains the equal basic liberties also justifies more political and economic equality. As suggested by R P Wolff, those who believe in equal basic liberties, but who reject the other egalitarian features of justice as fairness, must try to find some other route to justifying those basic liberties."<sup>12</sup> But we have not yet seen his argument for them. Here he works out two arguments.

The first argument is about the fairness of the prevailing economic distribution. Inequalities of income and prestige are assumed to be justified if and only if there was fair competition in the awarding of offices and positions that yield those benefits. It is acceptable to pay someone one lac rupees when the national average is twenty thousand if there was fair equality of opportunity – that is, if no one was disadvantaged by their race or sex or social background. Such an unequal income is just regardless of whether or not the less well-off benefit from that inequality.

This conflicts with Rawls's theory, for while Rawls also requires equality of opportunity in allotting positions, he denies that the people who fill the positions are thereby entitled to a greater share of society's resources. A Rawlsian society may pay such people more than average, but only if it benefits all members of society to do so. Under the difference principle, people only have a claim to a greater share of resources if they can show that it benefits those who have lesser shares. Under the prevailing idea of equality of opportunity, by contrast, the less well-off have no veto over these inequalities, and no right to expect to benefit from them. Why does the ideology of equal opportunity seem fair to many people in our society? Because it ensures that people's fate is determined by their choices, rather than their circumstances. If I am pursuing some personal ambition in a society that has equality of opportunity, then my success or failure will be determined by my performance, not by my race or class or sex. If I fail, it will not be because I happened to be born into the 'wrong' group. As suggested by Kymlicka, "our fate should not be privileged or disadvantaged by such morally arbitrary factors as the racial or ethnic group we were born into. In a society where no one is disadvantaged by their social circumstances, then people's fate is in their own hands." Success or failure will be the result of our own choices and efforts. Hence whatever success we achieve is 'earned', rather than merely endowed on us. In a society that has equality of opportunity, unequal income is fair, because success is 'merited', it goes to those who 'deserve' it.... The central motivating idea... is this: it is fair for individuals to have unequal shares of social goods if those inequalities are earned and deserved by the individual, that is, if they are the product of the individual's actions and choices. But it is unfair for individuals to be disadvantaged or privileged by arbitrary and undeserved differences in their social circumstances."<sup>13</sup>

The attractive idea at the base of this view is that people's fate should be determined by their *choices* – by the decisions they make about how to lead their lives – not by the *circumstances* which they happen to find themselves in. However, there is a limitation to the Rawlsian view, which it would be helpful to highlight and would be once again mentioned when discussing the principles of justice Rawls advocates for states. It is true that social inequalities are undeserved, and hence it is unfair for one's fate to be made worse by that undeserved inequality. But the same thing can be said about inequalities in natural talents. No one deserves to be born handicapped, or with an IQ of 140 any more than they deserve to be born into certain class or sex or race. If it is unjust for people's fate to be influenced by the latter factors, then it is unclear why the same injustice is not equally involved when people's fate is determined by the former factors. The injustice in each case is the same – distributive shares should not be influenced by factors which are arbitrary from the moral point of view. As argued by Kymlicka, “natural talents and social circumstances are both matters of brute luck, and people's moral claims should not depend on brute luck”.<sup>14</sup>

Rawls considers this first argument for his principles of justice less important than the second. His main argument is a ‘social contract’ argument, an argument about what sort of political morality people would choose were they setting up society from an ‘original position’. As Rawls says of the argument: “none of the preceding remarks (about equality of opportunity) are an argument for this conception (of justice), since in a contract theory all arguments, strictly speaking, are to be made in terms of what it would be rational to choose in the original position. But I am concerned here to prepare the way for the favoured interpretation of the two principles of justice, so that these criteria, especially the (difference principle) will not strike the reader as too eccentric or bizarre.”<sup>15</sup>

So Rawls conceives his first argument as simply preparing the ground for the real argument, which is based on the idea of a social contract. As Rawls puts it, “my aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau and Kant”.<sup>16</sup> The point of the contract is to determine principles of justice from a position of equality – the original position. As stated by Rawls:

The original position of equality corresponds to the state of nature in the traditional theory of the social contract. The original position is not, of course, thought of as an actual historical state of affairs, much less as a primitive condition of culture. It is understood as a purely hypothetical situation characterized so as to lead to a certain conception of justice.<sup>17</sup>

While Rawls’s original position corresponds to the idea of state of nature, it also differs from it, for Rawls believes that the usual state of nature is not really an “initial position of equality”<sup>18</sup>. This is where the contract argument links to his argument on intuition. The usual account of the state of nature is unfair because some people have more bargaining power than others – more natural talents, initial resources, or sheer physical strength – and they are able to hold out longer for a better deal, while those who are less strong or talented have to make concessions. The uncertainties of nature affect everyone, but some people can deal better with them and they will not agree to a social contract unless it entrenches their natural advantages. This, we know, is unfair in Rawls’s eyes. Since these natural advantages are undeserved, they should not privilege or disadvantage people in determining principles of justice.

So a new device is needed to tease out the implications of moral equality, a device that prevents people from exploiting their arbitrary advantage in the selection of principles of justice. This is where Rawls develops the otherwise peculiar construction known as the 'original position'. In this revised original position, people are behind a 'veil of ignorance' so that "no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favour his particular condition, the principles of justice are the result of a fair agreement or bargain."<sup>19</sup>In other words, the veil of ignorance prevents arbitrary facts about citizens from influencing the agreements among their representatives, thereby correcting the moral arbitrariness of starting places. Commenting on this attempt, Kymlicka notes that "this is an unusual strategy for social contract arguments are usually thought of as being weak, and Rawls seems to be relegating a fairly strong argument into a back-up role behind the weaker social contract argument."<sup>20</sup>

Many critics have viewed this demand that people distance themselves from knowledge of their social background and individual desires as evidence of a bizarre theory of personal identity. As argued by Kymlicka, "what is left of one's self when all that knowledge is excluded? It is difficult to imagine oneself behind a veil of ignorance, much more difficult than imagining oneself in the traditional state of nature, where the fictional people were at least relatively whole in mind and body."<sup>21</sup>This argument has influenced the communitarian perspective, which is the focus of the fourth chapter of this study.

But the veil of ignorance is not an expression of a theory of personal identity. It is an intuitive test of fairness, in the same way that we try to ensure a fair division of cake by making sure that the person who cuts it does not know which piece she will get. The veil of ignorance similarly ensures that those who might be able to influence the selection process in their favour, due to their better position are unable to do so. It is Rawls's attempt to introduce blindness when determining principles of justice. As Rawls says: "one should not be misled, then, by the somewhat unusual conditions which characterize the original position. The idea here is simply to make vivid to ourselves the restrictions that it seems reasonable to impose on arguments for principles of justice, and therefore on these principles themselves. Thus it seems reasonable and generally accepted that no one should be advantaged or disadvantaged by natural fortune or social circumstance in the choice of principles. It also seems widely agreed that it should be impossible to tailor principles to the circumstances of one's own case."<sup>22</sup>

The original position is intended to represent equality among human beings as moral persons, and the resulting principles of justice are those which people would consent to as equals when none are known to be advantaged by social and natural contingencies. As stated by Rawls, we should look at the original position as "an expository device" which "sums up the meaning" of our notions of fairness and "helps us to extract their consequences".<sup>23</sup>

Rawls's argument is not, then, that a certain conception of equality is derived from the idea of a hypothetical contract; rather, the hypothetical contract is a way of embodying a certain conception of equality, and a way of extracting the consequences of that conception for the just regulation of social institutions. By removing sources of bias and requiring unanimity,

Rawls hopes to find a solution that is acceptable to everyone from a position of equality – that is, that respects each person’s claim to be treated as a free and equal being.

Since the premise of the argument is equality, not contract, to criticize it we need to show that it fails to embody an adequate account of equality. It is not enough – indeed, it is irrelevant – to say that the contract is historically inaccurate, or that the veil of ignorance is psychologically impossible or politically challengeable, or that the original position is in some other way unrealistic. The question is not whether the original position could ever really exist, but whether the principles which would be chosen in it are likely to be fair, given the nature of the selection process.

