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Peace or Justice? Some Remarks on Rawls's Law of Peoples¹

CATHERINE AUDARD

In his book, *The Law of Peoples*,² John Rawls initiates a new way of thinking about international justice, away from the three traditional views: *realism* that sees normative principles as irrelevant for solving international conflicts, *cultural relativism* that is generally suspicious of any universal principles or global institutions, and *cosmopolitanism* that affirms the end of the nation-state – individual persons, not states, being now the main players in a globalized world. In contrast, Rawls claims that justice is a major factor for international peace, that agreement on universal normative principles between very different peoples is necessary and can be reached without disrespect for their distinctive identities, and that peoples and not only individuals, have a moral status and deserve consideration, even if they are not fully democratic. And, more importantly, he stresses the need for more discriminating conceptions where too often wide and empty generalisations have been used.³

These views have been on the whole not well received and have been submitted to diametrically opposed criticisms. For cosmopolitan writers such as B. Barry, C. Beitz, A. Buchanan, T. Pogge or Kok-Chor Tan,⁴ on the one hand, the scope is too limited. In *LoP*, Rawls is concerned mostly with justice *between* societies,

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1. This is a longer version of a paper entitled “Cultural Imperialism and Democratic Peace” to appear in a volume edited by Rex Martin and David Reidy, *Rawls's Law of Peoples*, forthcoming, 2006, Oxford, Blackwell. I would like to thank Rex Martin for his very useful comments as well as Alan Montefiore, Kok-Chor Tan, Jan-Werner Müller and John Tasioulas for their helpful remarks.
 2. Rawls, John, *The Law of Peoples*, published with *The Idea of Public Reason Revisited*, Cambridge, Harvard University Press, 1999b, (hereafter *LoP*). The 1993 version of *LoP* I refer to here appeared in S. Freeman ed., *Rawls Collected Papers*, Cambridge, Harvard University Press, 1999a.
 3. Note that already in *A Theory of Justice*, (hereafter *TJ*), his conception of conscientious refusal was discriminating. “What is needed then, he wrote, is not a general pacifism, but a discriminating conscientious refusal to engage in war in certain circumstances.” (*TJ*: 335) This, in my view, is one of the strong points of his conception of international justice.

not with justice *within* societies whereas for most thinkers, the two are deeply connected. He insists that: “how peoples treat each other and how they treat their own members are, it is important to recognize, two different things.” (*LoP*: 83) Against the background of this distinction, his criteria for the toleration of non-liberal societies are too relaxed and provide justifications for too many limitations of the scope of full human rights. *LoP* retreats from the ambitions of *A Theory of Justice*⁵ and is almost anti-individualistic.

For cultural relativists such as John Gray or Barry Hindess⁵, on the other hand, its scope is dangerously universalistic, as if the liberal paradigm should apply to the whole world. Because the Law of Peoples advocated by Rawls is an extension of a liberal conception of justice, it cannot escape its origins, and may not be acceptable to non-Western cultures. It is little more, in the end, than an expression of cultural imperialism.

In *LoP*, Rawls mostly deals with the debate with cosmopolitanism, but he is fully aware of this latter criticism and warns that: “We must address the question whether the liberal law of peoples is ethnocentric and Western.” (1999a: 562 and *LoP*: 121)

In this paper I examine the success or the failure of *LoP* in addressing this latter charge as it sheds light on one major flaw in Rawls’s argument, the unresolved nature of stability and peace. (I) I first present a rapid sketch of Rawls’s main ideas in *The Law of Peoples*. (II) I then formulate a more precise version of the argument, which concentrates on the nature of “democratic peace” according to Rawls and on his claim that, in the end, all peaceful peoples will favour democratic institutions, as if peace could not last without widespread democratic institutions and practices, a claim expressed by the Allies at the end of World War II and which is understandably open to the charge of cultural imperialism. (III) I then examine Rawls’s answers to this charge, in particular the way in which he claims to respect peoples’ identities and the “fact of reasonable pluralism” between peoples and not to impose a liberal view of international justice. (IV)

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4. Barry, Brian, *Culture and Equality*, Cambridge, Polity Press, 2000; Beitz, Charles, *Political Theory and International Relations*, Princeton, Princeton University Press, 1979 and “Rawls’s Law of Peoples”, *Ethics* 110, n°4, July 2000: 669-696; Buchanan, Allen, “Rawls’s Law of Peoples: Rules for a Vanished Westphalian World”, *Ethics* 110, n°4, July 2000: 697-721; Pogge, Thomas, *Realizing Rawls*, Ithaca and London, Cornell University Press, 1989; Tan, Kok-Chor, “Liberal Toleration in Rawls’s Law of Peoples”, *Ethics* 108, n°2, January 1998: 276-295, and *Justice without Borders*, Cambridge, Cambridge University Press, 2004.
 5. Gray, John, *Enlightenment’s Wake*, London, Routledge, 1995; Hindess, Barry, “Neo-Liberal Citizenship”, *Citizenship Studies* 6, n°2, 2002: 127-143.

I conclude that his answers are not totally satisfactory and that it is only in clarifying both the relations between peace and justice and the scope of the Law of Peoples that he can successfully answer the criticisms of both cultural relativists and cosmopolitans. Such clarifications are not provided by Rawls, but are necessary, even if they would bring him dangerously close to political realism, as Stanley Hoffmann noted in his 1995 review of *LoP*⁶. But such a move would then be true to Rawls's declared ambition to provide an "extension of a liberal conception of justice to an international Society of Peoples" and it would avoid, in the spirit of Kant, both the dogmatism of cosmopolitan writers and the scepticism of relativists. Without such clear boundaries, it is impossible to arrive at a truly "critical" theory, in the Kantian sense.

1. The main Ideas of the Law of peoples

Let us start with a brief presentation of the Rawlsian project. Following Kant's idea of *foedus pacificum* in his essay on *Perpetual Peace* (1795) and his rejection of a world government⁷, Rawls sketches how peaceful liberal and "decent"⁸ peoples are first to regulate their relations between them to establish and protect lasting peace and, then, to face external threats to peace, created by "outlaw" states and poor "burdened" societies. (*LoP*: 5) He claims that it is possible to adapt the main ideas of the theory of justice to provide a theory of international justice and to arbitrate the relations between nations or peoples and point the way to peace under the rule of a new Law of Peoples. Moving from domestic institutions to international ones seems a natural if challenging move, which Rawls has attempted twice: in *A Theory of Justice* (§58) and in his last work, *The Law of Peoples* (1993 and 1999).

