

Rawls on Global Distributive Justice: A Defence

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Critical response to John Rawls's *The Law of Peoples* has been surprisingly harsh.¹ Most of the complaints center upon Rawls' claim that there are no obligations of distributive justice among nations. Many of Rawls's critics evidently had been hoping for a global application of the difference principle, so that wealthier nations would be bound to assign lexical priority to the development of the poorest nations, or perhaps the primary goods endowment of the poorest citizens of any nation. Their subsequent disappointment reveals that, while the reception of Rawls's political philosophy has been very broad, it has not been especially deep. Rawls has very good reason for denying that there are obligations of distributive justice in an international context. A global application of the difference principle would have been in tension with a number of very central features of his political philosophy.

There is a sense in which Rawls's claims about distributive justice, in *The Law of Peoples*, are under-argued. But this is primarily because they follow almost immediately from more fundamental commitments that he has adopted over the years: the idea of the basic structure as subject, the requirement that conceptions of justice be freestanding, the status that is assigned to the principle of efficiency, not to mention the overall pragmatism that informs his project. By drawing upon these themes in Rawls' work, I will try to show that one cannot deny the view of international relations outlined in *The Law of Peoples* without rejecting Rawls's approach to political philosophy as a whole (in all contexts, including the domestic one).

What Rawls puts forward, in the *Law of Peoples*, is essentially a dilemma for the partisans of global distributive justice. It should go without saying that if world government were either an

¹ John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999). All further citations to this work are in the text. Thomas Pogge calls Rawls's view an academic "rationalization of double standards of economic justice." *World Poverty and Human Rights* (Cambridge: Polity, 2002), p. 108. Kok-Chor Tan calls it "Rawls's egalitarian retraction," *Toleration, Diversity and Global Justice* (University Park: Pennsylvania State University Press, 2000). Martha Nussbaum describes his theory as "inadequate and half-hearted in the remedies that it offers." "Women and the Law of Peoples," *Politics, Philosophy and Economics*, 1 (2002):283-306 at 285.

attractive or feasible option, one could look forward to the day when principles of distributive justice would apply on a global scale. The question posed by *The Law of Peoples* is whether one can reject world government – and thus adopt a more-or-less strong commitment to traditional state sovereignty – and yet still endorse distributive justice as a normative principle to govern international relations. Rawls claims that the two are incompatible. Partisans of global distributive justice have for the most part avoided facing this dilemma, primarily because of systematic failure to think seriously about the institutional implications – and presuppositions – of their view.

What is distributive justice?

The discussion of Rawls's view sometimes gets off on the wrong foot due to a lack of consensus over what it means for there to be obligations of “distributive justice” in an international context. Here is what Rawls says: “Well-ordered peoples have a duty to assist burdened societies. It does not follow, however, that the only way, or the best way, to carry out this duty of assistance is by following a principle of distributive justice to regulate economic and social inequalities among societies. Most such principles do not have a defined goal, aim, or cut-off point, beyond which aid may cease. The levels of wealth and welfare among societies may vary, and presumably do so; but adjusting those levels is not the object of the duty of assistance. Only burdened societies need help”(106).

In other words, Rawls does not view inequality as problematic in the international context, and does not think that nations have any obligation to reduce it. The only obligation is to ensure a basic minimum for all. Once this has been achieved, there are no further obligations. Thus there is a duty of assistance only toward “burdened societies,” who due to adverse circumstances (either historical or natural), lack the ability to establish a well-ordered society. Rawls claims that well-ordered peoples have obligation to provide these societies with the means necessary to enter the “community of well-ordered peoples.” Well-ordered peoples also have an obligation to promote the respect for human rights abroad. Rawls defines rights broadly enough to include a right to “the means of subsistence and security”(65). Nations which fail to respect the rights of their citizens declare themselves “outlaw states,” which in turn licenses various forms of intervention on the part of well-ordered states aimed at restoring respect for human rights (81).