How do the principles of justice get chosen? The basic idea is this: while we do not know what position we will occupy in society, or what goals we will have, there are certain things we will want or need to enable us to lead a good life. Whatever the differences between individuals’ plans of life, they all share one thing – they all involve leading a life. As Waldron puts it, “there is something like pursuing a conception of the good life that all people, even those with the most diverse commitments, can be said to be engaged in... although people do not share one another’s ideals, they can at least abstract from their experience a sense of what it is like to be committed to an ideal of the good life.”<sup>24</sup> We are all committed to an ideal of the good life, and certain things are needed in order to pursue these commitments, whatever their more particular content. In Rawls’s theory, these things are called “primary goods”. There are two kinds of primary goods:

1. Social primary goods: goods that are directly distributed by social institutions, like income and wealth, opportunities and powers, rights and liberties.

2. Natural primary goods: goods like health, intelligence, vigour, imagination and natural talents, which are affected by social institutions, but are not directly distributed by them.

In choosing principles of justice, people behind the veil of ignorance seek to ensure that they will have the best possible access to those primary goods distributed by social institutions (social primary goods). This does not mean that egoism underlies our sense of justice. Since no one knows what position they will occupy, asking people to decidewhat is best for themselves has the same consequence as asking them to decide what is best for everyone considered impartially. As explained by Kymlicka, “in order to decide from behind a veil of ignorance which principles will promote my good, I must put myself in the shoes of every person in society and see what promotes their good, since I may end up being any one of those people.”<sup>25</sup> In the words of Rawls, when combined with the veil of ignorance, therefore, the assumption of rational self-interest “achieves the same purpose as benevolence”, for I must sympathetically identify with every person of society and take their good into account as if my own.<sup>26</sup> In this way, agreements made in the original position give equal consideration to each person. This, Rawls refers to as the principle of “maximin”.

So the parties in the original position are trying to ensure the best possible access to the primary goods that enable them to lead a worthwhile life, without knowing where they will end up in society. There are still many different principles they could choose. They might choose an equal distribution of social primary goods for all social positions. But Rawls says that this is irrational when certain kinds of inequalities – those sponsored by the difference principle – improve everyone’s access to primary goods. They might choose a utilitarian principle that instructs social institutions to distribute primary goods in such a way as to



maximize utility in society. This would maximize the average utility that parties in the original position could expect to have in the real world, and, on some accounts of rationality, that makes it a rational choice. But it also involves the risk that you will be one of those who is endlessly sacrificed for the greater good of others. It leaves your liberties, possessions, and even your life vulnerable to the selfish and illegitimate preferences of others. Indeed, it leaves you unprotected precisely in those situations where you are most likely to need protection – for example, when your beliefs, skin-colour, sex or natural abilities make you unpopular, or simply dispensable, to the majority. This makes utilitarianism an irrational choice, on some accounts of rationality, for it is rational to ensure your basic rights and resources are protected, even if you thereby lessen your chance of receiving benefits above and beyond the basic goods that you seek to protect.

So there are conflicting accounts of what it is rational to do in such a situation – the rationality of gambling versus the rationality of playing it safe. If we knew what the odds were of having our basic rights violated in a utilitarian society, then we would have a better idea of how rational it is to take the gamble. But the veil of ignorance excludes that information. The rationality of gambling also depends on whether one is personally risk averse or not – some people do not mind taking risks while others prefer security. But the veil of ignorance excludes knowledge of personal tastes as well. What then is the rational choice? Rawls says that it is rational to adopt a “maximin” strategy – that is, you maximize what you would get if you wound up in the minimum or worst-off position. As Rawls says, “this is like proceeding on the assumption that your worst enemy will decide what place in society you will occupy”.<sup>27</sup>

To illustrate: imagine a society with at least five different classes placed in position of inequality, inequalities which are based on accident and birth. Let these five different classes be A, B, C, D and E. Each of these classes has an ownership of goods which contributes to their inequality. To continue, let us assume that A=10; B=6; C=4; D=2; and E=0. If one knows one's position among these classes, it would be rather easy, although grossly unfair, to distribute goods and resources; so if I knew that I am A, the distribution schema or the principles of justice which I would choose and agree upon would be one which furthers the interests of A only. However, behind the veil of ignorance, I am unaware about my position among these classes, and therefore, am guided by the principle of maximin, so that I think of myself in the worst position, or I find it rational to maximize the position of the worst-off, assuming that I would or could occupy this position. I would therefore allot a higher degree of goods and resources to E, conceiving of myself as E. This would, according to Rawls, not only reduce the difference (therefore difference principle) between A and E, it would also, and perhaps more importantly, correct the injustice and unjust inequality with which E started his life. So, Rawls concludes, people in the original position would select the difference principle. And this result happily matches what the first intuitive argument told us. People using a fair decision-procedure for selecting principles of justice come up with the same principles that our intuitions tell us is fair.

The original position is the crux of Rawls's theory. According to Rawls, the original position confirms and subsequently extends our judgements about justice. In fact, such is the centrality of the original position to Rawls's theorizing, that he employs it in addressing and arriving at principles of international justice. In the next section I examine Rawls's conception of international justice, the statement of which is found in his work *The Law of Peoples*.

## 2.2 Exploring the Idea of International Justice in *The Law of Peoples*

Having worked out a theory of justice for a self-contained liberal society in *A Theory of Justice* Rawls goes on to extend his approach to international relations in his work *The Law of Peoples*. *The Law of Peoples* represents Rawls's reflections on how reasonable citizens and people might live together peacefully in a just world. Rawls published this argument first in 1993 as a short article<sup>28</sup>. The fundamental aim of *The Law of Peoples* is to examine how the content of a theory of international justice "might be developed out of a liberal idea of justice similar to, but more general than, the idea of 'justice as fairness'".<sup>29</sup> By the law of peoples, Rawls makes reference to "a political conception of right and justice that applies to the principles and norms of international law and practice."<sup>30</sup>

Rawls begins with the assumption that no global government or world state would be legitimate or just. According to him, any world government would either be a global despot or characterized by groups fighting to gain political independence. The law of peoples is then not a cosmopolitan initiative; rather it is *international* or perhaps *interstate*. However, once again Rawls remains forthrightly committed to the liberal doctrine, as his attempt is to work out a foreign policy that guides a liberal society in its interactions with other societies, both liberal and non-liberal.

The major motivating factor for the law of peoples is clearly the injustice prevalent in the international system. In the words of Rawls:

Two main ideas motivate the Law of Peoples. One is that the great evils of human history – unjust war and oppression, religious persecution and the denial of liberty of conscience, starvation and poverty, not to mention genocide and mass

murder – follow from political injustice with its own cruelties and callousness...

The other main idea, obviously connected with the first, is that, once the gravest forms of political injustice are eliminated by following just (or at least decent) social policies and establishing just (or at least decent) basic institutions, these great evils will eventually disappear. Our hope for the future of our society rests on the belief that the social world allows a reasonably just constitutional democracy existing as a member of a reasonably just Society of Peoples.<sup>31</sup>

Rawls uses the term “Society of Peoples” to mean all those people who follow the ideals and principles of the Law of Peoples in their mutual relations. These people have their own internal governments, which may be constituted by liberal democratic or non-liberal but decent governments. The term “decent” is used for non-liberal societies whose basic institutions meet certain specified conditions of political right and justice and lead their citizen to honour a reasonably just law. In *The Law of Peoples*, Rawls aims to derive the laws to which well-ordered peoples would agree. For Rawls, well-ordered peoples include reasonable liberal peoples and ‘decent peoples’, that is, though they are not liberal, they have a ‘decent consultation hierarchy’, among other features.