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6. Hoffmann, Stanley, "Dreams of a Just World", *New York Review of Books*, 42/November 2 1995: 52-57. "This overlapping consensus is really just a *modus vivendi* among quite different models of society." (p.54)
 7. Kant, *Political Writings*, ed. Hans Reiss, Cambridge, Cambridge University Press, 1970: 104, and Rawls, *LoP*: 10.
 8. "Decent" peoples, for Rawls, are non-democratic and do not treat all their members as free and equal, but they respect basic human rights such as the right to life, the right to liberty, liberty of conscience, though not an equal liberty, and formal equality. They are non-aggressive, they possess a common good conception of justice, they have a decent consultation hierarchy and, in the end, they allow a limited right of dissent for individual persons through their representation in communal institutions. (*LoP*: §§7-10)

International justice and Jus Gentium

But first, what is ‘international justice’ for Rawls? The term is very confusing and refers both to positive law and to normative rules or principles. It is important to make clear that the ‘law of peoples’ in Rawls’s sense is not a reinterpretation of the classical *jus gentium* or law of nations, that is to say the existing body of international public law that applies to *all* nations.⁹ Consequently for Rawls, there exists no global forum for all nations to negotiate their conflicts, no Society of Nations or United Nations. It is more restricted in the sense that it should provide guidelines for “*the foreign policy of a reasonably just liberal people*” (*LoP*: 10), the guiding principles of the foreign policy of liberal and decent societies in their search for peace with non-liberal peoples, in their conduct in case of war and when faced with a duty of assistance to poorer countries. The word ‘global’ is hardly used by Rawls and his thinking remains within the boundaries of existing states and peoples. For him, peoples, not individual persons, are the main protagonists in the new Society of Peoples. But he clearly states his belief that, as a *normative* ideal, its vocation is certainly to inspire all nations and, eventually, to lead them to accept universal principles. International law would then be inspired by these principles on the basis of an agreement between members of the Society of Peoples. In that sense, the Law of Peoples is certainly less realistic than the *jus gentium*.

The first point to note is that both *justice* and *normative* theory are “new” ideas in international relations theory, which has been so far dominated by “realists”.¹⁰ It is only recently that a normative discourse on international relations has been elaborated. The reasons for this change are historical. Under pressure from moral claims, especially the concern for human rights after the atrocities of Nazism and World War II, the *Westphalian*¹¹ system of sovereign

9. See Charles Beitz: “The Law of Peoples is not to be confused with the *jus gentium*: it is not a body of principles universally accepted by states, nor is it intended necessarily to constitute a reasonable basis for the cooperation of all existing states.” (2000: 676-677)

10. For a presentation of current trends in international relations theory and of the influential role of Rawls’s theory of justice, see Chris Brown, *Sovereignty, Rights and Justice*, Cambridge, Polity Press, 2002: 167-168.

11. The *Westphalian* system of states is the international legal system, which grew out of the Peace of Westphalia of 1648. It is based on the economic and political autonomy of equal sovereign states within their borders in contrast to the Empires that dominated in Europe. There is widespread consensus that this system ended after World War II and the establishment of international institutions that control economic fluxes and prevent intra-states conflicts and wars by restricting states sovereignty. The creation of the European Union and the proliferation of trans-national institutions are other factors of the apparent demise of the Westphalian system. See A.Buchanan, 2000: 701.

states has been transformed. Limitations to state sovereignty as well as ethical justification for intervention were deemed inevitable after the horrors of the Holocaust. States' capacity to treat their populations, especially their minorities, as badly as they wanted, had to be limited. These changes are the basis for what Rawls presents as a "realist utopia". They mean that political justice, as Rawls claims, far from being "unrealistic" is central to the establishment of lasting peace and security between nations. But justice should not simply be defined in democratic and liberal terms, which is unrealistic. We should insist on pluralism and include other conceptions of justice, those of 'decent' peoples that are non-democratic and do not treat all their members as free and equal, but still respect basic human rights. It is thus crucial to go beyond comprehensive liberalism and work out how "peace and justice would be achieved between liberal and decent peoples both at home and abroad." (*LoP*: 6) The question here is to ask whether normative criticism is preserved in the theory and not too many concessions to non-democratic states are made in the name of realism.

The second reason that leads Rawls to examine international justice is his concern for democratic stability and peace that takes a central place in *Political Liberalism*. Liberal democratic societies cannot survive in isolation, sheltered from the global threats of terror, famines and widespread injustices. They live in a dangerous and violent world and have to protect themselves. But, according to Rawls, the basis for peace and stability in liberal societies cannot simply be the balance of power and *Realpolitik*. The main condition for peace is the existence of legitimate international rules and institutions that can impartially regulate international relations between members of a Society of Peoples and limit state sovereignty. International law needs a theory of political justice that provides it with moral legitimacy and publicly agreed and enforceable guiding rules. The subject-matter of *LoP* is, then, the establishment of a new framework for international relations, of a Law of Peoples based on moral principles that will regulate exchanges and arbitrate conflicts between peoples at all levels: economic, political and territorial, legal, cultural. The declared aim is to build "a *political* (my emphasis) conception of justice that applies to the norms and principles of international law and practice." (*LoP*, p.3) Such a project is at odds with more traditional views of international relations and this partly explains the dismal reception of Rawls's book.

The third point to note is that this extension of justice as fairness does not include a theory of global distributive justice, contrary to what could have been expected from the author of *TJ*. It is ironic that the best-known theoretician of distributive justice should not regard distributive justice as appropriate to international

relations. In the name of realism, Rawls, in fact, opposes a cosmopolitan view of a just world order, where the principles that apply at the domestic level are extended worldwide and where all individuals, their cultural background notwithstanding, are to be granted the same liberal constitutional rights. This is incompatible both with respect for cultural and political diversity and with the very notion of what a people is and of its autonomy. Distributive justice, for Rawls, is a matter of peoples' internal autonomy and cannot be imposed by international law. (In contrast, Charles Beitz and Thomas Pogge have applied Rawls's difference principle to international justice and Rawls discusses at length their proposals.¹²) The main reason for this is Rawls's "holism", that is, his view that the main agents, in international relations, are not individuals, but "peoples", if such a stark distinction can be made, this in spite of the fact that "peoples" are made up of individual persons. It is up to each people to adopt the most suitable conception of justice with appropriate choice procedures, and to individuals, within their society, to express their views. It would be "arrogant" to claim that, "only a liberal democratic society can be acceptable... we cannot know that non-liberal societies cannot be acceptable." (*LoP*: 83). In that sense, Rawls sees himself as advocating a more realistic and less ethnocentric view of international relations than his liberal cosmopolitan critics. Hence his claims to be "realistically utopian" (*LoP*: 4 and: 11) and that liberal institutions could progressively be established *within* non-liberal societies and *between* all decent nations, leading to peace and stability, while respecting the autonomy and self-determination of "real" peoples. Such a claim has to be assessed against charges of cultural imperialism. Is not democratic peace imperialistic?

The fact of reasonable pluralism

A last but crucial point is the relevance of the "fact of reasonable pluralism" for the Society of Peoples, a society that is as diverse as contemporary domestic societies are. It is clear that for Rawls the Law of Peoples should not be limited to liberal peoples, but should also include non-liberal, but decent peoples (this constitutes the ideal case where the ideal theory applies), while excluding aggressive states (where the non ideal theory applies). The reason is that he sees the Society of Peoples as united by a minimal conception of right and justice, what he terms '*decency*', that will progressively create the conditions for peace and stability. Therefore it cannot be all-inclusive and can only wish

12. *LoP*: 115-119. The main point of contention as we shall see is that a global principle is not respectful of peoples's autonomy and own choices concerning their development.

for a general agreement on its liberal principles. But conversely, it includes peoples who should not be included in a liberal Society of Peoples because they do not treat their members as free and equal. This is a controversial view for moral cosmopolitans as it means too large a constituency and risks compromising on moral values such as freedom and equal dignity for all.

