Rawls’s problem of securing political liberties within the international institutions

— Samuel Malm
ABSTRACT: In Law of Peoples Rawls tries to work out a theory that will ensure a fair interaction between the world’s ‘peoples’ (synonymous with “nations”). By this he means a description of international rules that both liberal and non-liberal peoples can accept, with the purpose of eradicating political injustices in the world; which Rawls believes is the big cause of the greatest evils in the world. Furthermore, in his theory, Rawls envisions a set of international institutions (WTO, World Bank and “the UN”) that will work as the basic structure for implementing this scheme of law; global rules of trade; providing loans; facilitation of capital investment, etc. However, the theory lacks a description of which political liberties the peoples would want to secure, within the international institutions, and of what principles of distribution they should be assigned. Accordingly, I will in this essay try to establish which rights the peoples—as Rawls envisions them—would want to secure, and why they would want to be viewed as equal to everybody else, by reasons of the institutions profound and pervasive effect on peoples success. Furthermore, I will contend that this equality in political liberties, and especially the ‘principle of equal participation’, will be impaired by the inequalities in resources that Rawls accepts between the peoples. Consequently, an issue of how wealthier peoples will use their power to promote their self-interest, and the lack of belief that constitutional safeguards, within the international institutions, will constrain them from using means of agitation.
Table of contents

1 Law of Peoples.................................................................................................................... 1
   1.1 Peoples and the original position................................................................. 2
   1.2 Basic structure and International institutions .......................................... 5
      1.2.1 International institutions............................................................... 7
      1.2.2 Inequality.................................................................................. 8

2 Political Liberties ............................................................................................................ 9

3 The consequence of inequality of resources........................................................... 14

4 Applying the critique to Law of Peoples................................................................. 17
   4.1 Direct and indirect actions........................................................................... 18
   4.2 Rawls constitutional safeguards............................................................. 21
   4.3 The generic problem of constitutional safeguards ..................................... 22
   4.4 Idealistic approach.................................................................................. 25

6 Concluding remarks .................................................................................................... 28

References....................................................................................................................... 29
1. Law of Peoples

In *Law of Peoples* (LP) Rawls outlines a theory for how a fair “world society” of liberal and non-liberal peoples could be possible under a law of peoples. With ‘law of peoples’ is here meant “a particular political conception of right and justice that applies to the principles and norms of international law and practice”¹ and the ‘world society’ is defined as “all those peoples who, in their mutual relations, follows the ideals and principle of the Law of Peoples”². The main purpose of the theory is to provide a theory that will ensure that we avoid the “greatest evils of human history”, which encompass: unjust warfare; genocide and mass murder; widespread poverty; starvation and all other forms of “cruelties and callousness” — something Rawls believes will be eradicated if we come to terms with the widespread political injustices that resides in the world today.³

Hence, Rawls tries to fix these problems by working out a scheme of international rules, for how liberal peoples should design their foreign policy towards other peoples, which means that the scheme comes from a liberal viewpoint (making LP a liberal theory of global justice) with the intended effect of resulting in a realistic and utopic⁴ interaction between peoples and consequently remove the political injustices that produce the “greatest evils”. Worth pointing out, is that Rawls finds it necessary to establish that also non-liberal peoples would accept this scheme of international rules, in order to accommodate, the realistic assumption, that all the worlds peoples will not have a liberal culture. This is something that has received much criticisms (it explains the weak form of egalitarianism, and liberal values, that we find in LP) because of the apparent influence that non-liberal values have on the scheme that Rawls presents.⁵

For the purpose of the essay we do not have to dwell deeply into LP, but something must be said of: the eight international rules; Rawls’s approach towards inequalities; the basic structure; Rawls’s definition of ‘peoples’, and the international institutions. In order to derive what political liberties the peoples (as Rawls describes them) would want to secure for themselves and by what principle these liberties should be distributed. This is therefore, not a proposal of

---

² Ibid.
³ Ibid. pp.6–7
⁴ This means that the theory extends: “what are ordinarily thought to be the limits of practicable political possibility and, in so doing, reconciles us to our political and social condition.” p.11 – Law of Peoples.
⁵ Ibid. p.10
political liberties, that I would derive from a description of how I would define peoples in a theory of global justice, but what kind of political liberties the Rawlsian definitions of the peoples would create within the international institutions.

To clarify the purpose of the essay: I will not analyze, or criticize the way that Rawls defines the peoples or his political approach toward global justice, or the lack of attention towards inequalities between peoples. Instead, I will contend that his theory needs to be adjusted to square with the realistic assumption of domination by the wealthier people over the poorer (which will result in unequal political liberties within the international institutions), a problem that he himself acknowledges but, I shall argue, fails to provide a satisfactory solution to.

1.1 Peoples and the original position.

In *Theory of Justice* (TJ) (and later in *Justice as Fairness*) Rawls envisions an *original position*\(^6\) where individuals can agree to principles that will be applied to a constitutional, democratic and liberal society to ensure a just and fair cooperation between all the society’s rational and reasonable citizens; hence the “moral subject” for justice in the domestic case is the ‘individual’ (individualistic liberalism).\(^7\) However, this is something that changes in LP where the subject for justice becomes defined as ‘a people’ — which Rawls uses as roughly synonyms with a “state” or “nation”.\(^8\) Accordingly, the purpose of the international original position is to create a scheme of international rules, that best could secure the goal, of a just interaction between liberal and non-liberal peoples.

Though, worth pointing out, is that Rawls never tries to derive the scheme of laws from the original position, and he writes that the representatives are not given a different set of laws to pick and choose from: “Rather, the representatives of well-ordered peoples simply reflect on the advantages of these principles of equality among peoples and see no reason to depart from them or to propose alternatives.”\(^9\) Though, similar as in the domestic theory of justice, the representatives are motivated to act rationally (meaning from self-interest) in the original

---

\(^6\) A hypothetical position where you remove morally arbitrary attributes from the agent, in order to reach reasonable and rational agreement.


\(^8\) The law of Peoples. p.23

\(^9\) Ibid. p.41
position, and reasonably, by accepting the *veil of ignorance*\(^{10}\) that discards knowledges of attributes that are seen as arbitrary to reach a just contractarian agreement.

Nevertheless, let us return to the international laws, and the scheme that Rawls puts forward:

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 no right to instigate war for reasons other than self-defense.