If we put these two obligations together, it seems clear that Rawls considers it to be an obligation of all nations to eradicate global *poverty*. What the restriction on obligations of distributive justice amounts to is the claim that there is no obligation to eliminate or minimize global *inequality*. It

is extremely important that these two issues be distinguished. Rawls's difference principle states that an increase in inequality is an affront to justice, unless the transformation through which this inequality was produced also maximized benefit to the worst-off representative individual. There is some ambiguity as to how this principle would be applied in the international context, but one thing is for sure: obligations of distributive justice would involve transfers a couple orders of magnitude larger than obligations of assistance. For example, since very few theorists believe that any existing welfare state has achieved perfect distributive justice (certainly Rawls does not), those who discuss global distributive justice must be imagining redistribution on a scale much larger than that which goes on within any existing welfare state.

It may be useful then to remind ourselves of what type of sums this involves. Take, for example, the regional equalization program currently administered by the government of Canada. The goal of this program is quite limited. It is simply to ensure that the provinces in Canada are able to deliver equivalent social services to all citizens while maintaining roughly comparable tax rates. Thus the program does nothing to address inequality in private holdings, it simply offers all citizens equal access, on roughly the same terms, to the public goods that are supplied by provincial governments.² While this equalization program can serve, it seems to me, as an uncontroversial example of a policy that is motivated by concerns of distributive justice (in this case regional), I think anyone would admit that it is exceedingly modest in scale. It falls far short of what would be required to achieve perfect distributive justice in Canadian society.

It is therefore instructive to note how large the amounts of money are that the federal government currently redistributes through this program. Only two provinces – Ontario and Alberta – pay into the equalization program, the other eight provinces are net recipients. In 1998, Alberta's equalization payments amounted to just under 9 per cent of its GDP. More concretely, equalization payments “cost” each Alberta citizen approximately \$3000 per year. This is an extraordinarily large transfer, considering the fact that it is occurring within a very wealthy nation, where there are very few barriers to the movement of trade, capital, and labor.³ For comparison, consider what would happen if Canada decided to adopt a country like Egypt as a new province. By the standards of

² The Canadian constitution describes it as follows: “Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.”

³ Few barriers, that is, relative to cross-border trade. See John MacCallum, “National Borders Matter: Canada-U.S. Regional Trade Patterns,” *American Economic Review* 85 (1995): 615-23.

underdeveloped nations, Egypt is not especially populous, nor is it exceptionally poor. Nevertheless, if it were a province of Canada, my back-of-the-envelope calculations suggest that the existing regional equalization program would require a transfer of approximately 30 per cent of the GDP of Canada to Egypt. Note that such a transfer would serve only to guarantee equal access to provincially-delivered public services – it would do nothing to redress inequality in private wealth, income, or labor productivity, and it would not solve the problem of financing federally-delivered services.

The point of this example is to show that, when we talk about applying principles of distributive justice in a global context, we are contemplating the transfer of massive amounts of money. Rawls's critics, however, seem to have much smaller sums in mind. Charles Beitz imagines that a global resource redistribution principle would ensure "economic conditions sufficient to support just social institutions and to protect human rights."⁴ Thomas Pogge talks about transferring one per cent of the GDP of rich nations.⁵ Obviously Rawls would have no objection to any of these proposals. Pogge is not calling for much more than existing international aid targets, and Beitz's resource redistribution principle has objectives that are no more ambitious than those envisioned under Rawls's own "duty of assistance."