Rawls argues that the ‘Law of Peoples’ he endorses is a realist utopia. It is realistic because it takes account of many real conditions, for instance, by assuming a fair amount of diversity exists in the world; not all peoples of the world do or can reasonably be made to endorse liberal principles. Here Rawls recognizes any principle of international justice must accommodate the fact that there is much more pluralism and diversity in worldviews – or reasonable pluralism, among societies than there is within a single liberal society. He specifies two conditions that govern its being realistic: first, it is realistic because it takes

people as they actually are; and second, its first principles and precepts must be workable and applicable to ongoing political and social arrangements.

While *A Theory of Justice* justified the establishment of two principles of justice, in *The Law of Peoples*, Rawls justifies eight principles, which are as follows:

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. Peoples are to observe a duty of non-intervention.
5. Peoples have the right of self-defense but not right to instigate war for reasons other than self-defense.
6. Peoples are to honour human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.
8. Peoples have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political and social regime.<sup>32</sup>

The main question, however, is how are these principles arrived upon? Rawls's derivation occurs in several stags. First, he concerns himself only with liberal peoples and the principles they would endorse. He employs two original positions to derive his Law of Peoples for liberal peoples: the first original position grounds the social contract of the liberal political conception of a constitutionally democratic regime while the second operates among representatives of liberal peoples. The first original position covers, by now, familiar

territory. The parties in the original position must decide the fair terms of cooperation that will regulate the basic structure of society. They are modelled as rational and “their aim is to do the best they can for citizens whose basic interests they represent, as specified by the primary goods, which cover their basic needs as citizens.”<sup>33</sup> Since parties are behind a veil of ignorance, they will be motivated to choose a basic structure of society that reflects the freedom and equality of persons.

After the principles governing the liberal society have been derived, Rawls moves to the international level. Now a second original position is employed to derive the foreign policy that liberal peoples would choose. The representatives of peoples are subject to an appropriate veil of ignorance for the situation. As Rawls argues, “they do not know, for example, the size of the territory, or the population or the relative strength of the people whose fundamental interests they represent. While they know that reasonably favourable conditions obtain that make democracy possible, they do not know the extent of their natural resources, of the level of their economic development, or any such related information.... This makes the use of the original position at the second level a device of representation just as it is at the first level.”<sup>34</sup>

In addition, Rawls believes three organizations would be chosen: one aimed at securing fair trade among peoples, one which enables peoples to borrow from a cooperative banking institution, and one which plays a similar role of the United Nations, which he refers to as “a Confederation of Peoples (not states)”.<sup>35</sup>

Having shown that liberal peoples would select the eight principles and three organizations, Rawls shows how decent peoples would select the same principles and organizations. What,

first of all, are “decent peoples”, according to Rawls? Rawls specifies that for a people to count as “decent”, at least four central conditions must be met. First, the society must not be aggressive; it must conduct its affairs in ways that are peaceful and respectful of other societies. Second, the system of law and its idea of justice must secure basic human rights for all members of the people. However, it is important to realize that the list of particular rights that must be secured is very short. It includes only the following:

- a. The right to life, by which he means the right to the means of subsistence and security;
- b. The right to liberty, which equates to freedom from slavery or forced occupation but also includes some liberty of conscience, enough to ensure freedom of religion and thought;
- c. The right to personal property; and
- d. The right to formal equality, by which he means that similar cases be treated similarly.

He thinks all peoples (whether liberal or non-liberal) should be able to endorse this pared-down list of human rights. The third condition a decent people must satisfy is that judges and others who administer the legal system must believe that the law incorporates an idea of justice according to which there is a common good. Fourth, a decent people must have a “decent consultation hierarchy”, in which significant interests of all members of the people are taken into account.

Rawls then suggests that a decent people would accept the Law of Peoples he earlier derived. He points out that decent people would be committed to it, given the commitments they

would have by the very definition of what counts as a decent people. Rawls then turns to describe a hypothetical decent people whom he labels Kazanistan, which he considers to fulfil his requirements. Here is his example:

Imagine an idealized Islamic people named 'Kazanistan'. Kazanistan's system of law does not institute the separation of church and state. Islam is the favoured religion, and only Muslims can hold the upper position of political authority and influence and the government's main decisions and policies including foreign affairs. Yet other religions are tolerated and may be practiced without fear or loss of most civic rights, except the right to hold the higher political or judicial offices.... Other religions and associations are encouraged to have a flourishing cultural life of their own and to take part in the civic culture of the wider society.<sup>36</sup>

Rawls believes Kazanistan can be admitted to the society of well-ordered peoples. In terms of its foreign policy, liberal societies should tolerate states such as Kazanistan. For those who have trouble with the idea that such a society should be considered as a member of the Society of Peoples, Rawls believes that "something like Kazanistan is the best we can realistically – and coherently – hope for."<sup>37</sup> Moreover, he thinks that liberal peoples should try to encourage decent peoples and not frustrate their vitality by coercively insisting that all societies be liberal. By way of further defence of the view, he argues that it is crucial that we maintain mutual respect among peoples.

According to Rawls, some societies lack the political and cultural traditions the human capital and know-how, and often, the material and technological resources needed to be well-



ordered. Well-ordered peoples have a duty to assist such societies to become part of the society of well-ordered peoples. He then offers some further thoughts on the duty of assistance. In his words: “The aim of assistance is to help burdened societies to be able to manage their own affairs reasonably and rationally and eventually to become members of the society of well-ordered peoples. This defines the target of assistance. After it is achieved, further assistance is not required, even though the now well-ordered society may still be relatively poor.”<sup>38</sup> The aim is to realize and preserve just (or decent) institutions that are self-sustaining.

Rawls does engage directly with central claims made by some that the principles of justice that applied in *A Theory of Justice*, particularly the difference principle, should apply globally. He takes up Beitz’s claim that, since a global system of cooperation already exists between states; a global difference principle should apply across states as well. Rawls argues against this for a couple of reasons, but notably, because he believes that wealth owes its origin and maintenance to the political culture of the society rather than to its stock of resources. Furthermore, any global principle of distributive justice we endorse must have a target and a cut-off point, which are secured by ensuring the requirements of political autonomy. He invites us to consider a case:

Two liberal or decent countries are at the same level of wealth (estimated, say in primary goods) and have the same size population. The first decides to industrialize and to increase its rate of (real) saving, while the second does not. Being content with things as they are, and preferring a more pastoral and leisurely society, the second reaffirms its social values. Some decades later, the first country is twice as wealthy as the second. Assuming, as we do, that both societies

are liberal or decent, and their peoples free and responsible, and able to make their own decisions, should the industrializing country be taxed to give funds to the second? According to the duty of assistance there would be no tax, and that seems right; whereas with a global egalitarian principle without target, there would always be a flow of taxes as long as the wealth of one people was less than that of the other. This seems unacceptable.<sup>39</sup>

With this argument Rawls seems to have denied the applicability of a difference principle like mechanism to the international realm. The fact that states also perhaps start from morally arbitrary positions does not seem to cut deep with Rawls's understanding of international justice. In fact, while in the argument on justice as fairness, Rawls vehemently holds on to the position that a citizen's life ought to be based on choices and not circumstances, in the argument on international justice, Rawls seems to disown this argument.

Rawls offer two main reasons for rejecting the possibility of justice among states as a defence. The first is "the supposed infeasibility of a world state". According to Rawls, a world state is an impractical and unfeasible idea and any attempt to arrive at principles of international justice for states would move in the direction of creating such a world state. This has been criticized by some theorists, particularly those who develop their arguments from a cosmopolitan perspective. According to them, if a world state were indeed associated with great dangers of despotism and civil strife, then a cosmopolitan interpretation of Rawls's theory would rightly reject this institutional design in favour of other designs that better secure the fundamental interests of all human beings. As practical arrangements akin to a world state, they cite the example of a global federation on the model of the European Union, or a loose league of nations as Kant had described, or a states' system like that existing now.