6. Peoples are to honor 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 unfavorable conditions that prevent their having a just or decent political and social regime.\(^{11}\)

As I said above, these eight laws are intended to come from rational and reasonable thinking by the representatives in the original position; accordingly, analogous to the individuals in the domestic theory (though as I pointed out above, Rawls never really tries to establish these laws—from the original position—as he does in TJ). However, there is one difference from the domestic level: the representatives are assumed to be guided by a fundamentally *moral*\(^{12}\) interest:

“Liberal peoples […] have their fundamental interests as permitted by their conceptions of right and justice. They

---

\(^{10}\) Which is the concept that Rawls uses to describe the removal of the “particular features and circumstances” that is morally arbitrary, in order to create fair and just principles to apply to the basic structure. See pp 154-160, in Samuel Freemans book *Rawls* for a throughout discussion of it.

\(^{11}\) The law of Peoples. p. 44

\(^{12}\) See Samuel Freemans chapter on ‘The Law of Peoples’ in *Rawls* (pp.418-). Where he describes the moral trait of this national interest.
seek to protect their territory, to ensure the security and safety of their citizens, and to preserve their free political institutions and the liberties and free culture of their civil society.”

Accordingly, the peoples self-interest is to strive for this fundamental interest in “their conceptions of right and justice” when accepting the scheme of laws. This basically means that they will defend their “approach”, and establishment, of just institutions.

Though, for this essay, it is much more necessary to sketch out how Rawls defines the peoples’ interest in being seen as equal and free agents in regard to other peoples. It seems obvious to me—even though this interest is not encapsulated into the “fundamental interest”—that the peoples have this interest, and you can see it in the first and third international law. This I believe, because the scheme of laws is intended to come from the representatives “first task” in the original position, which is to specify the Law of peoples content. Therefore, what is included in the scheme of laws, should be seen as an expression of their interests. There are also several places in LP where you can find support for the peoples interest in equality and freedom:

With the Law of Peoples, however, persons are not under one but many governments, and the representatives of peoples will want to preserve the equality and independence of their own society.

Well-ordered peoples insist on an equality among themselves as peoples, and this insistence rules out any form of the principle of utility.

13 The law of Peoples. p. 29
14 Ibid. p.40
15 Ibid. p.41
16 Ibid. p.40
17 The reference here to “well-ordered peoples” contains both liberal and non-liberal peoples (which he terms ‘decent peoples’) but not ‘outlaw states’, ‘societies burdened by unfavorable conditions’ and ‘benevolent absolutisms’. Accordingly, it could be worth stressing that these quotes, and the laws, are only talking about the two well-ordered peoples mentioned above. The three latter peoples could very well be seen as interested in inequality and a lack of freedom.
We view peoples as conceiving of themselves as free and equal peoples in the Society of Peoples (according to the political conception of that society).18

These quotes, and the two laws, ascertain that the Rawlsian definition of peoples, has an interest in being treated as equals in regard to all other peoples, consequently something that the representatives in the original position would strive for when creating guidelines to shape the international institutions, or differently put “the international basic structure”.19

1.2 Basic structure & International Institutions

The international basic structure is qualitatively different (or so it seems) from the one Rawls describes in the domestic case. This has to do with the anarchical structure that today, and reasonably in the future (Rawls here follows in the footsteps of Immanuel Kant in believing that a desirable world state is a practical impossibility20) will reside on the global level. Which basically means that there is no sovereign on the international level, and consequently nations/states/peoples are not under any power that controls them (contrary to citizens inside a society).

However, a problem with giving a definite description of the international basic structure, is the ambiguity in Rawls’s formulation of it. Which I think stems from the fact that the theory has a fundamentally interactionist and two-tiered structure (which differs from the domestic one, which has an institutional and three-tiered structure)21 while likewise hinting at some institutional structure. Basically, this means that Rawls has a different method, or maybe I should say different focus, on how he primarily attacks the problem of injustice. Instead of seeing institutions in a basic structure (like he does in the domestic theory) as the primary

---

18 The law of Peoples. p.34
19 I shall use” institutions” and “organizations” interchangeably throughout the essay.
20 The law of Peoples. p.36
21 Institutional & three-tiered means (the domestic theory): parties in the original position, who select; a public criterion of social justice (Rawls’s two principles and two priority rules), which selects; a basic-structure design for any specific empirical context.
Interactional & two-tiered means (international theory): parties in the original position, who select; a scheme of international rules (Rawls’s eight laws of peoples). Hence the domestic theory is concerned with institutions to ascertain justice, while the international theory wants to establish a particular set of rules to ascertain justice. See Thomas Pogge article ‘The incoherence between Rawls’s theories of justice’ pp.1745-1746.
location to fix the problem, he moves the location to the scheme of international rules, and hence cuts the institutional attribute of justice (though still alluding to a basic structure).

Consequently, we get no clear definition of the basic structure, but only the following kind of formulations: “Here we may view that law as governing the basic structure of the relations between peoples. (my emphasis)” Which could be read as meaning (though vaguely…) that the “scheme of international law” would constitutes the basic structure in and of itself. However, this would mean that the “basic structure” is so far from the way it is comprised in the domestic theory that it is hard to see what it would entail. It would be similar as seeing the two principles of justice—in the domestic case—as the basic structure, and not (like they are) as principles that we apply to the basic structure. Consequently, if Rawls really had this in mind, it would be necessary for him to explain how this fundamental change in the basic structure is intended to function (which he does not).

Instead of this view of the basic structure as the scheme of international law itself, I will adopt a more plausible interpretation put forward by Samuel Freeman (though, without elaborating on it): “for Rawls, the global basic structure would just be the set of institutions that are needed to give effect to the Law of Peoples. (my emphasis)” This would mean that the basic structure consists of the international institutions that Rawls incorporates into LP, something that would be similar to the domestic institutions, and consequently could be squared with the three ways that Rawls defines the basic structure in TJ (concisely formulated by Arash Abizadeh):

1. The institutions that determine and regulate the fundamental terms of social cooperation;
2. The institutions that have profound and pervasive impact upon persons’ life chances, or;
3. The institutions that subject coercion.

Accordingly, what we need to do is to change the wording from ‘social’ to “international” and ‘persons’ to “peoples”. Which would mean that the first point would fit nicely into the description of international institutions, since it is the place (as Rawls defines it) that the terms

---

22 The law of Peoples. p.40
for international cooperation/interaction is to be located. Furthermore, the second point also
rings true for how the institutions have a profound effect on the peoples prosperity, behavior
and chance to cultivate their own conception of right and justice. Accordingly, a genuine
possibility to preserve their political institutions, and the culture of their civil society. The third
point could be harder to apply on the global structure since the structure lacks a sovereign and
is still anarchical in its essence. Though the discussion later will try to establish the relevance,
that the second and third point has on the international institutions (the first point I view as
intuitively relevant).