All peaceful well-ordered liberal and non-liberal peoples will agree upon the following first principles, which form a basis on which they can cooperate in spite of their opposing values and belief systems, given the fact of 'reasonable pluralism'. They represent the basic charter of the Society of 'well-ordered' Peoples as a "pacific federation of republican states." (Kant) The Law of Peoples consists of the eight following principles.

(1) Peoples are free and independent within limits, and should be treated as such. Sovereignty is replaced by self-determination and is restricted by precise conditions. The Law of Peoples limits permissible domestic and international policies, that is, the right to war and the right to non-interference with the treatment of its own people.

(2) Treaties are to be observed.

(3) Peoples are equal and are parties to the agreements that bind them.

(4) Peoples respect a duty of non-intervention in other peoples' domestic affairs, but this duty is qualified in certain circumstances. No toleration for outlaw states is possible as a consequence of both liberalism and decency.

(5) The right to self-defence is the only legitimate basis for the right to war. But, in extreme cases, defence of human rights might be a justifiable reason for war. "Liberal peoples have a right to war in self-defence, but not, as in the traditional account of sovereignty, a right to war in the rational pursuit of a state's rational interests; these alone are not a sufficient reason." (*LoP*: 90) The aim of war, in that case, should be "to protect and preserve the basic freedoms of its citizens and its constitutionally democratic political institutions... To trespass on citizens' liberty may only be done for the sake of liberty itself." (id.: 91) "Decent peoples also have a right to war in self-defence... Any society that is non-aggressive and that honours human rights has the right to self-defence." (id.: 92)

(6) Human rights are to be honoured by all the members of the Society of Peoples, but their list is limited to core human rights, "a special class of urgent rights" (*LoP*: 79), which differs from the full list of internationally recognised rights.¹³ They include the right to life (to the means of subsistence and security),

13. See C. Beitz, 2000:684.

“security of ethnic groups from mass murder and genocide”, the right to liberty (to freedom from slavery, serfdom and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought), (see n.2, p.65 and §9.2, §10, p.79), to property (personal property) and to formal equality (that is that like cases be treated alike). In particular, minority religions should not be persecuted even if religious freedom is limited.

(7) Specific restrictions in the conduct of war are to be respected. In particular, principles restricting the conduct of war (§14) should allow for a distinction between governments of outlaw states and their populations. (Rawls takes the examples of Japan and Nazi Germany, and criticizes the view expressed by Daniel Goldhagen that peoples and governments were equally criminal in the case of Nazi Germany, *LoP*: 95, n.9 and p.100, n.22). “Two nihilist doctrines of war should be repudiated absolutely: war is hell and anything goes, and we are all guilty.” (*LoP*: 8)

(8) Finally, there exists a duty of assistance to ‘burdened societies’ that should help them build just institutions and become members in good standing of the Society of Peoples. The difference principle cannot be a principle of the Law of Peoples.

This normative theory is built on an extension of the social contract theory of justice to the domains of international relations and law. But such an extension could become imperialistic, as, in the name of democratic peace, it necessarily applies liberal ideals to the whole world. The question we must ask is whether peace is only guaranteed by democratic justice *within* and *between* peoples or can be the result of agreements between different cultural and political systems. This is the main issue. The first interpretation would seem to lead to a cosmopolitan advocacy of global liberal justice, which Rawls rejects. The second would be compatible with cultural diversity, but would leave the role of justice *within* peoples unresolved, as cosmopolitan critics have underlined.

2. Cultural imperialism in the Law of Peoples

My aim, here, is to see how far Rawls’s position is from both cosmopolitanism and cultural relativism and to examine whether he is able to create a “third way”. I will first examine how ethnocentric Rawls’s extension of the theory of justice is. I will then analyze the nature of “democratic peace”, asking whether it is compatible with respect for cultural and political diversity and does not aim at imposing the liberal ideal to the whole world. I will conclude that Rawls tends to hesitate between a purely normative analysis of peace and

a conception of history and progress as having its “end” in democratic peace, and that this may give weight to the charge of cultural imperialism.

Ethnocentrism and imperialism

How ethnocentric is *The Law of Peoples*? At first sight, it is obviously embedded in American values, ignoring historical alternatives such as imperial peace – *Pax Romana* – and other forms of peaceful coexistence between undemocratic nations. Linking peace and democracy is typical of American liberalism and tends to show contempt for other forms of peace-building processes between nations. Rawls typically describes the historical achievements of American constitutionalism as the discovery of a new better and more tolerant order that could become a model for the whole world. For instance, in *The Idea of Public Reason Revisited*, he gives as examples of the political values of public reason “those mentioned in the preamble to the United States Constitution: a more perfect union, justice, domestic tranquillity, the common defence, the general welfare, and the blessings of liberty for ourselves and our posterity.”¹⁴ In *LoP*, he insists that: “Indeed, the success of liberal constitutionalism came as the discovery of a new social possibility: the possibility of a reasonably harmonious and stable pluralist society. Before the successful and peaceful practice of toleration in societies with liberal institutions, there was no way of knowing of that possibility.”¹⁵ But toleration is certainly *not* the monopoly of liberal democracies and we can suspect some degree of ethnocentrism in Rawls’s claims. In his examination of the much-debated question of Asian values, Bhikhu Parekh provides an illuminating answer, showing that there are many tolerant societies based on non-liberal beliefs or comprehensive doctrines.¹⁶ Is Rawls’s own version of liberalism aware of these distinctions and well equipped to overcome these difficulties? Does its avowed respect for diversity overcome this parochialism or not? How does his distinction between political liberalism and “comprehensive” doctrines translate into the world of international relations? The way the question of stability and peace among nations is reformulated suggests that possibly not enough attention has been paid to these problems.

How would peace extend to non-democratic peoples? Would that not be due to the progress made by liberalism? Rawls thus typically writes that: “If a liberal

14. Rawls, 1999a: 144.

15. *Political Liberalism*, New York, Columbia University Press, 1993: xxvii. Hereafter *PL*.

16. Parekh, Bhikhu, *Rethinking Multiculturalism*, London, MacMillan Press, 2000: 136.

constitutional democracy is, in fact, superior to other forms of society, as I believe it to be, a liberal people should have confidence in their convictions and suppose that a decent society, when offered due respect by liberal peoples, may be more likely, over time, to recognize the advantages of liberal institutions and take steps towards becoming more liberal on its own.” (*LoP*: 62). The claim that liberal democracy is or will become universally appealing is characteristic of cultural imperialism, which leads to imposing that model as a norm, even if only in a “soft” version, based on respect and persuasion, rather than on force. This claim, legitimate as it may sound, can be, for some critics, an echo of the old colonial “norm of civilisation”, which assumed that all non-liberal societies were still governed by the law of nature and were “un-civilized”.¹⁷

The focus of this criticism is thus to question the ambition to universalize a given set of values or principles and to grant it universal legitimacy as a basis for political practices and institutions. In that sense, if Rawls’s ambition is to see the world order becoming a liberal one, it is as problematic as the cosmopolitan view that he opposes. Such a move would seem questionable from at least three angles. From a logical point of view, it confuses facts and values, treating specific historical situations as the embodiment of universal norms. From a moral point of view, in affirming the universal scope of its principles without consultation or participation of the parties concerned, it seems to show no respect for the *otherness* of others, in contradiction with Rawls’s awareness of the fact of pluralism. Lastly, from a political point of view, it could easily lead to unacceptably self-righteous forms of domination, reminiscent of colonialist self-complacency.