The second reason that Rawls gives is that his theory of social justice is too distinctively liberal to be acceptable across the diversity of human cultures. This criticism is general to Rawls's theory of justice, including the understanding of justice for the internal structure of well-ordered societies. It has also been held by some as the hegemonic dominance of the liberal paradigm, particularly with the collapse of practical Marxism.<sup>40</sup> By attaching his understanding of justice to a particular ideological paradigm and by invoking such a paradigm as a prerequisite for the applicability of principles of justice, Rawls seems to be overriding his claim, made in the starting pages of his well acclaimed work *A Theory of Justice*. In this work Rawls claims that "justice is the first virtue of all social and political structures". Interestingly, when deliberating on the social and political structure of the relations among states, justice, even for Rawls is not the first virtue. Justice may be, according to him, be held secondary to the features and niceties of a liberal ethos.

In the next section I make a critical assessment of Rawls's idea of international justice as well as explore the conception of the idea and relationship between the self and the other underlying it.

### **2.3 The Conception of the Self/Other in Rawls's Idea of International Justice**

In the above sections I have outlined the idea of justice advocated by Rawls for the societal context as well as the international context. In this section, my concern is to critically evaluate Rawls's conception of international justice by exploring the conception and relationship between the self and other which underlies the conception. In doing so, my aim is to discern whether Rawls does work out a conception of the self and of the other while working out principles of international justice.

An important contribution of this work is the use of the idea of peoples instead of states, nations or communities. In fact, Rawls seems to recognize that underlying any credible conception of justice lies a distinct understanding of the self. Rawls's assumption is that peoples are more or less coextensive with states as these are currently demarcated.<sup>41</sup> In fact, Rawls uses interchangeably "peoples" and "societies" instead of states. To be sure, Rawls took pains to dissociate peoples from states; his main intention here is to distinguish people from "political states as traditionally conceived" in the realist tradition, that is, as political entities motivated primarily by self-interests and power. However, he does not seem to question existing political boundaries and the legitimacy of existing states.

According to Rawls a people is a group of individuals ruled by a common government, bound together by common sympathies, and firmly attached to a common conception of right and justice. According to him, people is a moralized concept and not all states currently on the world map qualify as such. Rawls contrasts peoples with states. A state, according to Rawls, is moved by the desire to enlarge its territory, or to convert other societies to its religion, or to enjoy the power of ruling over others, or to increase its relative economic strength. Peoples are not states, and peoples may treat societies that act on state-like desires as international outlaws.

Rawls theory of international justice proceeds in three stages. The first stage extends "the social contract idea of the society of liberal peoples"<sup>42</sup>. This stage allows us to identify the international principles that would be agreed to by representatives of liberal societies at a global original position. An important difference is the global original position is that the parties to the deliberation are representative of *peoples* rather than of individuals. The significance of this anti-individualist shift will be discussed later in the Chapter. In the

international original position, representatives of each people agree on principles for the international basic structure. Each party is behind a veil of ignorance, deprived of information about the people they represent, such as the size of its territory and population, and its relative political and economic strength. Each party tries to do the best they can for the people they represent. Rawls claims that the parties in the international original position would favour the eight principles listed above.

The second stage, which concerns one of the central themes of *The Law of Peoples*, aims to show how and why representative of certain non-liberal but well-ordered societies would also endorse the same set of principles. These are non-liberal societies in that they do not endorse the standard range of liberal democratic rights, like the freedom of expression and association, religious equality, the right to equal political participation, among others. That is, individuals in non-liberal societies are “not regarded as free and equal citizens, nor as separate individuals deserving equal representation”. Yet these societies honour basic human rights – for example, the right to life and security, and subsistence) and are respectful of other peoples. Consequently, these non-liberal “decent peoples” as Rawls calls them, qualify as “societies in good standing”, and are, therefore, to be tolerated by liberal societies. This means that liberal societies are “to recognize these non-liberal societies as equal participating members in good standing of the Society of Peoples”, and not just to “refrain from exercising political sanctions – military, economic or diplomatic – to make a people change its ways”.<sup>43</sup> As suggested by Kok-Chor Tan, “non-liberal peoples are tolerated as a matter of liberal principle, and not merely accommodated on account of practicality.”<sup>44</sup>

This point is important. The Law of Peoples wants to achieve a global stability with respect to justice, and not stability as a *modus vivendi*, or stability as a balance of forces. The two-

stage procedure described above is thus crucial to Rawls's project because it attempts to show that the global principles proposed by liberal peoples are also principles that can be independently adopted by decent non-liberal peoples, and that it is not the case that liberal peoples have tailored their global principles specifically in view of accommodating non-liberal peoples or existing global institutional arrangements. Whether Rawls succeeds in meeting his stated global institutional arrangements is a question which will be taken up below.

These two stages complete the ideal theory part of the Law of Peoples. The aim of ideal theory is to identify the principles that should govern the relationship between societies with the requisite political and economic conditions to be well-ordered and to comply with the Law of Peoples. In this ideal condition, the goals of justice and stability for the right reason between societies can be achieved.

But how about societies without the economic resources to support well-ordered institutions, or societies that blatantly refuse to comply with the principles of the Law of Peoples? The third stage in Rawls arguments is devoted to addressing such difficulties, which stem from "the highly non-ideal conditions of our world with its great injustices and widespread social evils".<sup>45</sup>

The non-ideal theory aspect of the Law of Peoples thus addresses first, the problem of noncompliance, as when "outlaw" societies "refuse to comply with a reasonable Law of Peoples", and second, the problem of unfavourable conditions, where "burdened" societies lack the basic resources to become well-ordered. A complete Law of Peoples has to confront these non-ideal cases, and offer guidance on how well-ordered peoples may defend

themselves against outlaw regimes and help bring on reform within these regimes in the long run; and how they may assist burdened societies and help bring them “into the Society of well-ordered Peoples.”<sup>46</sup>

From the above discussion concerning burdened societies and his proposal of a duty of assistance, it is clear that Rawls does not advocate an isolationist foreign policy which holds the fate of these societies to be a matter of indifference for liberal and decent peoples. He maintains that better-off societies have a duty of assistance towards burdened societies in order to help them achieve the requisite level of economic and social development to become well-ordered. This duty of assistance would also follow from the principle affirming basic human rights which, as Rawls makes very clear, include the right to subsistence. Because the duty of assistance has as its goal the meeting of individuals’ basic needs as well as their collective capacity for sustaining decent institutions, it is possible to refer to this duty as a humanitarian duty. Yet Rawls also stresses that this duty of humanitarian assistance is distinct from, and does not entail, a duty of distributive justice, and definitely not a right on the part of the outlaw and/or burdened societies. So while a duty of humanitarian assistance is required by the Law of Peoples as part of its non-ideal theory, a distributive principle has no place at all here.

It would at this point be helpful to explore the conception of the self and the other in both *A Theory of Justice* and *The Law of Peoples*. In the former work, Rawls begins by identifying everyone as citizens. From here he goes on to understand the self as someone who is advantaged, even though, by morally arbitrary starting places and is therefore privileged by social and economic institutions. The self is clearly in a state of power and privilege. The other, is also definitively worked out – she is one who bears an unjust weight of the burden of

morally arbitrary starting places and circumstances, and is therefore disadvantaged by social and economic institutions. It is hence that in correcting these unjust inequalities that Rawls, in *A Theory of Justice*, requires that the self, in the original position and behind the veil of ignorance, and when determining the principles of justice, places himself in the position of the least advantaged or views him *self as the other*. This is perhaps the most poignant and powerful aspect of the original position and the veil of ignorance – that when determining justice, it is imperative for the self to perceive of him self as the other. The difference principle is clearly based on this perception, on the possibility of such an interchange.

In *The Law of Peoples*, Rawls uses a different strategy. In this work all ‘states’ or ‘societies’ are referred to as ‘peoples’. However, Rawls does not go too far in this regard. In fact, the distinction between “states” and “peoples” is largely definitional, and the characterization and understanding of the latter depends substantially if not entirely on the former. It is as though Rawls has simply surrendered the word “state” to the realists.