Worth pointing out, to put some misgivings away, is that I find nothing in LP that conflicts
with this interpretation of the basic structure. Though, there could be an argument had, on the
difference of societal institutions and international institutions, and that the latter lack power
(consequently and issue on the third point described above) to be seen as the same type of basic
structure as in TJ. However, I would still argue that the first and second point is enough to
warrant—for the peoples—that the international institutions is a location where equality,
between the peoples, should be present, and therefore expressed through the political liberties
that the institutions form. Nevertheless, I will interpret the basic structure of the society of
peoples as the international institutions described in LP and not as the scheme of international
laws itself.

1.2.1 International institutions

Even though the purpose of LP is to describe a scheme of international laws, Rawls ascertain
that the representatives would need to create “guidelines” to shape the international institutions:
how the internal operations are to be performed; rights and duties within; the cooperation
between peoples; but also, how they are to promote, and enforce, the comply with the scheme
of international laws — and Rawls writes that:

\[
\text{In addition to agreeing to the principles that define the basic equality of all peoples, the parties will formulate guidelines for setting up cooperative organizations and agree to standards of fairness for trade as well as certain provisions for mutual assistance.}^{25}
\]

---

25 The law of Peoples. pp.42-43
Accordingly, Rawls looks at the scheme of laws as the “basic equality of peoples”, but in addition to this, the representatives also have to formulate guidelines for the “cooperative organizations”. This means that we must ask the question: what are these organizations, and what are their “main” purpose? Rawls puts forward three main goals for the organizations to realize:

1. One framed to ensure fair trade among peoples (like WTO)
2. Another to allow a people to borrow from a cooperative banking system (like the World bank)
3. and an organization with a role similar to that of the United Nations, which [Rawls] refer to as a Confederation of Peoples.

Hence, international financial institutions with the supranational construction of the Confederations of Peoples. This will then constitute the basic structure for the society of peoples that Rawls outlines, and the organizations will work as tools to secure the implementation of the eight laws. Though what is still lacking is an account of how these institutions will function, be organized, and which guidelines that are needed for “setting” up these organizations? I shall return to this later on — though what is certain is that Rawls lacks an answer to these questions.

1.2.2 Inequality

When it comes to international inequality in resources between peoples, or between individuals in different peoples, Rawls does not incorporate any principle into his theory that will eradicate these inequalities in resources. This is mainly because Rawls sees justice as a political concept, which means that justice is an associative duty, or right, that exists in its strongest form between cooperating individuals inside a society. Consequently, Rawls could, and has been, described as a “nationalist liberal”, a viewpoint that marks the global relations between peoples, or between individuals in different peoples, as not as significant and strong as the

26 The law of Peoples. pp.42-43
27 I will often refer to the term ‘resources’, and this will not just entail access to material resources but wealth and capital in general. Also, a significant access to technology, an advanced societal system. Consequently, a “resources strong” people, is a people that has access to all these “goods”. 
social relations. And as a consequence Rawls does not propose a principle that will eradicate or mitigate the inequalities that will emerge between peoples and between individuals in different peoples. The only egalitarian form of principle that Rawls incorporates is the final (8) law in the scheme: “Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime.” As is clear, the law has a cutoff point and the duty to assist disappears when the “unfavorable conditions” has been removed and also worth noting is that the “unfavorable conditions” that Rawls speaks of are conditions that makes it impossible for a society to achieve a well-ordered regime. Accordingly, the well-ordered peoples have only a duty to help these burdened societies to establish their just basic institutions, and not a duty to eradicate inequalities in resources. Furthermore, even if this law would warrant equalization of inequalities in resources, the subject for this assistance is only towards burdened societies, and never between the well-ordered peoples, that already have their just basic institutions. Consequently, the law cannot be a method to eradicate or mitigate the inequalities of resources between peoples.

2. Political liberties

I have now outlined the necessary parts to be able to derive what kind of political liberties the representatives would want to secure for their peoples within the international institutions, and by what principle these liberties would be distributed. It is necessary to bear in mind that I am not interested in finding what should be the political liberties that peoples would want to secure, but to try and deduce what political liberties the peoples would want to secure on the basis of how Rawls defines them. I will also make a delimitation and not include the problem of (immoral) people that would use the political liberties to promote some radically non-liberal agenda in the international institutions and block all the other arrangements. I do this on the basis that Rawls does not include these outlaw states in the society of peoples and are therefore not participants in the international institutions.

When it comes to the second question (the distribution) it should be evident (from the quotes and laws presented earlier) that the representatives would opt for a ‘principle of equality’ and

29 See Samuel Freemans book Rawls (pp.442-455) for an in-depth description of Rawls position on inequality.
30 The law of peoples. pp.113-114
31 Law of Peoples p.81
not a utilitarian principle or a majoritarian principle. This because both principles would not distribute the liberties equally, and Rawls defines the peoples as striving for equality and freedom. However, there are two places in LP where Rawls talks about justified inequalities in relation to the organizations: “In the working of organizations and loose confederations of peoples, inequalities are designed to serve the many ends that people share”33, and:

As in the domestic case, peoples think it reasonable to accept various functional inequalities once the baseline of equality is firmly established. Thus, depending on their size, some will make larger contributions to the cooperative bank than others and will pay larger dues in the organization of the Confederation of Peoples.34

This, however, would not constitute a reason for turning down the equality principle, since the quotes mainly talk about a kind of “tit-for-tat” relationship, where a larger contribution to issue a loan, for example, would entail a larger claim to the influence over the arrangement. Moreover, the establishing of a “baseline of equality” would indicate a foundational floor of equal rights that, like in the domestic theory, would not be bargained away for some increase in resources (a parallel that Rawls himself makes between the citizens and representatives of the peoples35).

Consequently, it would be strange to interpret the sentence: “serve the many ends that peoples share”, as an invitation to distribute political liberties according to a less equal principle. What possible end could be so fundamental that it trumps equality in political liberties? In Rawls own word: “the only ground for denying the equal liberties is to avoid an even greater injustice, and even greater loss of liberty”.36 Consequently, the peoples interest in self-preservation would be another reason to allow for an unequal distribution of political liberties. Though, it is hard to see how this could be construed as a demand for a constitutional, or starting-point, of inequality. Maybe in a short timeframe it would be rational—in some peculiar situation—to

---

32 As Rawls write in TJ, concerning utilitarianism (which also rings true for a majority restricting liberty for a minority): “In the absence of these presumptions the advancement of human ends may be compatible with some persons being oppressed, or at least granted but a restricted liberty. Whenever a society sets out to maximize the sum of intrinsic value or the net balance of the satisfaction of interests, it is liable to find the denial of liberty for some is justified in the name of this single end. p.211 – Theory of Justice
33 The law of Peoples. p.115
34 Ibid. p.43
35 Ibid. p.35
36 Theory of Justice. p.214
abandon your political libertines to ensure the fundamental interests (as Rawls defines them) for the peoples. However, in the long run it could hardly be a rational interest, to opt for a distribution that gives you de facto less, or a chance of less, influence over the institutions that affects you in a wide range of topics; as it would not be a rational interest for the citizens inside a society (I will connect the resemblance between them—as Rawls defines them—in the next section).37

When it comes to the political liberties per se, I contend that the representatives in the international original position would opt for a similar scheme of equal liberties as the individuals in the domestic original position. This I will argue for through the use of something that Norman Daniels calls the ‘relative rationality proof’38, though I have adjusted the steps to suit the claim I want to make:

1. If it is rational of $y$ to choose $x$ in the original position from $z$
2. then it is also rational of $d$ to choose $x$
3. if $d$ is also $z$.