Is “democratic” peace imperialist ?

The second problem is Rawls’s unresolved notion of peace and stability. Peace is addressed at three levels in Rawls’s theory. First, we have the first part of the “ideal” theory, which deals with relations among democratic peoples within a Society of Peoples. There, peace and justice are tightly connected. Then, we have the other two levels where liberal democratic peoples have to deal with non-democratic societies, either “decent” peoples, or “outlaw” states

17. In the first version of *The Law of Peoples*, one can note a morally superior undertone in the way he formulates the ambitions of a reasonable Law of Peoples. “Our first duty”, he writes, “is to leave the state of nature and submit to the rule of a reasonable and just law ... Another long-run aim is to bring all societies eventually to honour that law, to be full and self-standing members of the society of well-ordered peoples and to secure human rights everywhere.” (1999a: 556-7).

and “burdened” societies. There, the connection between peace and justice is unresolved. Peace can either be the result of generalised democratic institutions *within* peoples – a very idealistic view – or of compliance to international principles by peoples that remain un-democratic domestically – the *modus vivendi* realistic solution. How does Rawls navigate between these two answers?

Peace and stability *within* peoples require, for Rawls, two series of conditions. On the one hand, we have *psychological* conditions such as the understanding and internalizing of core liberal democratic values such as good governance, the rule of law, human rights, etc. and thus the existence of a widespread “overlapping consensus”. On the other hand, *institutional* conditions are crucial: the existence to some degree of fair equality of opportunity, a decent distribution of income, long-term security at work, the provision of basic health care and the public financing of elections, etc.¹⁸ But the balance between the two is not examined and Rawls typically tends to emphasise psychological conditions. Psychological processes that lead to allegiance to democracy and what Rawls has described elsewhere as the superior and more complex “morality of principles” (*TJ*: 406-414) are to replace the more primitive “morality of authority”, external coercion and fear of authority, as a basis for peace and stability. Rawls interestingly mentions “moral learning” (*LoP*: 44) that relies on personal attachments, beliefs systems and identifications, and should replace coercion or group-pressure.

Now, how does that analysis translate to peace *between* peoples, at least between liberal and non-liberal but decent peoples? The answer again stresses the importance of psychological processes and how some kind of democratic “mimetism” can occur. “Citizens develop a sense of justice as they grow up and take part in their just social world... Similarly, peoples, including both liberal and decent societies, will accept willingly and act upon the legal norms embodied in a just Law of Peoples.” (*LoP*: 44). Two series of criticisms can be made here.

First, we can sketch a series of *external* criticisms, based on examples of cultural diversity.

For instance, the idea that non-democratic peoples can act “willingly”, as individuals may do in liberal societies, is problematic. This does not make much

18. In *LoP* (p.50), Rawls gives a detailed account of both conditions in a domestic liberal situation. But how might this apply to a non-liberal situation where these institutional conditions do not obtain? We are left with only subjective conditions, beliefs and allegiances, and this is where the argument is failing. Only moral domination can make up for the missing democratic institutions. This gives strength to the cosmopolitan view that only democratic regimes can be the basis for real stability and peace in international relations.

sense if the relevant institutions and protections are not in place for this process to develop. In effect and, as recent history has shown, it is more likely that political and economic pressures, the need for assistance and cultural domination, will lead to a not very “willing” adoption of democratic institutions. Non-liberal peoples will have to bow in some ways to the moral superiority of the West. Ignoring the balance of powers between peoples is not conducive to true respect for peoples’ identities.

Moreover, it is obvious that stability and peace between peoples can be reached without developing a sense of justice, without agreement on first principles, but thanks simply to political compromises, negotiations¹⁹, treatises, promise keeping, respect and trust, which are very different, psychologically, from allegiances. Indeed, the value of compromise and negotiation is very high in many cultures where bargaining processes have the force of social recognition and communication. This is an essential point which is missed in Rawls’s fictional example of a people that would be acceptable for membership in a liberal Society of Peoples: *Kazanistan*. (§9.3) This example concentrates on one single aspect of non-liberal Muslim societies, that these are communitarian and hierarchical societies, and misunderstands the role played in them by the value of negotiation and bargaining to reach agreement. When agreement on regulative principles is reached through political bargaining and compromises, without asking for personal allegiance, then it can possibly preserve the self-respect of the parties involved, and avoid domination and imperialism.

It is equally worrying that Rawls’s rejection of the very idea of compromise or *modus vivendi* in favour of principled agreements “for good reasons” may open the way to accusations of intolerance. This stress on the value of principles misrepresents the nature of authority at work in non-liberal societies, a morality which, according to Rawls, is “the morality of authority” or “that of a child” (*TJ*: 405) and should be abandoned in favour of the more mature “morality of principles”. Unfortunately for Rawls’s conception, the morality of authority is not necessarily “primitive”, but dominates cultures alien to the liberal outlook and excludes internalization. In effect, the morality of principles that involves a certain psychological domination and education is even worse than open external domination, as it challenges religious authority. This may explain the level of *ressentiment* and frustration in contemporary Muslim societies. The

19. On these alternatives to Rawls’s overlapping consensus, see E. Picavet and C. Arnsperger, “More than *modus vivendi*, less than overlapping consensus”, *Social Science Information*, 32 (2), June 2004: 167-204.

problem is that the “stability for good reasons”²⁰ that is “brought about by citizens acting correctly according to the appropriate principles of their sense of justice” (*LoP*: 13, n.2) is not sustainable in a non-liberal context unless there is some kind of domination, even imperialism, at work. If international stability requires the personal allegiances of non-liberal, but decent peoples, to the core values of liberal democracies whereas these values are external to their culture and tradition, these peoples are placed in a situation of deep inequality and we are faced with cultural imperialism. What Rawls calls “stability for good reasons” may be best understood as the result of the kind of mental coercion that is typical of a Protestant culture, where citizens internalize social and political norms on the basis of their moral and political autonomy. I cannot develop this point here, but this is not even the case in, for instance, non-Protestant Western democratic cultures, where obedience to the law is not sufficient to provide stability and where rules and principles are more often than not infringed rather than abided by. This is even truer in Muslim societies where legal norms have no authority if they are not deeply embedded in religious texts and traditions. This fact is not taken into account by Rawls. One last illustration of this would be Rawls’s use of the old argument of “peace by satisfaction”, an argument that is only too obviously culturally situated and inapplicable beyond the Western cultural world.