Carrying on, Rawls differentiates between liberal well-ordered peoples and decent peoples on one hand and outlaw and burdened peoples on the other; while the former is in a position of privilege bearing a humanitarian duty to assist the latter, the latter is clearly outside the ambit of justice, dependent on the former’s charity or assistance for a “well-ordered” existence. The self in this work does not perceive of himself as the other. Rather the self and the other are located in fixed positions which are not subject to interchange. One wonders why, when in *A Theory of Justice*, Rawls regards starting places of class, sex, colour and natural talent as morally arbitrary, why does he not in *The Law of Peoples*, regard one’s birth in a particular state also as morally arbitrary. As suggested by Brock, “after all, if the point of the veil of ignorance is to exclude us from knowledge of factors that are morally arbitrary, where one



happens to have been born (or citizenship) qualifies as one of those quintessentially arbitrary factors from the moral point of view.”<sup>47</sup>

A point of clarification is important here. It perhaps would be incorrect to argue or suggest that Rawls has no account of global justice as such – the principles in his Law of Peoples are explicitly principles of justice; the Law of Peoples is a theory of justice for the society of peoples. Nor should the Law of Peoples be taken to be in support of the status quo – if by “status quo” we mean literally the current state of affairs. The duty of assistance that is required by the Law of Peoples, if taken to heart, will bring about a radical change in our present world in which a fifth of the world’s population live in absolute poverty, in which 1.2 billion people lack access to clean water and in which 17 million people die each year from curable diseases. The requirement that liberal and decent peoples help burdened societies achieve the required level of development to sustain well-ordered institutions, a developmental level that could in practice be quite considerable and the requirement that liberal and decent peoples protect basic rights, which include protecting individuals’ access to subsistence, are radical departures from how the well-off presently perceive their global responsibilities towards the needy.

What is lacking in Rawls’s account of global justice is the commitment to distributive justice. That is, there are no ongoing distributive principles regulating the inequalities between the rich and the poor of the world beyond the duty of the better-off to ensure that the badly-off are able to meet a certain threshold level of basic needs. Thus one can rightly recognize the progressiveness of Rawls’s global theory compared to the current state of affairs and still fairly ask if Rawls theory goes far enough. That is, one might wonder if an ideally just world would not only require that the basic needs of persons be met and that peoples be enabled to

support their own decent institutions, but also require that the gap between the rich and the poor not be too wide even if the goals of meeting basic needs and supporting decent institutions have been attained. In short, the issue is whether there should be distributive principles to regulate global relations or whether Rawls is right that there is no place for distributive justice in the global setting. In the last section of this chapter, I make a critical evaluation of Rawls's principles of international justice.

## **2.4 Some Concluding Remarks**

Rawls's principles and idea of international justice have been subject to a wide array of criticism. One of the most frequently raised objections is that the background picture Rawls invokes incorporates outmoded views of relations between states, peoples and individuals of the world. Rawls presupposes that states are (sufficiently) independent of one another, so that each society can be held responsible for the well-being of its citizens. Furthermore, according to Rawls, differences in levels of wealth and prosperity are largely attributable to differences in political culture and the virtuous nature of its citizens.

Critics point out, however, that Rawls ignores both the extent to which unfavourable conditions may result from factors external to the society and the fact that there are all sorts of morally relevant connections between states, notably that they are situated in a global economic order that perpetuates the interests of the wealthy, developed states with little regard for the interests of poor, developing ones. As argued by Brock, "we who live in the affluent, developed world cannot thus defensibly insulate ourselves from the misery of the worst off in the world, since we are complicit in keeping them in a state of poverty."<sup>48</sup> Critics

point out that Rawls ignores the extent to which societies suffer unfavourable conditions from global factors, or at any rate from factors external to those societies, and that national policies are often shaped, or even decided by international factors. Andrew Hurrell, for instances, argues that the boundedness and separateness of political communities is difficult to sustain in our world today, owing to phenomena such as globalization and integration.<sup>49</sup> Similarly, WilfriedHinsch criticizes Rawls's assumption of the bounded political communities by showing that we actually have a system of global cooperation between societies which in turn gives rise to obligations to the worst off.<sup>50</sup>

Several critics, then, argue that the basic global structure is a scheme of coercive institutions that importantly affects individuals' life prospects. That structure should be transformed so that it becomes a fair scheme of cooperation among all citizens of the world. For many of these critics, this is best modelled by considering a global original position in which decision-makers have no knowledge of any morally arbitrary feature, including country of citizenship. Several argue that the outcome of such an exercise would yield a global difference principle requiring economic inequalities just in case they work to improve the situation of the worst-off in the world.

Furthermore, critics charge that Rawls's reasons for excluding more socio-economic equality are unconvincing. As Pogge notes, Rawls assumes that representatives of people are interested in the justice of domestic institutions and care nothing about the well-being of members beyond what is essential of just institutions. But why assume this? It is more plausible to assume that each delegate is interested not only in just domestic institutions but also, all else being equal, in having a higher rather than a lower average standard of living. Thomas Pogge has brought out the connection between advanced developed countries

and the developing world in a comprehensive way. One issue he discusses at length is the international borrowing privilege. In his words: “any group that exercises effective power in a state is recognized internationally as the legitimate government of that territory, and the international community is not concerned with how the group came to power or what it does with that power. Oppressive governments may borrow freely on behalf of the country, and such an action would be legally recognized internationally. This has enormous implications for the prosperity of poor countries because they provide incentives for coup attempts, often influence what sorts of people are motivated to seek power, help maintain oppressive governments, and, should more democratic governments get to be in power, they are saddled with the debts incurred by their oppressive predecessors, thus significantly draining the country of resources needed to firm up fledgling democracies. All of this is disastrous for many poor countries.”<sup>51</sup>

Why does Rawls reject the concept of global distributive justice? It would be interesting to briefly examine the two main responses that Rawls gives to this question. While the first is that global principles of distributive justice are not required since a duty of humanitarian assistance is already required by the Law of Peoples; the second is more forthright in that any international distributive principles would have unacceptable results.

Beginning with the first argument, Rawls argues that in our non-ideal world, with its gross injustice, vast inequality and abject poverty, the Law of Peoples recognizes that “well-ordered peoples have a duty to assist burdened societies”, to bring them into the society of well-ordered peoples. Yet, the argument goes, these “goals of attaining liberal or decent institutions, securing human rights, and meeting basic needs ... are (sufficiently) covered by

the duty of assistance”.<sup>52</sup> Thus, a global distributive principle serves no additional purpose in this regard.

However, this argument may not be enough, morally as well as politically. As argued by Kok-Chor Tan, “this argument obscures an important difference between duties of humanity and duties of justice, a difference that is more than semantic. If we accept that rich countries have only a duty of humanity to poorer countries, we are also accepting that the existing baseline resource and wealth distribution is a just one, and that the global basic institutions organized around and legitimizing the prevailing allocation of wealth and resources are acceptable. Duties to assist each other, on this account, are duties that take place within a just institutional framework.” In other words, duties of humanity speak to how states should interact with one another, and while certain institutional mechanisms may be required to facilitate some of this interaction, the global basic structure within which such interactions occur, is taken as given. By contrast, duties of justice speak directly to the basic structure; justice is concerned with the baseline distribution of wealth and resources, and the basic institutions and principles that legitimize and rationalize this distribution. In the words of Tan, “while duties of humanity aim to redistribute wealth, duties of justice aim to identify what counts as a *just distribution* in the first place. The aim of justice, properly speaking, is not to transfer wealth as such (i.e., by taking it from its rightful owners and reallocating it to others), but, rather, to establish the criteria of rightful ownership, to redefine “what justly belongs to a country”.<sup>53</sup>

One could say with Brian Barry that justice is prior to humanity in that “we cannot sensibly talk about humanity unless we have a baseline set by justice. To talk about what I ought, as a

matter of humanity, to do with what is mine makes no sense until we have established what is mine in the first place.”<sup>54</sup>

Hence the long term aims of humanity and justice are quite distinct, not just in their objective or duration, as Rawls notes, but also in their scope and focus. The former calls for greater humanitarianism between countries within an existing institutional framework, whereas the latter calls for a critical evaluation of that framework. This difference in focus has important and more immediate consequences for foreign policy. As suggested by Tan, “if foreign aid is considered a matter of humanitarian aid, it could be subject to conditions imposed by donor countries (it is their resources they are giving up, after all, on this view). But if we treat foreign aid as a matter of justice, it would not be vulnerable to such exhortation in principle, for any resource transfer is, on this view, strictly speaking, not a redistribution in the sense of taking something from its rightful owner and giving it to the more needy, but a correction of an initial unjust distribution.”<sup>55</sup> So it makes an immense difference whether wealth distribution between countries is conceived as a matter of humanitarian assistance or justice. Duties of justice also are based on entitlements and rights, while duties of humanity are simply acts of charity. Treating duties between countries as a matter of justice reminds us that the crucial issue is ultimately the question of rightful ownership rather than that of humanitarian contribution. Even if the argument is limited only to assistance and not correction, the question would inevitably be whether we are assisting only out of humanitarian concern, or whether we are assisting because we recognize the fact of prevailing injustices in our global arrangement.