Therefore, what I am not going to do is to validate Rawls’ view on political liberties in general, but to confirm the relative consistency that he needs to employ between the representatives in LP and the individuals in TJ. This is because the two subjects are characterized with similar attributes that should warrant an interest in being treated alike by the basic structure. Attributes like: having a distinct moral nature; acting rationally; and striving for equality and freedom in relation to their fellow citizens or peoples.39 Accordingly, the steps above would say: if it is rational of citizens to choose an equal set of political liberties in the original positions from interest in equality etc., then it is also rational of peoples to choose an equal set of political liberties, if the peoples is also interested in equality etc. This means that the central claim I am making, is that there are no relevant differences between how Rawls characterize citizens in TJ and peoples in LP, that would demand a weaker or different form of political liberties, for the peoples, in the international institutions.

---

37 See Theory of Justice §36 Political justice and the constitution.
38 Norman makes an analogy between this type of proof and the “relative consistency proofs in mathematics”. Which he writes down as: “If it is rational to choose $x$ for reasons $R$ in the original position, then, if $R$ constitutes equally good reasons for choosing $y$, then it is also rational to choose $y$ in the original position. See: Daniels, N. (1989). Reading Rawls: Critical studies on Rawls’ A theory of justice (Stanford series in philosophy. Studies in Kant and German idealism). Stanford, Calif.: Stanford Univ. Press. p.264
39 See in The law of Peoples §2. Why Peoples and Not States?
When it comes to the nature of political liberties, Rawls defines them in TJ as: “liberties that enable citizens to participate in public life”\(^{40}\), which entails liberties that make it possible for citizens to influence the political procedure in a society and consequently effect the coercive power that the social institutions exercise. This “influence” can be gathered under the political liberty that Rawls calls the *principle of equal participation* (PEP), and accordingly this is the most central liberty, that also peoples on the international level, would have an interest in securing within the international institutions.

However, this principle rests on the assumption that some prior liberties are in place to have a genuine possibility to take advantage of PEP, and Rawls see these liberties as: “a regime [of] freedom of speech and assembly, and liberty of thought and conscience.”\(^{41}\) Accordingly, we must ask if these liberties are present for the peoples on the international level? I would argue that this is the case. This stems from the anarchical structure that peoples now find themselves in, and would still find themselves in, even if Rawls theory would be implemented. Consequently, the ‘freedom of assembly’ is by per definition what peoples, as a concept, have through their sovereignty, and is not something which international institutions must establish or incorporate into their internal structure (the same goes for ‘liberty of thought, speech, and conscience’). This means that peoples cannot suppress, in the international institutions, these prior liberties from being exercised, except by a major breach of sovereignty; which would mean outright occupation (annexation) of another peoples territory, consequently like aggressively killing or imprisoning an individual in a society. These prior liberties are accordingly ascertained by peoples right to sovereignty; though, as I will argue later, these liberties could be seen as fruitless if the PEP within the international institutions is not established (what is the free exercise of conscience, thought, and speech, worth (politically) if you do not have substantial possibility to influence the institutions?)

Nevertheless, I would contend that PEP would be the overarching political liberty that the representative would have an interest in securing within the institutions, and that this interest derives from Rawls own theorizing (consequently from the relative rationality proof). Which means that what is rational for the individual to choose in the domestic case, must be rational for the peoples on the international level. By reason of both subjects desire to secure their autonomy and equality in relation to all other subjects, and that there are no reasonable

\(^{40}\) Justice as Fairness. p.148

circumstances that would lower this expectation for an equal chance of influence over the international basic structure.

However, what is left to determine is the form that PEP would need to take, to satisfy the peoples’ desire of it. When we look at the domestic theory (TJ), we are looking at a democratic and liberal society where the political procedure is defined as a typical ‘majority-rule’. Accordingly, the political system gets it legitimize—in the eyes of the citizens—through the citizens possibility to democratically influence it by the universal suffrage. However, a similar system would hardly be acceptable between autonomous peoples, and would need a (world) sovereign to enforce the decisions on the “political minority” (or shall we call it “the opposition”?) Accordingly, the peoples would opt for a stronger version of political procedure; what is called a “consensus-based procedure” (where everyone accept the decision proposed). This would mean that any resolution, decision, trade-agreement etc. would need to be accepted by all reasonable seen\(^{42}\) as concerning parties before implementing it. Even though, I think this form of decision-making procedure, is the only viable, and stable, form that could exist between peoples on the international level, I find the topic to large for this essay to expand on. Instead, I only want to make the smaller claim that the representatives would not accept a system of minority-rule or be content with domination by the wealthier peoples. Accordingly, they would all strive for an equal possibility to influence the international institutions — and any influence that would move away from this equality is a problem for Rawls and his theory.

However, an objection could be raised, that the absence of a sovereign to bequeath these rights to the peoples’ would constitute a problem for how these rights could be established within the institutions. I admit that it would be unrealistic, and unstable, if we talked about an extensive set of equal entitlements, for example, and entitlement not to be slandered orally, or in writing, by a citizen from another nation. How this could be upheld, without an overarching power that could enforce adherence to these rights, across the global, would indeed stretch the capabilities of the supranational institutions that Rawls are envisioning. Nevertheless, the right that PEP is setting forward, is not a right that is restricting what type of conduct the peoples (or the citizens within peoples) are lawfully permitted to do (with regard to other peoples). Instead it is a right that gives legitimacy, and justification, for the decision that are reached within the institutions. Consequently, something that plays an

\(^{42}\) I am not going to expand on this notion of “reasonable seen”. Though, it must be the case that a line should be drawn, where a party could be seen as affected by a proposed decision, and consequently justified in taking part in the procedure. Just like I should not have a justified influence, if person \(a\) and person \(b\) are discussing the conditions for a loan between them.
instrumental role in establishing adherence to the agreements that are made and should be viewed (rationally) as something that benefits all the participants (when they are made through consensus). This means an instrumental, and a justificatory, need from the peoples to ascertain that the PEP be implemented in the international institutions. Accordingly, something that could fill the room for a need of a sovereign to secure these rights. However, I see that this line of argument would need more space than is possible, in this essay, to really establish. Though, my claim, is that this does not invalidate that justice would demand that peoples´ have a right of an equal possibility to influence the decisions made in the institutions (relying on the three traits of a basic structure, mentioned above) and if Rawls would try to depart from PEP, it would demand a powerful line of arguments (especially if it is going to be argued from a liberal and democratic line of thinking). Accordingly, this equality in influence over the decision take within the institutions, must be seen as an “Rawlsian” starting point, and every departure from this baseline, would need to be justified to the participants.