“Satisfied peoples do not want to expand their territories or to rule over other populations or to convert other peoples. They are at peace. Democracies are not swayed by the passion for power and glory. They have nothing to go to war about.” (*LoP*: 47).

The appeal to self-interest has little impact in cultures where the values of the community, or the duties of the individual to that community are more important than how well he fares individually in this world. The analysis of these arguments shows clearly how insensitive Rawls can be to different approaches to stability and peace, for instance, those established through compromise and negotiations, because these are alien to his Protestant sensibility.

20. On the question of stability, see also *PL*: 142-143 and *LoP*: 44-45. *PL*: xix: “the problem of stability has played very little role in the history of moral philosophy.” It is surprising that Rawls does not seem aware that, as stability is a political/social problem, involving analysis of historical forces at work, and not simply a theoretical problem, it cannot be solved at the level of moral first principles. What is even more confusing is that stability seems to be a property not only of political societies, but also of the conceptions of justice at work themselves. This is why the nature of the question of stability, and peace at the international level, is still unresolved in *The Law of Peoples*. Rawls only looks at the question of stability from the subjective point of view, that of the allegiances or beliefs that sustain a conception of justice. He does not take into account the objective social and historical forces at work.

Last, but again I cannot develop this point here, we know that, for many cultures, democracy encompasses a sense of disruption and potential conflict, because it exacerbates what is different and not what is common. Thus, it may be a factor of division in social contexts of deep ethnic and religious hatred. For Islam, in particular, but also in many other non-liberal contexts, liberalism and the stress on conflict and diversity is seen as disruptive and dangerous.

A second series of *internal* criticisms, indicating difficulties within the theory and tensions between imperialism and respect for diversity, have probably even more weight. First, Rawls's conception of stability may be criticised in that he does not distinguish between stability in a domestic context of opposing comprehensive doctrines and stability in an international context of conflicting peoples. He applies to the Law of Peoples the conceptual analysis already present in *PL* in relation to a pluralist domestic context. As Kok-Chor Tan notes, "the main flaw in Rawls's global thesis is his belief that the global overlapping consensus between different political societies is morally equivalent to a domestic overlapping consensus between different comprehensive doctrines... the consensus Rawls presents in *LoP* is more a political compromise than a consensus around genuine liberal values."²¹ It is impossible at the global level to treat political liberalism as a neutral doctrine in relation to non-democratic peoples and practices. At some stage, assertion of its liberal content, especially of its commitment to individual liberty, has to be expressed, creating a tension and ruining the balance that Rawls wants to preserve.

An added difficulty is that, because the basis for stability is presented as psychological and very narrow, it is open to an objection which is also valid for Rawls's treatment of pluralism in a domestic context. How is it psychologically possible that non-liberal, but decent peoples, might be ready to switch allegiances and to accept liberal principles, even if at the domestic level they would find them repulsive? Here we have a situation not entirely dissimilar to the problem of the "divided Self" in *PL* where a member of a liberal society is said to be capable of being devoted to liberalism as a citizen, even while, as a private person, he or she is opposed to it.²² To ask peoples to give their allegiance

21. Tan, 1998: 289.

22. On the "divided Self", see Galston, William, *Liberal Purposes*, Cambridge, Cambridge University Press, 2001: 153, and his critique of Rawls, esp. of his conception of individuality: "persons must be emotionally, intellectually and ontologically capable of drawing an effective line between their public and non-public identities...but this excludes individuals and groups that do not place a high value on personal autonomy." The same must be assumed of non-liberal peoples in their exchanges with the liberal Society of Peoples, and this is highly problematic as basic human rights allowing these choices and critical reflections are non-existent in non-democratic societies.

to values that are alien to them can sound fairly imperialistic. It can also lead to contradictions for the dominant side too, as in the context of development policies where the contemporary international regime of aid combines a powerful disciplinary focus with an emphasis on empowerment and self-development even for poor countries; this can be unsettling and destructive both for rich donors and poor recipients. The flaw in the argument is the supposed psychological basis for peace when it is obvious that many more objective and non-individual factors must play their part. There is a deep tension in Rawls between the *psychological* nature of his conception of peace and stability and his *holistic* and institutional conception of justice.

Confusing facts and values

I now turn to another major difficulty, which is that we do not know whether “democratic peace” is a historical fact or a desirable end. “Democratic peoples do not go to war with each other.” (*LoP*: 51-54 and 125). What is the value of this observation? Is it historical or normative? Rawls seems to confuse facts and values and to treat historical facts as the embodiment of universal norms. This mistake is typical of universalism.²³ Instead of remaining consistently at the level of norms and regulative ideals, Rawls is tempted to prove that facts agree with him, that “democratic peace” has not only a moral justification, but also a historical basis, which he examines in detail. Many historians have strongly denied this factual connection²⁴. (It is worth noting that Rawls develops a quasi-Hegelian conception of history as the progressive reconciliation between ideals and social conditions, a conception which is suggested, but is, unfortunately, hardly touched upon.²⁵)

Kant affirmed a similar thesis on democratic peace and wrote that: “The first definitive article of Perpetual Peace is that the civil constitution of every state

23. It is very interesting that the two great nations which see themselves as “universal Republics”, France and the United States, should be so blind to that confusion and incapable of distancing themselves from these myths inherited from their two very different Revolutions. A measure of scepticism and humility here would be welcome but is rarely the case among political philosophers. For an exception, see Rosanvallon, Pierre, *Le modèle politique français*, Paris, Le Seuil, 2004.

24. See *LoP*: 51-54 for the debate between historians on democratic peace.

25. Interestingly, he mentions Hegel for the first time as a member of the family of “liberalism of freedom” in *LoP* and the reason for it is that Hegel, as the late writings of Kant, offers a solution to the facts-values problem through a view of social history: there are “social conditions under which we can reasonably hope that all liberal and decent peoples may belong, as members in good standing, to a reasonable Society of Peoples.” (*LoP*: 126-127)

shall be Republican.”²⁶ But where Kant drew a sharp distinction between ideal Republics and real democracies, which have proved historically to be despotic²⁷, Rawls understands the Republican ideal as embodied in American history. Rawls is possibly a victim of the “liberal illusion” which has characterized so much international political theory recently, as he obviously overestimates the achievements of liberalism²⁸. Unfortunately, this is not simply an intellectual confusion. Because value-judgments are not mere statements of facts, that is, they are not theoretical but practical in the Kantian sense, they necessarily lead to practices and institutions that objectify them, and intellectual and political domination cannot be separated from each other. This is the core of the argument against universalism and the dangers of cultural imperialism.

As a consequence of this confusion, it would seem to follow that if decent peoples are to be part of a peaceful Society of Peoples, and if peace is only secure when institutions are democratic, then clearly the Society of Peoples is entitled to transform the domestic institutions of its members and to put pressure on non-democratic, but decent governments, to change. Here the ambiguity of Rawls’s position is obvious. In order to promote peace, democratic nations can be justified in intervening in the domestic politics of “decent” peoples, not only in those of “outlaw” States. Justice here is both a necessary and sufficient condition of peace because historically it seems to have been the case. But this argument is not valid within the context of Rawls’s own normative theory of justice, where the fact of reasonable pluralism is to be respected, including the pluralism of conceptions of justice. Moreover, justice is “the first virtue of social institutions” and cannot become a means to an end. “Justice” cannot be forced upon peoples and liberal peoples should learn to live with their non-liberal neighbours, confident in their own values, not hoping for the territorial and intellectual expansion of their own conception of justice.