Rawls’s second response follows from his conviction that global distributive principles, unlike domestic distributive principles, would have unacceptable results. As he tells us, a

duty of humanitarian assistance is a “principle of transition... it holds only until all societies have achieved just liberal or decent basic institutions. It is defined by a target beyond which it no longer holds”.<sup>56</sup> That is, the duty of assistance is satisfied once all societies have attained the basic developmental level sufficient for establishing and maintaining decent institutions. By contrast, “distributive principles do not have a cut-off point, beyond which aid may cease.” So while a duty of humanity would work towards improving the situation of societies “burdened” by unfavourable circumstances, such assistance is not required as part of ideal theory in which all societies are assumed to have attained the basic developmental level requisite for a decent society. A principle of distributive justice, on the other hand, is an integral part of ideal theory, and so would apply as long as there are inequalities between societies even “after the duty of assistance is fully satisfied.”

However, that Rawls suggests that this would have unacceptable results follows from the understanding that we would then not be able to discriminate between societies which through foresight and prudence have increased their wealth, and societies which through neglect and imprudence have squandered theirs; or, societies which have managed to curb their population growth and are therefore better able to optimize their resources, and societies which neglected to control their population and hence are worse-off as a result. A global egalitarian principle would insist, in both these cases, that resources be transferred from the wealthier societies to the poorer ones, even though both may have started with an equal amount of wealth and resources. And this is unacceptable for it would mean penalising some societies for their sound domestic policies in order to compensate other societies for their careless policies.

In short, while a duty of assistance is in force only within non-ideal theory and will cease once no societies are so burdened as to be unable to establish well-ordered institutions, a distributive principle falls under ideal theory and will continue to apply as long as inequality between societies persist. And it is this fact – that distributive principles would insist on redistribution as long as there is inequality between peoples no matter what the cause of this inequality – that Rawls takes exception to.

Implicit in Rawls's argument here, it would seem, is the distinction between inequality as a result of choice and inequality due to circumstances. Just as a domestic distributive scheme ought not to compensate individuals for their poor choices by taking from those who have made good choices, neither ought a global scheme to compensate societies for their poor governance by penalizing other societies for their good governance. As elaborated by Kymlicka, the aim of distributive justice is to counter the effects of *unchosen inequality* of circumstances on persons, and to compensate them for their poor choices.<sup>57</sup> This seems to be Rawls's worry: that a global distributive principle would be insensitive to the choice/circumstance distinction; it would treat citizens of well-managed economies unfairly transferring their gains to citizens of poorly managed economies continuously as long as global inequality remains.

Distributive arrangements between societies need not be insensitive to choice, then, if the distributive goal is to offset the effects of these (unchosen) global factors and not the effects of (chosen) national policies on a people's well-being. A less well-off society that is the beneficiary of a global distributive principle need not be seen as a society that is being unfairly subsidized for the domestic choices it has made, but is rather being compensated for the effects of global factors not of its choosing. Put differently, it is getting its fair share as



would be defined under a fair global context. A global egalitarian order could still in principle allow room for inequalities due to differences in national pursuits. What is required is that the background context in which societies pursue their diverse ends is a fair one, and this would require its regulation by some distributive ideal. “Just as egalitarian justice in the domestic context need not be insensitive to individual choice, but is concerned only with the fairness of the basic structure within which individuals make their choices and interact, so global egalitarian justice is concerned with the fairness of the global context and need not require resource transfer across the board without giving due recognition to domestic decisions and choices.”<sup>58</sup>

This debunking of the myth of explanatory nationalism is important. For the average person in developed countries, explanatory nationalism provides the central objection against global justice: if some countries are doing well because of their careful policies and sacrifices and others are doing badly because of their careless policies and unwillingness to make economic sacrifices, why should citizens in better-off countries be obliged to assist the worse-off? To insist on redistribution under this scenario offends against a very basic moral intuition most people have, that humans, as rational agents, are to take responsibility for their choices and ends. But if the preceding arguments are right in that not all global inequalities can be blamed on poor domestic/national choices, but are in large part due to global factors outside the control of most poor countries, and if it is recognized that the aim of global justice is not compensate peoples for their bad choices but to mitigate the unfairness in global conditions under which choices are made, then, the idea of global justice need not be morally offensive. The basic idea that individuals are to take responsibility for their actions, a common view among citizens in liberal societies, is not violated by global distributive principles once the source of global injustice and the scope of justice is made clear.

Even if we hold on to the explanatory nationalism thesis that most inequalities can be traced to domestic decisions, it does not follow that global distributive principles would violate the choice/circumstance distinction as liberals understand this distinction. As Charles Beitz points out, the domestic equivalent to the case of citizens faring poorly due to the bad policies of their own governments is not that of an individual having to bear the consequences of her own bad choices, but, rather, more like that of children who have to suffer for the poor choices of their parents. And, in such a case, we would not “say that the offspring are responsible for their own condition... (and) considerations about responsibility do not diminish the weight of the ethical concerns about the well-being of the offspring.”<sup>59</sup> Similarly, individual citizens of poor countries need not have freely consented to their countries’ policies and social choices – indeed; they likely would not have had the option if they belong to hierarchical and non-democratic societies, or if these were policies implemented before their time. Thus, their advantages are due more to circumstances than choice, albeit circumstances of the society they happen to find themselves in; and distributive principles cannot be said to offend against the choice/circumstance distinction if we take individuals to be the basic moral subject. In the fourth chapter I would once again bring in the idea of nationalism and its implications on international justice.

The problem then with Rawls’s second argument is that while the choice-circumstance distinction that is basic to liberal reasoning, is applied individualistically in the domestic case, it is applied communally (to a people as one entity) in the global context. Citizens of disadvantaged countries are collectively held accountable for their country’s unsound domestic policies, even when a majority of them had no part in the making of these policies. And this is clearly inconsistent with Rawls’s moral individualism.<sup>60</sup> As detailed by Tan, “on

Rawls's own reasoning, a person born into a society with poor population control and economic policies cannot be said to deserve her fate any more than another born into more favourable circumstances deserves hers. These are mere accidents of birth, and are as morally arbitrary as is being born into wealth or poverty in the domestic context.”<sup>61</sup>

We may put the above point in a somewhat different way: while Rawls's moral individualism sets firm limits on the extent to which collective decisions may affect individual well-being in his domestic conception of justice, there seem to be no similar limitations in his international theory. “Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override”,<sup>62</sup> Rawls has famously written.