3 The consequence of inequality of resources.

Now that I have argued for the peoples demand of political liberties within the international institutions, I am going to argue that LP lacks a sufficient way to secure these rights.

The problem, or critique, has been raised before by Norman Daniels, in relation to TJ, in his article “Equal Liberty and Unequal Worth of Liberty” — and to the credit of Rawls, he acknowledges this problem when outlining four reasons for regulating the economic and social inequalities within a society, and one of these addresses the problem of how significant inequalities of resources stops individuals from having an equality in (worth of) political liberties.43 44 The problem that Norman raises is one where Rawls attempt to square the equality in political liberties with the inequality in resources is an unrealistic assumption of how these two entities affect each other. Especially since Rawls puts no cap of how big the inequalities can get (as long as it benefits the poor) and how they will create a gap of power between the rich and the poor. This will, in turn, create a difference in the ‘worth of political liberties’, which is an

43 Inequalities in resources can also be seen as an inequality in power. Hence when I use this different formulation they should be connected to each other.
44 Justice as Fairness. pp.148-150
illustration of how citizens can have equal political liberties (we can call it formal also) but still have an inequality in the *worth* of political liberties. Accordingly, a society where universal suffrage has been implemented, gives every citizen the freedom to influence the political structure of that society, and therefore, it could be said that: every citizen is equal in his, or her, right to influence the social institutions in that society. However, this is something that Norman criticize Rawls for supposing\(^45\) — since the possibility of exercising these political liberties, is greatly affected by how much resources you have, to exert these liberties. Therefore, the wealthier class of peoples can use the liberty of universal suffrage to—through their power/capital—have a greater influence over the political system in a society, which would mean that a genuine equality is not present — and Norman points to three areas where this problem is present:

For example, universal suffrage grants that the wealthy have more ability than the poor to select candidates to influence public opinion, and to influence elected officials. Consequently, a clear inequality in the liberty to participate in the political process emerges.\(^46\)

Similarly, though wealthy and poor are equally entitled to a fair trial, are ‘equal before the law’, the wealthy have access to better legal counsel, have more opportunity to influence the administration of justice both in specific cases and in determining what crimes will be prosecuted, and have a greater ability to secure laws that favor their interests. Again, the wealthy and poor are equally free to express (non-libelous) opinions in the appropriate circumstances.\(^47\)

The wealthy have more access to and control over the media and so are freer to have their opinions advanced. This inequality in freedom of speech is one of the greatest importance since it means views which represent particular interests, that is, those of the best-off classes, are most likely to get advanced. […] If the wealthy have greater liberty to

\(^45\) Though, Rawls do see this problem, but Norman thinks he does not, successfully, tackle this problem.

\(^46\) Reading Rawls. p.256

\(^47\) Ibid.
affect the political process, then they may also acquire greater influence over the schools and what is taught in them. 48

In this essay I will make a delimitation and primarily focus on the first example (which means the political liberty of PEP) because of the more easy-going applicability it has to the international level and the effect that unequal power has on this liberty. However, I contend that a case can be made for the other two examples, though that would be a much more intricate thesis to defend; but, in the light of this problem, how does Rawls try to address it?

In JF Rawls attempts to defend his theory by referring to the concept of “guarantee of the fair values of the political liberties”4950. This boils down to an emphasis on how the first principle of justice demands constitutional solutions that guarantees individuals their equality in political liberties, and even though Rawls admittedly sees the difficulty of outlining how these solutions should work, he describes four possible ways to mitigate the problem:

(1) Public funding of elections.

(2) Restrictions on campaign contributions.

(3) The assurance of a more even access to public media.

(4) Certain regulations of freedom of speech and of the press.51

I believe that these four solutions together constitute a way of mitigating the problem: restricting private capital way to influence the elections, while also heightening the poorer citizens “liberty worth” through the access of public funding. Though, as Norman points out, it is a problematic assumption to believe that constitutional provisions will be so successful that they satisfactorily eradicate the effect; can the power of the wealthy, in a stable manner through time, be constrained by these provisions? 52 Without a comprehensive political sociology, it would be a problematic assumption to believe this and that the agents in the original position would opt for a draft of institutional solutions that only suffice to stop “the effects of inequalities” instead of reducing the “inequalities per se”. However, I will not dwell

48 Reading Rawls. pp.256-257
49 Therefore, making these political liberties specifically important for the theory to realize, and thus for a society to guarantee. Which could be contrasted with the much weaker liberty of property owning etc.
50 Justice as Fairness. p.150
51 Justice as Fairness. p.149
52 Reading Rawls. p.258
deeply into this discussion (on the national level) but return to how these four safeguards would work on the international level.

4 Applying the critique to Law of Peoples.

In this section, I will argue that the problem of how inequalities in resources affect the equality in political liberties, will also be present for the peoples’ right to an equality of political liberties within the international institutions, and that Rawls cannot employ the defense he used in the domestic case to mitigate the problem. However, to the credit of Rawls, he once again (this time in LP) acknowledges the problem that Norman pointed out in relation to TJ and he writes:

“A third reason for considering the inequalities among people’s concerns the important role of fairness in the political processes of the basic structure of the Society of Peoples. In the domestic case this concern is evident in securing the fairness of elections and of political opportunities to run for public offices. […] Fairness also plays an important role in the political processes of the basic structure of the Society of Peoples, analogous to, though not the same as, its role in the domestic case.” 53 (My emphasis)

The question then is how does Rawls address this problem? By allowing inequality in resources between the peoples on the international level while including an idea that people would demand an equality in political liberties within the international institutions; how does the wealthy, or dominant group, get restricted from an influence on the international institutions that will make the political liberties unequal? In other words, how does Rawls answer to this problem of inequality in power?