3. Rawls’ answers to the charge

I have shown that there are enough reasons to suspect that Rawls is not immune to the charge of cultural imperialism in his conception of democratic peace and stability. How does that stand against his well-known recognition of “the fact

26. Kant, 1970: 99.

27. Kant, 1970: 100-102 “None of the so-called “republics” of antiquity employed such a (representative) system and they thus inevitably ended up in despotism.” Rawls has no possibility to make such a distinction because his view of liberalism is too close to the American historical experience.

28. See Brown, Chris, *op.cit.*, 2002: 61, on liberal internationalism and Continental political theory.

of reasonable pluralism” and of the incommensurability of values? To these criticisms, what would the Rawlsian answer be? I suggest that it would run along the following two lines.

First, the appeal to the principle of reciprocity between peoples means that no member of the Society of Peoples should be in a position of domination, which answers the charge of imperialism. “The Law of Peoples satisfies the criterion of reciprocity... It asks of other societies only what they can reasonably grant without submitting to a position of inferiority or domination.” (*LoP*: 121). Secondly, with the emphasis on self-determination and self-respect in the description of peoples as members of the Society of Peoples, Rawls departs from the cosmopolitan view that presents liberal democracy as a universal model and thus he cannot be accused of cultural imperialism. Let us examine these two answers.

The appeal to reciprocity

Rawls stresses that his commitment to toleration of non-democratic but “decent” peoples, is based on *the principle of reciprocity*, even among very diverse and unequal peoples. This is a principle, he says, that is neither Western nor liberal, but that any “decent” people will agree to. Against his numerous critics, Rawls stands firmly on his position and affirms that these decent peoples represent a middle ground between a situation where states, in the name of state sovereignty, are guaranteed total immunity from foreign intervention, even in cases of gross abuse of human rights and one in which any violation of human rights has to be punished in the name of the overriding value of individual freedom and dignity. This middle ground is occupied by societies, which are not liberal, but nevertheless are not unreasonable and can be recognised as “decent”, that is as respecting a sufficient level of core human rights to be acceptable in the community of peaceful peoples. “Without trying to work out a reasonable liberal Law of Peoples, we cannot know that non-liberal societies cannot be acceptable.” (*LoP*: 83)

One should then treat all well-ordered peoples, liberal or “decent”, within the Society of Peoples, as having a corporate moral status. This status deserves respect, independently of their political institutions, democratic or authoritarian, in a way that is distinct from respect for individuals. Thus the moral status of “well-ordered” peoples should not depend upon their present institutions being liberal and democrat. This is the mistake made by cosmopolitans who deny a people its moral status if its institutions are not fully democratic and

refuse to treat it equally. For cosmopolitans, “equality should be only between individuals and treating societies equally should depend on treating their members equally. (*LoP*: 69). But peoples, for Rawls, and this is the controversial issue, are more than collections of individuals. To a variable degree, they are self-standing and self-sufficient in a way that individuals can never be.²⁹ They are characterised by a relatively stable collective identity, based on a common history, language and culture, even if their constitutive elements are as multiple and mutually contradictory as the sub-cultures that make them up. “Peoples (as opposed to states) have a definite moral nature. This nature includes a certain proper pride and sense of honour; peoples may take pride in their histories and achievements as what I call a “proper patriotism” allows.” (*LoP*: 62) With this distinction in place, it is clear that, for Rawls, self-determination should be preserved as much as possible. “Self-determination, duly constrained, is an important good for a people” (*LoP*: 84) in the same way that “it is a good for individuals and associations to be attached to their particular culture.” (*LoP*: 61) This raises the question of patriotism, respect for which should be part of liberalism. Again, this involves stressing the importance of boundaries and of preserving peoples’ distinctive identities so far as possible, thus successfully overcoming the charge of cultural imperialism.

But such an “explanatory nationalism, to use Thomas Pogge’s expression,³⁰ attracts another series of criticisms. Leaving space for patriotism and national identities, even when the defence of individual human rights is not fully assured, seems to imply a defence of the Nation-state and of the old Westphalian context of sovereign States, as Allen Buchanan has suggested.³¹ Rawls answers to this with a clear distinction: peoples are not states and states never possess a moral status. But here he is treading a thin line between realism and cosmopolitanism, when he extends respect to non-democratic, if peaceful peoples, even if they do not fully respect their individual members. This is a risk he is ready to take because of his *holistic* conception of justice. Justice applies to the basic structure of societies, not to individual situations, and justice *within* peoples is a matter that members, not foreign powers, should take into their own hands. The case for foreign intervention is limited by this conception of peoples. As David Reidy says, “Rawls’s most fundamental commitment is to reciprocity within a

29. For an analysis of this distinction, see Reidy, David, “Rawls on International Justice: A Defence”, *Political Theory* 32/3, June 2004: 291-319, esp.: 298.

30. On “explanatory nationalism” and its critique, see Pogge, Thomas, *World Poverty and Human Rights*, Cambridge, Polity Press, 2002:139-144 and Tan, Kok-Chor, 2004: 70-72.

31. Buchanan, 2000: 701.

shared public reason. To be a genuine manifestation of human freedom and autonomy, moral agents, natural and corporate, must realize a just social world without sacrifice to this commitment... Rawls surely hopes for a world within which all peoples are liberal and democratic. But he hopes even more deeply that we can find our way to that world without violating the demands of reciprocity within a shared human reason."³³ As in PL, he bases his argument on "the fact of reasonable pluralism" between cultures and peoples: "If all societies were required to be liberal, then the idea of political liberalism would fail to express due toleration for other acceptable ways (if such there are, as I assume) of ordering society... Provided a non-liberal society's basic institutions meet certain specified conditions of political right and justice and lead its people to honour a reasonable and just law for the Society of Peoples, a liberal people is to tolerate and accept that society." (*LoP*: 59-60).

Thus, showing equal respect and consideration for decent peoples' institutions and traditions, within the framework of the Law of Peoples, even if they are not liberal and democratic and do not recognize all their members as free and equal persons, is not contradictory. "Equal peoples will want to maintain this equality with each other." (*LoP*: 60) It would be illiberal to treat decent non-liberal peoples as unequal: "decent non-liberal peoples will be denied a due measure of respect by liberal peoples." (*LoP*: 61) "Although full equality may be lacking within a society, equality may be reasonably put forward in making claims against other societies." (*LoP*: 70)

It is obvious from these analyses that Rawls develops a "holistic" and institutional view of justice between peoples consistent with his holistic view of justice in the domestic context. The particular attention that he pays to the collective dimensions of what makes a people a people and to the consequences for international relations parallels his emphasis on the institutional nature of domestic justice. This is why it is misguided to interpret his views as still Westphalian and attached to the traditional prerogatives of sovereign States. It is this "holistic" approach that sets him apart from cosmopolitans and is a powerful argument against the charge of cultural imperialism.