It is perhaps useful to note that existing levels of charitable donation in the United States amount to approximately two per cent of that nation's GDP. Given that transfers of the size proposed by Pogge and Beitz are generally less than that, there is some danger of overkill in using distributive justice arguments in support of these transfers, when a variety of weaker, more widely accepted principles would suffice. It also runs the risk of cheapening the discourse of distributive justice. After all, if global distributive justice demands a level of redistribution not much greater than current levels of charitable donation in the United States, why should charity not satisfy the demands of distributive justice in the domestic case as well? Perhaps as a rule of thumb, we should say that anyone who is talking about transferring less than 50 per cent of the total GDP of the wealthy nations – probably the minimum that would be required to make a serious dent in global *inequality* – is not really talking about global distributive justice, but rather of some other form of obligation. Rather than watering down the principles of distributive justice, so that they can serve double-duty in both an international and a domestic context, it would be better to formulate two distinct sets of

⁴ Beitz, *Political Theory and International Relations*, p. 142.

⁵ Pogge, *World Poverty and Human Rights*, p. 205.

principles. This is Rawls's strategy. The duty of assistance is not a charitable (or supererogatory) obligation. It is a duty imposed by the theory of justice, when that theory is developed for the international case. When the theory is developed for the domestic case, it generates different obligations (more strictly egalitarian ones).

Finally, it is worth mentioning that insofar as inequality among nations is caused by harms imposed by wealthy nations upon poor ones, then obviously the wealthy nations have an obligation to desist. For example, agricultural subsidies in Europe and the United States artificially weaken the comparative advantage of many developing nations in these goods, and make it very difficult for them to access world markets. These subsidies should be eliminated, not for reasons of distributive justice, but because they constitute beggar-thy-neighbour policies. Many of Rawls's critics have faulted him for failing to accentuate the many ways in which the current world system imposes harms upon poorer nations – the terms of trade, the legacy of colonialism and imperialism, etc. This may be true, but it is tangential to the issue of distributive justice. Rawls does not deal with these issues in *The Law of Peoples* for the same reason that there is no discussion of murder in *A Theory of Justice*. There is simply no theoretical issue there to discuss – people shouldn't do it.

Four Rawlsian ideas

The example of regional equalization in Canada allows us to formulate the issue of international distributive justice in very concrete terms. Since the creation of the equalization program, the province of Quebec has been the largest recipient of equalization payments. In other words, the bulk of interprovincial transfers flow from Alberta to Quebec. Now imagine that Quebec were to follow through on its persistent threat to secede from Canada. Would it be reasonable for Quebec, after such a secession, to demand that the province of Alberta maintain its equalization payments? The question is not whether it is *probable* that Alberta would do so. We all know the answer to that. The question is whether the *demand* would be reasonable.

Although there are undoubtedly some Quebec separatists who would disagree, the most widespread normative intuition in Canada is that the government of Quebec, in declaring sovereignty, would forego all of its claims to equalization payments. It is not just that the government of Quebec would lose the power to make these demands stick. It is that the government of a sovereign Quebec would no longer have the entitlement, or the moral authority, to make such demands. (One can see, in the case of the European Union, that if states are prepared to give up some elements of their sovereignty, then they may enter into relations governed by

principles of distributive justice. But they cannot expect to retain full sovereignty *and* make such demands upon other states.)

These reflections suggest that there are no obligations of distributive justice in an international context, not solely for the “Hobbesian” reason that states cannot be expected to respect them, but also for the principled reason that sovereign states cannot reasonably make such demands upon one another. This is, at least, the intuition at the core of Rawls’s view. Four key elements of Rawls’s thought lead in the direction of this conclusion:

1. *The basic structure as subject.* Most moral and political philosophers have what could best be described as an instrumental view of social institutions. The job of the philosopher is to work out what obligations an ideal conception of justice would impose; the job of social institutions is simply to implement those decisions once made (in much the same way that police enforce the law). And in cases where “the crooked timber of humanity” makes it impossible to attain these ideals, the job of these institutions is to get things as close as possible to the ideal. But under no circumstances should issues that arise at the level of implementation be allowed to feed back into the formulation of the ideal. These “empirical” considerations would contaminate the theory, undermining its normativity. The only permissible exceptions occur in cases where it can be shown that it is *impossible* to implement a particular ideal.