Far from satisfactorily does Rawls try to address this problem, on the international level, with only a couple of lines after the section I quoted above:

Basic fairness among peoples is given by their being represented equally in the second original position with its

53 The law of Peoples. pp.114-115
veil of ignorance. Thus, the representatives of peoples will want to preserve the independence of their own society and its equality in relation to others. [...] The parties will formulate guidelines for setting up cooperative organizations and will agree to standards of fairness for trade as well as to certain provisions for mutual assistance. Should these cooperative organizations have unjustified distributive effects, these would have to be corrected in the basic structure of the Society of Peoples (My emphasis).54

There are a couple of things to say regarding this answer. The first emphasized line seems to say that a “basic fairness” is sustained by the modelling of the representatives in the original position — something which do not address the problem at all, since the problem is a realistic assumption of what will happen when great inequalities between the people emerge through time, and the inequality it creates in the worth of political liberties.

The second emphasized line (in the quote) ascertains that “the parties” are going to formulate guidelines, to develop a fairness between the peoples inside the international institutions, though there is not indication of what these guidelines will look like (something I will discuss later on). Finally, the third emphasized line (in the quote) is basically a truism: acknowledging the fact that unjust distributive effects must be corrected. But it does at least contain some insights where Rawls thought that the correction would need to take place: in the basic structure (the international institutions). Accordingly, neither does this line give a satisfactory answer to the problem outlined above.

Before I go on to address the so called “guidelines” that are supposed to combat the problem, I need to outline the difference between how, inequality in resources affects political liberties within a society, contra how it affects the political liberties within the international institutions.

4.1 Direct and indirect action

Since there is a difference in the structure of the national and international level, it generates different ways that the inequality in resources affects the equality in political liberties.

54 The law of Peoples. p.115
Especially since the international level is not a political system per se, but a collection of autonomous units that create a platform for interaction and exchange between each other (though remember the link between the three traits that Rawls characterizes the domestic institutions and its applicability to the international institutions) and are “free” do decide if they want to accept different deals within, or outside, of the organizations. Consequently, they are radically different from a society where all individuals are coerced to accept the arrangement that the sovereign state implements, and where the legitimacy of this type of political construction comes from the universal suffrage, which makes every citizen, participants in the political system. This then makes it possible to distinguish between two forms of action that leads to inequality in political liberties: a direct and an indirect form.

The latter (indirect form) is the one that I find present inside a society, where wealthier citizens can use their resources to exercise their political liberties, and accordingly—because of this inequality in resources that exists between citizens—have the indirect effect of removing the equality (when increasing their own worth of the political liberties) that should exist between the citizens (according to Rawls domestic theory). Therefore, this is not a direct action on the equality itself, which, instead is the form that I find present at the international level. Here the inequality of resources brings out a conduct, and possibility, of the wealthier peoples to use means of coercion on the poorer people to accept agreements that they do not genuinely want to accept. This comes about through means of agitation with: abatements of loan; allowances; or displacement of international companies etc. (the list is long of possible lobbying that a dominant part can use). This is turn makes the equality of political liberties, that should exist between peoples’ inside the international institutions, worth nothing, for the weaker peoples.

Example of this type of behavior can be found throughout the history of wealthier nations (e.g. USA and England) and is a constant inhibition for the weaker nation to reach their full potential; something which has been, for example, disclosed in Ha-Joon Changs book Bad Samaritans, where he shows how IMF, The World Bank and the WTO (‘the unholy trinity’ which he rather acidly refers to them) is used as an instrument by the USA to open developing countries for their “domestic companies”\(^{55}\) to exploit, while also writing up trade deals with a bias towards the industrial countries, e.g. by creating rules that is profitable towards production, and selling of products that they are good at manufacturing. Meanwhile promoting trade laws that makes

---

\(^{55}\) Though, it would probably be more fit to speak of global or transnational companies, but I will leave the “domestic trait", in order to point out that the companies still have an base in the wealthier countries and accordingly is of benefit to them.
production in agriculture and textiles less profitable for countries that have an advantage in these areas, consequently resulting in a cheap import for the industrial countries\textsuperscript{56}.

This type self-interested behavior, with little concern for other nations, is something that Richard Miller has pointed out particularly being used by the USA (the only country in the world that could viable be argued to be an empire; though by a modern definition): “The United States uses its threat influence to shape the world trade regime through institutions such as the IMF and the World Bank.”\textsuperscript{57} Accordingly, using their power to hold back countries they do not favor, and deciding the recipients of aid (from the international institutions) that they think contains the right kind of political government (that benefits them) — and Miller writes:

For example, accommodating the United States and overriding resistance from other members, the World Bank Refused loans to Allende’s Chile, Vietnam and Sandinista Nicaragua. Yet it approved loans to Somoza’s Nicaragua, Marcos’s Philippines and Mobutu’s Zaire.\textsuperscript{58}

I will later take up more examples of this direct violation of people’s equality in political liberties through the use of coercion\textsuperscript{59}. However, even though I would contend that this is a common practice of the wealthier countries towards the poorer countries (though maybe I need to put in a saving clause, to affirm that the wealthier countries can, and also has done good things; like the European Recovery Program that America initiated after the WW2), I do not need to establish this larger claim of common practice. Instead, I will be contended with the weaker claim that this is how powerful nations sometimes will use their power to coerce smaller nations, which would still be a problem for some peoples’ desire for equality in political liberties. However, this difference between direct and indirect method is an important distinction to make, in order to combat the problem probably and to see how Rawls constitutional safeguards will work.


\textsuperscript{58} Modern Empire. p.136

\textsuperscript{59} See Richard W. Miller ’Globalizing Justice: The Ethics of Poverty and Power’ for more examples of US domination; Rainer Forst ‘Towards a critical theory of transnational justice’ for a description of the context of force and domination that constitutes the relation between nations. Also, Thomas Pogge (2001) ‘Priorites of Global Justice’ for how the present structure benefits wealthy nations and is uphold by them.
4.2 Rawls constitutional safeguards

After this description, of the differences that inequalities in resources generate on the national contra international level, I can go back to discussing the constitutional safeguards that Rawls proposed for the domestic theory and see how they would work on the international level. With the recollection that they would need to combat the direct form of action on the equality of political liberties.

I will contend that all these safeguards would either be: non-applicable on the international level, because they are intended to combat only indirect form of action on the equality, or because they fail to combat the problem properly. Accordingly, the “restrictions on campaign contributions” is only applicable to a structure where elections are the procedure where you distribute political power, and therefore not on an international level where there is no form of “campaigning” for decision-makers to get votes. Though, it could be argued that lobbying activity should be restricted, to not let private actors (like transnational corporations) have an influence over the decisions proposed. However, that would still fall short of stopping means of agitation, etc.