The critique of cosmopolitanism

Cosmopolitanism is *universalistic* in the Kantian sense, that full human rights should apply to anyone anywhere in the world and that neither historical contin-

32. Reidy, 2004: 305.

gencies nor natural circumstances should play any role in their application. It starts with the very ambitious claim that all persons are to have the equal liberal rights of citizens of a constitutional democracy. Cosmopolitanism takes seriously the priority of justice over state powers or prerogatives, economic welfare or religious traditions, and wants the full list of human rights, both political and economic, to be implemented. Universal human rights represent the moral basis for international law and foreign intervention. They override the autonomy of states, the rules of trade and commerce as well as domestic policies, which they lead to reshape as the case of the Human Rights Act in the European Union clearly shows. Cosmopolitanism is a *moral individualism* that states that individual persons, not states, are to be recognized as the primary objects for concern in international relations. Only individual persons, citizens, have a moral status forming the basis for any normative theory and criticism. Realists have ignored this moral status and are unable to account for the current changes in international relations, especially the progress made by the implementation of human rights, good governance and the rise of liberal democratic values in the face of unwilling states still attached to their prerogatives. As a consequence, cosmopolitanism claims that a *global difference principle* that allows not only redistribution between richer and poorer members, but also a correction of an unjust global structure, should be applied beyond national borders to counteract the arbitrariness of the territorial distribution of natural resources and to fight poverty. As a matter of principle, all unjust inequalities between persons as well as between nations should be fought against through, for instance, global taxation.

The reasons for Rawls's rejection of cosmopolitanism are multiple and their analysis would go beyond the limits of this essay. I will simply mention two main reasons. A first reason is the arrogance and lack of respect for cultural and national identities that this ambition manifests. On this account, says Rawls, "the foreign policy of a liberal people will be to act gradually to shape all not yet liberal societies in a liberal direction, until eventually all societies are liberal... only a liberal democratic society can be acceptable." (*LoP*: 82-3) Neither the diversity of members States nor "the fact of reasonable pluralism" are relevant. Thus, despite being overtly concerned with the wellbeing of individuals all over the world, cosmopolitanism is arrogant. "The danger of error, miscalculation and also arrogance on the part of those who propose sanctions must, of course, be taken into account... decent societies ... deserve respect, even if their institutions as a whole are not sufficiently reasonable." (*LoP*: 84) Cosmopolitanism, in the end, is as arrogant and dogmatic as utilitarianism in its affirmation of one single good, according to Rawls's critique in *TJ*. "The ultimate end of a cosmo-

politan view is the well-being of individuals, not the justice of societies.” (*LoP*: 119). Cosmopolitanism is universalistic in the wrong way and Rawls seems then to share the cultural relativist’s view that universalism can be a mask for imperialism and arrogance. Secondly, Rawls’s “holistic” conception of society means that his form of liberalism is not based on an exaggerated respect for the individual person. Cosmopolitanism ignores the importance of respect for and recognition of peoples’ distinctive identities and cultures as well as for individuals’ commitments to their communities. The Law of Peoples regulates relations between peoples, not between individuals who should address their domestic situation before claiming global rights. Otherwise, they would lose their identity and the self-respect that goes with belonging to a valued community.

This critique is especially obvious in Rawls’s analysis of the duty of assistance and in his rejection of global *distributive* justice, an analysis which I cannot develop here. (*LoP*: 106-113) Let us just say that where cosmopolitans would like to see an open-ended process of assistance to less well-off peoples, Rawls proposes a “target and cut-off point” conception of assistance that will exclude the application of the difference principle to the global context. The primary target of assistance is not the welfare of all individuals, but the establishment of just institutions. Therefore, poverty is to be fought until this target is reached but not beyond, because that would lead to paternalism and show a lack of respect for the autonomy of the peoples concerned. If relative poverty is compatible with just institutions within a decent social organisation, so be it.

To conclude, and this is his best defence, in rejecting cosmopolitanism, Rawls is showing that his kind of universalism is distinctive: it is “universalism in reach” (*LoP*: 80-81 and 85-86), which means that it is not based on the intrinsic universality of liberal values, but on the appeal that they have for many peoples across very different social and historical conditions, as the contemporary progress of human rights law has shown. Human rights are not specifically liberal, but “the necessary conditions of any system of social cooperation.” (*LoP*: 68) Rather than being simply liberal, the universal appeal of human rights is the result of historical conditions, the post-World War II context for instance, and does not depend simply on the political imperialism of the victors. The recognition of universal human rights is the result of long and difficult political processes, which have changed the identity of the peoples concerned, processes such as the Glorious Revolution in Britain, the American War of Independence and the French Revolution. By contrast, where these struggles did not take place, but were replaced by struggles for national independence, as in Germany and Italy in 19th Century Europe, the impact of these rights has been virtually

non-existent until after World War II. The role played by domestic struggles and by democratic participation in the elaboration of the prevailing set of rules and principles is crucial here.

These are, rapidly sketched, Rawls's two most important lines of defence against the charge of cultural imperialism.

4. Justice or peace?

There remains an obvious difficulty in understanding *LoP*. It has been accused of being culturally imperialist and, at the same time, too accommodating to non-democratic societies. Cosmopolitans treat Rawls as insufficiently liberal and individualistic just as the discussion with cultural relativism claimed, on the contrary, to prove him to be too liberal and universalistic. As I have suggested, Rawls is treading a thin line between two obstacles, or even three if we include political realism. Can he succeed? Only on two conditions. First, he has to abandon his *psychological* conception of peace and instead insist that peace has mostly institutional components and cannot rely primarily on individual commitments. Secondly, he should have insisted that it is only in clearly limiting the scope of the Law of Peoples to political ambitions, to securing peace and not to attaining a just world order, that both cosmopolitans' and cultural relativists' claims can be finally rejected. The normative weight of the whole enterprise has not been clearly defined. Is it justice or peace?

The "holistic" conception of justice

Let us go back first to Rawls's controversial conception of human rights as "conditions for social cooperation" rather than as conditions for leading a worthwhile individual human life. The limited list of human rights is a consequence of his holistic view of justice and raises the question of the status of individual persons in the wider international context, which is the main argument of cosmopolitans against Rawls. What if non-liberal societies "fail to treat persons who possess all the powers of reason, intellect and moral feeling as truly free and equal" (*LoP*: 60)? How should liberal peoples react? How far should respect for the self-determination of a people go, especially in those dire conditions where, for instance, minorities or women, even in "decent" peoples, have no power and are repressed? What about Rawls's argument that rather than trying to enforce liberal human rights from without, psychological mechanisms should be relied upon to help shift the balance towards more freedom and equality in the domestic

context so long as self-respect is preserved in the international context? This constitutes an obvious major point of debate and, even if Rawls answers successfully the charge of cultural imperialism, he is now faced with the cosmopolitan critique of his anti-individualism.