The aim of the above argument is not to show that Rawls's Law of Peoples is objectionable because it is not sufficiently individualistic – that would be no objection, for one of Rawls's propositions is that the basic units of the Law of Peoples are peoples or societies, and not individuals. The point rather, is that the choice/circumstance distinction implicit in Rawls's argument (that global distributive principles would have unacceptable results) makes sense only when applied individualistically, but not when it is applied to a society as a whole. In fact, Rawls does reject the individualistic/cosmopolitan perspective on justice when he states, “the ultimate concern of a cosmopolitan view is the well-being of individuals and not the justice of societies.... What is important to the Law of Peoples is the justice and stability for the right reasons of liberal and decent societies”.<sup>63</sup>

Why does Rawls reject the individualist ideal in his international theory? After all, the individualist view seems to be more consistent with his famous phrase that individuals are “self-originating sources of valid claims.”<sup>64</sup> There is thus an interesting shift in Rawls in his

move from a domestic theory of justice to an international theory. This move can be understood in terms of the relationship between the self and the other: while in his domestic theory of justice, the self and the other are based on morally arbitrary circumstances and justice entails getting the self to think of him self as the other, in the international theory, the self and other are not considered as products of circumstance, rather they are clearly based on choices, and therefore correction does not entail the interchange of positions.

In his first presentation of the Law of Peoples in an essay of the same name, Rawls writes that non-liberal societies would reject any liberal distributive principles between societies because they reject liberalism. In his words: “for their part, the hierarchical societies reject all liberal principles of domestic justice. We cannot suppose that they will find such principles acceptable in dealing with other peoples”.<sup>65</sup> That is, because non-liberal peoples reject liberal principles for their own societies, they will also reject liberal principles, including liberal distributive principles, for the global sphere.

But this argument may be a bit presumptuous. It is not clear why the rejection of liberal principles has to be all-or-nothing affair. Just because non-liberal societies reject liberal principles pertaining to the full range of liberal civil and political rights, it does not follow that they will also reject liberal principles pertaining to economic and social rights. As argued by Tan, “there is no reason why a society which does not accept as relevant, say, the ideals of free association and expression, cannot nonetheless endorse global principles that will distribute resources more equally between societies.”<sup>66</sup> In the real world, it is non-liberal societies that tend to be the less well-off ones, and hence would be the main beneficiaries of global distributive justice. It therefore seems all the more likely that in reality non-liberal peoples would wholeheartedly embrace such a distributive ideal between societies. To sum

up, the worry that imposing a liberal conception of distributive justice for the purpose of regulating the relations between societies would be an imposition on non-liberal societies – and hence a violation of the liberal principle of toleration – is unfounded, both conceptually and empirically.

It may be argued that the absence of an enforceable international law is the central reason why Rawls thinks liberal principles cannot be extended globally. Naturally, the objection cannot mean merely that there is a present lack of the appropriate institutions, for this would be contradictory to the Rawlsian idea of justice. For Rawls, justice informs and constrains our institutions, not the other way around. For instance, concerning the case of outlaw societies, Rawls writes: “the Society of Peoples needs to develop new institutions and practices, under the Law of Peoples to constrain outlaw states when they appear.”<sup>67</sup> To limit the Law of Peoples against existing institutional schemes is to render it political in the wrong way, thus contradicting Rawls’s expressed goal of achieving order and stability with respect to justice. As pointed out by Tan, “the suggestion that it is the absence of institutional enforcement mechanisms that has compelled him not to extend liberal principles globally amounts, in fact, to an objection to, rather than a defense of, Rawls’s Law of Peoples.”<sup>68</sup>

Rawls aims at a realistic utopia, but critics charge that the result is neither sufficiently realist nor utopian.<sup>69</sup> As put forward by Brock, “first, you might think he has not taken account of all the relevant realities – for instance, of interdependence or domination in the global arena. To the extent that he has not captured all the salient realities, his Law of Peoples is not ‘workable’ and likely to sustain ongoing cooperative political arrangements and relations between peoples. Furthermore, the view is not very utopian in that the ideas used are too tame to constitute much of an advance over the status quo. In his bow to realism, Rawls has tried to

ensure that the Law of Peoples results in stability, yet the Law of Peoples he endorses might be very unstable because it involves tolerance of unjust regimes, which are potentially much less stable than just ones.”<sup>70</sup>

Many philosophers have tried to defend Rawls against this barrage of criticism.<sup>71</sup> It is often pointed out that critics have failed to appreciate some salient issues that orient the *Law of Peoples*, such as what the goal of a law of peoples should be. As Samuel Freeman emphasizes, the *Law of Peoples* is commonly misunderstood to be asking questions like, what is the nature of global justice, or what would a globally just world look like? According to Freeman, Rawls’s *Law of Peoples* addresses a less ambitious question – namely, what should the foreign policy of liberal peoples be? In particular, how should peoples relate to non-liberal peoples? Should they tolerate and cooperate with non-liberal peoples, or should they try to convert non-liberal peoples to liberal ones? Similarly Joseph Heath argues that just as Rawls’s primary objective in *A Theory of Justice* was to argue against utilitarianism, in *The Law of Peoples*, the focus is to dislodge realism, that is, the view that states should pursue their rational interests without attending to normative issues. This constitutes a more limited project than trying to come up with an entire theory of global justice.

To address these less ambitious questions, Rawls needs to distinguish the concept of a decent society from a fully just one, with the idea of a decent society playing the role of a theoretical construct. While liberal peoples should tolerate decent peoples, this is not the case with outlaw regimes. It is not reasonable to expect all decent societies to conform to all the norms of a constitutional democracy as a requirement of peacefully coexisting and cooperating with them. If we reject Rawls’s way of addressing these issues, it appears the only alternative is to intervene constantly in other states’ affairs, which seems very unattractive and destabilizing.

According to Freeman, this stance does not entail that citizens of liberal states must refrain from criticizing illiberal societies. However there is a key difference between liberal citizens engaging in criticism “and their government’s hostile criticisms, sanctions, and other forms of coercive intervention. The Law of Peoples says that liberal peoples, as peoples represented by their governments have a duty to cooperate with, and not seem to undermine, decent non-liberal societies.”<sup>72</sup>

In a similar vein, much has been said about in defence of Rawls’s very abbreviated list of human rights. Still, even the most creative defenders of Rawls’s work need to explain some notable omissions, such as a general right to non-discrimination. Reidy suggests that the articles Rawls does affirm set important constraints on the discrimination he permits. Furthermore, Rawls makes allowance for the fact that some non-discrimination and democratic rights may be included in the list of basic rights if they turn out to be “empirically necessary” to other basic rights.

What do defenders have to say to the charges that there is a global basic structure and that Rawls has ignored the unjust global economic order? Joseph Heath argues that there is no global basic structure because key characteristics of such an order are absent, notably a way to guarantee reciprocity and mutually beneficial cooperation. The rule of law provides the necessary assurance and it is absent at the international level.<sup>73</sup> According to him, without some international authority or means of enforcing global rules, we cannot talk of a global basic structure. Freeman similarly argues that there is no global basic structure and that all global norms supervene on those of states. For instance, contracts are specified and enforced according to the laws of one or other society. There are no global institutions – no world state and there is no independent legal order.

In *A Theory of Justice* Rawls's focus is on the principles that should govern closed communities – paradigmatically, nation states. It was then much expected, morally and politically, that Rawls would endorse the same kind of reasoning when theorizing international justice. It was a disappointment then, when Rawls later rejected such a suggestion. He argued that, though the two principles should apply within liberal societies, they should not apply across them. Rather, in the international arena, he thinks different principles would be chosen and this would include principles acknowledging people's independence, their equality, that they have a right to self-defence, and that they have duties of non-intervention, to observe treaties, to honour a limited set of human rights to conduct themselves appropriately in war, and to assist other peoples living in unfavourable conditions. The limited practical goal of Rawls's law of peoples is the elimination of the great evils of human history: unjust war and oppression, religious persecution and the denial of liberty of conscience, starvation and poverty, genocide and mass murder. The limits of this ambition mean that there will be much in the world to which Rawls's political philosophy offers no reconciliation.