When it comes to the “assurance of a more even access to public media” with “certain regulations of freedom of speech and of the press”, I would contend that this would be an unrealistic view of the amount of power that the supranational institutions hold. For example, the UNs decisions come as recommendations and not as binding decisions. The same is true of resolutions, which cannot force states to act in accordance with them (though they can be seen as having some supranational moral authority and constitute a force in how the world opinion look at some particular action etc.) However, I would certainly see it is a problem that wealthier people can use large media corporations to bend the opinions towards policies that will be biased towards them, but I do not see how, in any viable or stable way, an organization like the UN, could enforce these kinds of restrictions on propagating certain types of viewpoints, that will give some peoples, within the institutions, an “manufactured consent” towards the policies they strive for. These constitutional safeguards would be an impossibility to enforce without a sovereign.

---

Though, I think something could be said for “public funding of elections” — or differently put: “public” funding of organization”. In Thomas Pogge’s article “An egalitarian Law of Peoples” he outlines a global resources tax that every nation need to pay when extracting resources from their territory, and then used to help unfortunate nations to manage their own societies etc. Therefore, I want to propose that it could also work as a funding for the international institutions themselves, and thus making them less susceptible to threats of withdrawal of sponsorship. Accordingly, the only safeguard of these four, that could mitigate the ways that means of agitation can be used.

A clear example of how the system, within the international institutions, is constructed with a disregard for equality, is the quotas-system (it is basically a one-dollar-one-vote system) that now serves as the way that decision-making power is distributed within the IMF and the World Bank. Just to illustrate the present form of inequality: the G-10 (which actually is 11 countries…) have just over 51 % of the votes and there are 195 countries in the world. Also, the USA is now the only country in the world with veto power, since “financial policy revisions (including how its resources are used), constitutional revisions, and changes in quotas and membership” need at least 85 % of the vote to be implemented” and the US has 17 % of the total vote.

However, this funding of the institutions would only combat one way that wealthier countries have and ability to influence the political procedure within the institutions and would not mitigate the problem of powerful countries directly using force on nations to enact certain agreement; so, you may think, why not have a constitutional safeguard that outlaws means of agitation? The problem, as I see it, is not one of how guidelines could be constructed to remove the direct action on the political liberties — but if it is reasonable to expect that any form of guidelines could accomplish this task.

4.3 The generic problem of constitutional safeguards

One striking problem with constitutional safeguards against the domination of poorer peoples from wealthier (which then corrupts the equality of political liberties) is the apparent disregard to comply with these safeguards, or differently put: to comply with what a just, moral

---

62 International Financial Institutions. p.9
interaction between peoples would demand. This is a realistic assumption of how this inequality in power, through resource, will work its way to influence how the relationship between the peoples—inside the international institutions—will play out.

Miller has pointed out that small and poor countries, like Burkina Faso, could theoretically stop the final accords of a deal since the international financial institutions is supposed to work towards consensus, but in reality, it has no actual possibility of being respected, since implicit threats of grave consequences is inhibiting their freedom of choice. Consequently, they are coerced to accept deals, and only a false form of consensus is being attained (which is no consensus at all…). And even though Miller is describing how America uses its “domineering influence” to force compliance on other nations, this should not be mistaken for a specifically anti-American critique, but how this kind of inequality in power “corrupts” the nation into action, that could hardly be described as just or moral. For example, the USA has interfered numerous times in (just to focus on Central America and the Caribbean) Guatemala, Nicaragua, Dominican Republic, Panama and Grenada, in order to prevent these countries from taking a course towards a leftist nationalist political regime. Other examples of unjust actions by the IMF are the conditions that accompany loans and how they stretch what is reasonable for a country to accept, to receive the loan. This is e.g. what happened to Korea (as a result of pressure from Japan and the USA) when it was weak and needed an influx of capital:

“Several features of the IMF plan are replays of the policies that Japan and the United States have long been trying to get Korea to adopt. [...] Koreans and others saw this…as an abuse of IMF power to force Korea at a time of weakness to accept trade and investment policies it had previously rejected.”

Worth pointing out is that this quote comes from Martin Feldstein article ‘Refocusing the IMF’, a conservative Harvard economist who was an economic advisor to Ronald Reagan, and hence not from some anti-capitalist leftist.

Nevertheless, I would contend that this explicit disregard to follow, and corrupt, the procedures that are outlined in the international institutions, makes it reasonable to believe, that the

63 Modern Empire. p.9
64 Ibid. p.10
65 In the sense that it is a corrupting of the intention of the organizations.
66 Bad Samaritans p.34
representatives in the original position would be highly doubtful of relying on these safeguards to eradicate the problem. It would be like having knowledge of how individuals, in a society, use their wealth to eradicate the equality in political freedoms, and that the constitutional safeguards that are implemented makes no leeway (except the public funding of organization) in abolishing the problem. Would they really be satisfied with that solution? It seems to me that this attempt to eradicate the effect of the inequality of resources, would be disqualified by the representatives.

Even though, this essay is not intended to give a solution on how this problem could be realistically eradicated, I think something must be said of the apparent opposite solution to the problem: eradicating the inequalities per se; which I would call the thesis of eradicating the inequalities, instead of the prior presented thesis: the thesis of eradicating the effect of the inequalities. Obviously, the prior thesis would require a major weakening of peoples sovereignty, because it would need a principle of redistribution that would level out the power, and consequently, the inequalities between the peoples. Something that would demand a world government (similar to a society’s structure) in order to enforce compliance. However, the unfeasibility of this kind of project would hardly need a thoroughgoing discussion and elaboration to ascertain. Nations/peoples hold very dear to their sovereignty, and it has, for a long time been a hard rock in the UN Charta; so, trying to remove it would be an unrealistic assumption (even if desired). Though, there is a problem of seeing this “formal removing/relaxing” (through the rewriting of the UN Charta) as only being a problem for the thesis to eradicate the inequalities per se. The thesis of only eradicating the effect of inequalities, still must tackle the problem of the substantial weakening of peoples autonomy, through the overarching power of international financial institutions and transnational actors, which have a huge effect on what kind of policies a country can enact to regulate their society’s. What I would call “a corridor of policies and politic” that is possible to carry out and still being able to function properly as a country (you just have to look at North Korea, an extreme, but salient example, or other countries that try to oppose the neoliberal world order).