In the second section of this paper, I have shown that one explanation was Rawls's resolve to disconnect human rights from liberal individualism and to address the charge of cultural imperialism. Human rights are simply not Western. But this is not enough to explain such a controversial stand on the part of someone so deeply devoted to the human rights approach. Another deeper explanation, which I have also mentioned, is that Rawls, following Mill, looks at international justice from the point of view of peoples, not solely from that of individuals, because peoples have a reality of their own that cannot be reduced to the sum of their members, that gives them a corporate moral status and cannot be ignored in international justice. Thirdly and more generally, Rawls affirms a *holistic* conception of justice, which sets him apart from most liberal thinkers and which has possibly not been emphasised enough. This holistic view is one of his reasons for criticising both utilitarians and cosmopolitans who, in his view, share a mistaken conception of justice. But this creates serious difficulties. As Samuel Scheffler writes in the context of the debate with utilitarianism: "To accept a holistic account of justice is to acquiesce in an erosion of the status of the individual which is one of the most striking features of modern life."³³

At the conceptual level, Rawls's position on individualism is never properly elucidated and this unfortunately weakens his position when confronted by cosmopolitans, who seem to have the monopoly on moral individualism, whereas there are in fact many variants of liberal individualism, the Rawlsian version being one among them. A holistic conception of justice is not necessarily anti-individualistic. But it stresses the role of institutional and social conditions, of which the individual can take advantage or not. Autonomy without the dialectics of human decisions and social conditions is an empty concept and has no meaning. Let us remember that autonomy is at the centre of Rawls's view and that this is the case for nations and peoples too. But this unfortunately is inconsistent with his psychological conception of peace and stability within and among peoples as, in insisting on personal allegiances, "moral processes" and the internalization of Western norms and morality, he underestimates the role

33. Scheffler, Samuel, "Rawls and Utilitarianism" in Freeman, Samuel (ed.), *The Cambridge Companion to Rawls*, Cambridge, Cambridge University Press, 2003: 449.

of institutions. The balance between these two series of conditions needs examining, especially because, as I have shown, personal allegiances can, in some cultures, create a position of inferiority or domination, which is the exact antithesis of Rawls's view. I suggest that one of the serious inconsistencies in *LoP* is the appeal to personal commitments to shared values as the basis for international democratic peace, whereas respect for autonomous choices and pluralism is the central tenet of his doctrine.

Thus one answer in line with Rawls's inspiration could be to abandon this emphasis on psychological processes and to defend a holistic conception of peace too. The conclusion I suggest here is that the Society of Peoples itself can as a social structure become the prime mover for changes because of its attraction in creating peace and security. The psychological processes that strengthen peace need institutional structures to freely develop. This is a major concern in development policies at the present moment under the general requirement of "good governance". But is it possible to envisage political and institutional changes and progress in terms of basic liberties without appealing to incentives? Unfortunately, the whole problem is simply alluded to when Rawls writes: "it is not reasonable for a liberal people to adopt as part of its own foreign policy the granting of subsidies to other peoples as incentives to become more liberal." (*LoP*: 85) Psychological processes, subsidies and coercion cannot generate the kind of institutional domestic changes necessary for lasting peace and "decent societies should have the opportunity to decide their future for themselves." (id.) But without a public space and a global structure within which to frame these decision procedures, we are bound to see psychological processes and political pressures as well as economic incentives set to play the major role in the move towards better governance.

Peace as a political objective

A second clarification could be to specify the scope of the Law of Peoples. Is it moral or political? Is the argument in favour of a Society of Peoples mainly a *political* one, promoting the interests of the liberal Western world and its need for peace and stability, and providing "ideals and principles of the *foreign policy* of a reasonably just *liberal* people"? (*LoP*: 10)? For many readers, indeed, the Law of Peoples is no more than a political compromise with non-liberal peoples in the name of peace and stability. Or has it, more ambitiously, a *moral* scope, aiming at establishing a just world order, as the ideal of "stability for good reasons" seems to imply? If it is the former, then the charge of cultural impe-

rialism no longer makes sense. We develop a theory of international justice for liberal and similarly minded peoples, and its constituency is clearly limited: defining morally permissible politics. The agreement of most peoples would be desirable but should not detract from the limited scope of the theory, which is political and practical in the Kantian sense. But if it is the latter, then the border with cosmopolitanism is blurred.

There are, however, elements in Rawls's argument that do point towards a non-psychological basis for peace and that are concerned with institutional design and structures. He indicates that the scope of the Law of Peoples is mostly political, not simply moral, in the four following senses. Firstly, it is not the result of *applied moral* philosophy. No comprehensive doctrine is relevant for the purposes of international justice. This is the basic tenet of political liberalism. The basis for peace should not rest on shared values, but on the fact of reasonable pluralism. Secondly, it is political in the sense that it is limited to political questions, the very questions that occupy foreign policy: war, immigration, the duty of assistance, control of nuclear weapons, etc. Thirdly, as shown in Rawls's use of "target and cut-off point" conceptions of human rights, the right to war, aid and international justice, its aim should be political in the sense that it is limited to feasible decision-making rules such as: do we go to war in the case of breaches of the full list of human rights, such as equal freedom of religion or expression? Or do we put the limit at the violation of a more limited list of "urgent" human rights such as the right to survive, to some measure of personal freedom, etc? The question is: are we ready to go to war to protect equal freedom of expression, equal freedom of religion, and the full list of human rights, everywhere, anytime, or do we have to restrict that list to the rights that regulate permissible state action? Rawls's conception of the right to war is political, not ideological in contrast to pacifism or cosmopolitanism, because it is a "target and cut-off point" conception, based on political analysis, not on general principles leading to dangerous open-ended decisions. Equally, his conception of the duty of assistance is also political in the sense that it deals with political societies, not individual persons, and that it sees just institutions, not individual welfare or personal situations as its field of intervention. We may see how with these two clarifications, his conception acquires a much needed relevance.

Conclusion

To summarize, I have taken seriously the charge of cultural imperialism addressed to Rawls in order to discover where the major difficulties in his argument lie and why, consequently, his book has been so badly received. The answer suggested here is that the two major flaws that are responsible are the clash between a psychological conception of peace and stability and an institutional or holistic conception of justice, on the one hand, and his hesitations on the scope of the Law of Peoples, on the other hand. If these clarifications are borne in mind, some of the confusions that have obscured the debate could be lifted and a truly “critical” theory of justice, in the Kantian sense, avoiding both dogmatism and scepticism, could emerge. The exploration of the middle ground between political realism and moral idealism is indeed the right direction.

Rawls’s valuable contribution to the debate is thus the following. Rejecting both cultural relativism and cosmopolitanism, he is trying to define a conception of international justice from the point of view of peace and stability, not from that of the creation of a just world order. Philosophers cannot determine what universal justice may be without violating the fact of reasonable pluralism, but they can examine what the conditions for peace and stability are, justice being one of them. Rawls quite rightly emphasises that a people is a political entity with a corporate moral status of its own. Thus, the demands of peace are paramount and a lesser ambition in terms of domestic justice and full human rights may be justified in the name of respect for peoples’ self-determination.

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