Underlying all these limitations, according to me, may be a limited conception of the self-other relationship: while the other is defined and locked in her position, the self is understood to be charitable and humanitarian. In fact, to believe that Rawls's vision is possible is to believe that individuals are not inevitably selfish or amoral, and that international relations can be more than merely a contest of power, wealth and glory. Affirming the possibility of a just and peaceful future can protect us against the pessimism that might otherwise seem inevitable. In this way, Rawls seems to be questioning the aims of political philosophy. In his words: "by showing how the social world may realize the features of a realist utopia, political



philosophy provides a long-term goal of political endeavour, and in working toward it gives meaning to what we can do today.”<sup>74</sup>

The contribution of Rawls to the idea of justice and the possibility of arriving at an understanding of international justice, however, in spite of the above limitations cannot be ignored. By raising the issue of international justice, Rawls has underscored the need and imperative to arrive at principles for justice among states. The limitations are perhaps what Rawls leaves for future scholarship to address.

## ENDNOTES

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<sup>1</sup>Mulhall and Swift, *Liberals and Communitarians*, p.1

<sup>2</sup>Allan Bloom, “Justice: John Rawls vs. The Tradition of Political Philosophy”, p.648

<sup>3</sup>The claim that political philosophy was in decline was first made by Alfred Cobban in his article titled “The Decline of Political Theory”. Peter Laslett in his work titled *Philosophy, Politics and Society*, declared “at least for the moment” that “political philosophy is dead”.

<sup>4</sup>John Rawls, *A Theory of Justice*, p.3

<sup>5</sup>John Rawls, *A Theory of Justice*, pp.6-7

<sup>6</sup>John Rawls, *A Theory of Justice*, p. 33

<sup>7</sup> John Rawls, *A Theory of Justice*, p. 61

<sup>8</sup> John Rawls, *A Theory of Justice*, p. 303

<sup>9</sup> John Rawls, 1978) p.64

<sup>10</sup> John Rawls, *A Theory of Justice*, pp.302-303

<sup>11</sup>John Rawls (JF)p. 4,

<sup>12</sup> R P Wolff, *Understanding Rawls*, p.42

<sup>13</sup>Will Kymlicka, *Contemporary Political Philosophy*, p. 58

<sup>14</sup>Will Kymlicka, *Contemporary Political Philosophy*, p.58

<sup>15</sup> John Rawls, *A Theory of Justice*, p.75

<sup>16</sup> John Rawls, *A Theory of Justice*, p.11

<sup>17</sup> John Rawls, *A Theory of Justice*, p.12

<sup>18</sup> John Rawls, *A Theory of Justice*, p.11

<sup>19</sup> John Rawls, *A Theory of Justice*, p.12

<sup>20</sup>Will Kymlicka, *Contemporary Political Philosophy*, p.60

<sup>21</sup> Will Kymlicka, *Contemporary Political Philosophy*, p.63

<sup>22</sup> John Rawls, *A Theory of Justice*, pp. 18-19

<sup>23</sup> John Rawls, *A Theory of Justice*, pp. 19-21

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<sup>24</sup> Jeremy Waldron, “Theoretical Foundations of Liberalism”, p.145

<sup>25</sup> Will Kymlicka, *Contemporary Political Philosophy*, p. 65

<sup>26</sup> John Rawls, *A Theory of Justice*, p. 148

<sup>27</sup> John Rawls, *A Theory of Justice*, pp. 152-153

<sup>28</sup> See John Rawls, “The Law of Peoples”

<sup>29</sup> John Rawls, *The Law of Peoples*, p.3

<sup>30</sup> John Rawls, *The Law of Peoples*, pp. 3-4

<sup>31</sup> John Rawls, *The Law of Peoples*, pp. 6-7

<sup>32</sup> John Rawls, *The Law of Peoples*, p.37

<sup>33</sup> John Rawls, *The Law of Peoples*, p.31

<sup>34</sup> John Rawls, *The Law of Peoples*, p.33

<sup>35</sup> John Rawls, *The Law of Peoples*, p.42

<sup>36</sup> John Rawls, *The Law of Peoples*, p.76

<sup>37</sup> John Rawls, *The Law of Peoples*, p. 78

<sup>38</sup> John Rawls, *The Law of Peoples*, p.111

<sup>39</sup> John Rawls, *The Law of Peoples*, p. 117

<sup>40</sup> See Chantal Mouffe, *The Return of the Political*

<sup>41</sup> See John Rawls, *The Law of Peoples*, pp.38-39. Also pp.25-28

<sup>42</sup> John Rawls, *The Law of Peoples*, pp.4-5

<sup>43</sup> John Rawls, *The Law of Peoples*, p. 59

<sup>44</sup> Kok-Chor Tan, *Justice without Borders*, p. 64

<sup>45</sup> John Rawls, *The Law of Peoples*, p. 89

<sup>46</sup> John Rawls, *The Law of Peoples*, pp. 92-93

<sup>47</sup> Gillian Brock, *Global Justice*, p. 20

<sup>48</sup> Gillian Brock, *Global Justice*, p. 25

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<sup>49</sup> See Andrew Hurrell, “Global Inequality and International Institutions”

<sup>50</sup> See Wilfried Hinsch, “Global Distributive Justice”

<sup>51</sup> Thomas Pogge, “An Egalitarian Law of Peoples”, pp. 200-201

<sup>52</sup> John Rawls, *The Law of Peoples*, pp. 106-116

<sup>53</sup> Kok-Chor Tan, *Justice without Borders*, p.66-67

<sup>54</sup> Brian Barry, “Humanity and Justice in Global Perspective”, p.249

<sup>55</sup> Kok-Chor Tan, *Justice without Borders*, p. 67

<sup>56</sup> John Rawls, *The Law of Peoples*, p.118

<sup>57</sup> See Will Kymlicka, *Contemporary Political Philosophy*, pp. 73-76

<sup>58</sup> Kok-Chor Tan, *Justice without Borders*, p.71

<sup>59</sup> Charles Beitz, “Social and Cosmopolitan Liberalism”, p. 527

<sup>60</sup> In working out his understanding of moral individualism, Rawls argues: “We want to account for the social values, for the intrinsic good of institutional, community and associative activities by a conception of justice that in its theoretical basis is individualistic. For reasons of clarity among others, we do not want to rely on an undefined concept of community, or to suppose that society is an organic whole with a life of its own distinct form and superior to that of all its members in their relations with one another.” John Rawls, *A Theory of Justice*, p.264

<sup>61</sup> Kok-Chor Tan, *Justice without Borders*, p. 73

<sup>62</sup> John Rawls, *A Theory of Justice*, pp. 13-15. It must be mentioned that when making this argument Rawls is criticizing the utilitarian ethics of sacrificing the good of the least for the happiness of the greatest number. Nevertheless, the argument can and must be applied to his theory of international justice.

<sup>63</sup> John Rawls, *The Law of Peoples*, pp. 119-120

<sup>64</sup> John Rawls, “Kantian Constructivism in Moral Theory”, p. 543

<sup>65</sup> John Rawls, “The Law of Peoples”, p.75

<sup>66</sup> Kok-Chor Tan, *Justice without Borders*, p. 77. This may actually be the case in the real international political realm, where non-liberal developing countries have often rallied for more financial assistance from the developed world even as they resist pressures and attempts to liberalize their political and civic institutions.

<sup>67</sup> John Rawls, *The Law of Peoples*, p.48

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<sup>68</sup> Kok-Chor Tan, *Justice without Borders*, p. 80. Also see Stanley Hoffman, “Dreams of a Just World”

<sup>69</sup> See Andrew Kuper, “Rawlsian Global Justice”

<sup>70</sup> Gillian Brock, *Global Justice*, p. 29

<sup>71</sup> For some notable attempts, see Joseph Heath, “Rawls on Global Distributive Justice”; Samuel Freeman, “The Law of Peoples, Social Cooperation, Human Rights and Distributive Justice”; and David Reidy, “Rawls on International Justice”.

<sup>72</sup> Samuel Freeman, “The Law of Peoples, Social Cooperation, Human Rights and Distributive Justice”, pp.46-47

<sup>73</sup> Joseph Heath, “Rawls on Global Distributive Justice”, pp. 201-205

<sup>74</sup> John Rawls, *The Law of Peoples*, p.128