Accordingly, a distinction between ‘power’ and ‘politics’, and how a problem emerges (for justice) when they are not conjoined on the same level. Something that Zugmunt Bauman has

---

67 See article ‘These 25 Companies Are More Powerful Than Many Countries’ on how transnational corporations has become and becoming more powerful than nations. With regard to economical strength, and hence influence in a liberal world-order. http://foreignpolicy.com/2016/03/15/these-25-companies-are-more-powerful-than-many-countries-multinational-corporate-wealth-power/
illustrated with his notion of how power now resides on a global level (in private actors) and politics still resides on a national level.68

Nevertheless, as I see it, the constitutional safeguards fail to combat the problem properly, and it is thus still left as a salient critique on LP. Though there is still one more way that Rawls could “avoid” this problem, and that is, LP explicit idealistic assumptions.

4.4. Idealistic approach.

A common way to defend Rawls (at least used by Samuel Freeman) is to bring up the idealistic assumptions that the theory “works in”. This means that Rawls´s theory is meant to describe global justice within an ideal background, and he makes two assumptions that makes it idealistic.

The first condition is the ideal, or strict compliance, theory, which means that “(nearly) everyone strictly complies with, and so abide by, the principles of justice”.69 This means that the peoples in LP abides by the scheme of international rules that Rawls outlines, or the guidelines that they are intended to formulate in the original position. The second ascertain that: “The society in question exists in the circumstances of justice under reasonably favorable conditions. These are conditions that, provided that the political will exists, make a constitutional regime possible.”70 This means that the theory is intended to be applied on a world where the peoples´ are not encumbered by starving, or some catastrophic circumstances, that would hinder them from implementing the theory.

There are several sections in LP where Rawls refer to these idealistic assumptions:

[A people] is not directed by the interests of large concentrations of private economic and corporate power veiled from public knowledge and almost entirely free from accountability.71

---

68 See his article ’Europe is trapped between power and politics’. https://www.socialeurope.eu/europe-is-trapped-between-power-and-politics
69 Justice as Fairness. p.13
70 Ibid. p.101
71 Ibid. p.24
A liberal people tries to assure reasonable justice for all its citizens and for all peoples; a liberal people can live with other peoples of like character in upholding justice and preserving peace.72

Just peoples are fully prepared to grant the very same proper respect and recognition to other peoples as equal.73

The fair terms are those that a people sincerely believes other equal peoples might accept also; and should they do so, a people will honor the terms it has proposed even in those cases where that people might profit by violating them.74

A further assumption here is that the larger nations with the wealthier economies will not attempt to monopolize the market, or to conspire to form a cartel, or to act as an oligopoly75

These quotes then indicate that Rawls stipulates a “constant” moral conduct by the liberal peoples, which could then be used as a counterargument for the grim description I have given of the actions that the powerful nations now use against weaker nations. This would mean that Rawls could refer to how his theory is working in an ideal situation and is not intended to incorporate the though of immoral conduct from the peoples. Accordingly, avoiding the critique by idealistically pushing it away from what the theory is setting out to do. Similar to how Rawls do not incorporate the thought of corrupt liberal peoples, that is ruled by an elite group of people, and not by the citizens (which could be said of the USA and other formally democratic and liberal countries). Nevertheless, is this a viable move for Rawls to make? I would argue that it is not.

If Rawls wants to work out an ideal for global justice, that not only strives to affirm some “logical possibility”, it must also be seen as socially possible, or as Norman writes: “it must comprise a workable conception of justice in light of what we know from general social theory,

72 Justice as Fairness. p.29
73 Ibid. p.35
74 The law of Peoples. p.35
75 Ibid. p.43
including psychology, sociology, history, economics, and political science.”76 What would otherwise be the point of the theory? Moreover, Rawls cannot assume a sort of moral heroism from the peoples, something I know he would not postulate, because he conditions his theory with two demands for a realistic theory:

(1) That it must rely on the actual laws of nature and achieve the kind of stability those laws allow, that is, stability for the right reasons. It takes people as they are (by the laws of nature), and constitutional laws as they might be, that is, as they would be in a reasonably just and well-ordered democratic society.77

(2) Its first principles and precepts be workable and applicable to ongoing political and social arrangements. 78

As the first demand indicates he cannot characterize peoples as “ideal actors” of the world. This would constitute an unrealistic assumption of the theory, which would make it merely hypothetical and not applicable. It must weave in our knowledge of how peoples act and behave (“by the laws of nature”) to not run the risk of being unworldly. At least when it comes to such big causal factors as the power relation that emerges between distinct weak and strong agents within the theory (I would not critique Rawls for miniscule idealistic assumptions…). Accordingly, the description I have given for how nations act towards each other, must mean to “take people as they are”, and a theory of global justice must face how the wealthier nations are behaving towards the weaker ones (which means seeing this power relationship). If the theory is going to be a realistic, and relevant, theory on how to eradicate the “greatest evils”; which is what Rawls is setting out do to (through the eradication of political injustices).

However, because of these considerations, I believe the idealistic defense to be a hopelessly unrealistic move, if Rawls wants to establish a theory that is socially possible, and not just logically possible. Accordingly, I believe that the problem, and therefore the critique, of LP as still being unconfronted.

---

76 Reading Rawls. pp.254–255
77 The law of Peoples. pp.12–14
78 Ibid.
5. Concluding remarks

In this essay I have outlined what kind of political liberties the representatives would want to secure for their people within the international institutions; how the international institutions should be seen as the basic structure on the international level; what kind of distributive principle the peoples would want to apply to the political liberties; and finally how Rawls’s theory fails to satisfactorily secure this equality in liberties (mainly PEP) for the people within the international institutions (basic structure), both through the constitutional defense and the appeal to idealistic assumptions.

I believe that the main problem lies in the assumption that the effect of inequality in resources (power) can be mitigated by some “guidelines” (constitutional provisions) and thus safeguard the fundamental interest of equality in political liberties. Throughout the essay I have tried to argue that this is a far-fetched assumption that does not square with the facts of how modern nations now interact with each other. Moreover, Rawls seems to have too much faith in the assumption that the success of a people is “causally internal” to them:

“I believe that the causes of the wealth of a people and the forms it takes lie in their political culture and in the religious, philosophical, and moral traditions that support the basic structure of their political and social institutions, as well as in the industriousness and cooperative talents of its members, all supported by their political virtues.”79

Consequently, not paying the necessary attention to the external (causal) effects that determines if a people generally will be successful.

However, I contend that this is not just a minor problem for Rawls, but a stark breach of the liberal tradition that puts freedom and independence as the major goal for justice (while Rawls also adding the emphasis on equality) and that this comes from his disregard of the effect that inequalities in resources will have on these coveted values. Accordingly, something that the representatives would, at great length, try to get a fair, and just solution on.

79 Law of Peoples. p.108
References