Thus Beitz writes that the absence of “effective decision-making and decision-enforcing institutions” at the international level provides no reason for thinking that the demands of justice should be any different than in the domestic case, where such institutions exist. To allow such a distinction would be to “misunderstand the relation between ideal theory and the real world. Ideal theory prescribes standards that serve as goals of political change in the nonideal world, assuming that a just society can, in due course, be achieved. The ideal cannot be undermined simply by pointing out that it cannot be achieved at present.” Ideal theory requires only that “changes be possible.”⁶

This is, of course, a familiar view. One can find the same idea, expressed in almost the same terms, in Plato’s *Republic*. I think it is deeply mistaken, but I cannot develop that argument here.

⁶ Beitz, *Political Theory and International Relations*, p. 156. For similar thoughts on the character of “necessary” inequalities, see G.A. Cohen, “Where the Action is: On the Site of Distributive Justice,” *Philosophy and Public Affairs*, 26 (1997): 3-30 at 9.

Suffice it to say that Beitz's reasoning is deeply contrary to both the letter and the spirit of Rawls's project. Rawls, far from instrumentalizing social institutions, takes them as the point of departure in the development of his theory. Justice, in his view, represents the "first virtue of social institutions."⁷ He does not ask what justice demands of the individual in the abstract. He starts with a particular institution, and asks, how should *this institution* be organized, in order to qualify as just? Thus entitlements that people receive under a Rawlsian theory of justice are not entitlements that they receive *qua* individuals, but rather *qua* occupants of particular institutional positions. Rights and duties are identified with roles, not with the individuals who occupy them.

In his account of justice in the domestic case, Rawls takes the *basic structure* as subject. The principles of justice that he develops – the difference principle in particular – are specifically keyed in to the particular characteristics of the basic structure. He repeatedly emphasizes that they are not applicable to other social institutions. His two key principles of justice are therefore far from universal. Even within the scope of the basic structure, "in many, if not most cases these principles give unreasonable directives. To illustrate: for churches and universities different principles are plainly more suitable."⁸

Beitz takes the absence of a basic structure at the international level as merely an implementation problem, one that has no impact on the choice of normative principles. For Rawls, on the other hand, when the shift is made to the international level, the *subject* of justice changes. He is no longer producing principles of social justice for the basic structure, he is producing principles of justice for the international community, in which several key characteristics of the basic structure are absent (i.e. the "effective decision-making and decision-enforcing institutions" that Beitz mentioned, otherwise known as democracy and the rule of law). This is not a minor difference. The key function of the basic institutional structure, in Rawls's view, is to provide the fundamental guarantee of *reciprocity* that permits mutually beneficial cooperation to emerge, both among individuals and across generations. The rule of law is what permits individuals to enter into cooperative relations with reasonable assurances that they will not be exploited by others. Given the central role that cooperation and reciprocity play in Rawls's system, the absence of the rule of law at

⁷ John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap, 1971), p. 3. For critical discussion, see Liam B. Murphy, "Institutions and the Demands of Justice," *Philosophy and Public Affairs*, 27 (1998): 251-283.

⁸ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 261.

an international level is not merely a “practical” difficulty. It plays a central role in determining what individuals can reasonably expect of one another under such circumstances.

Of course, many philosophers will be uncomfortable with this position. The requirement that existing institutions be taken as the point of departure smacks of a certain *tranquillisme*. How are we to criticize social institutions, if we take these institutions as the point of departure in the development of our normative principles? Yet there is no reason that we cannot take an idealized conception of how the institution could be organized (and there is no doubt that Rawls’s characterization of society as a “cooperative endeavor for mutual advantage” represents such an idealization, given the presence throughout history of slavery, exploitation, war, and so forth.) The point is simply that we cannot abstract away entirely this institutional context, and the practical difficulties that these institutions address. We cannot debate the death penalty, for instance, without the recognition that the innocent are sometimes convicted of crimes they did not commit. We cannot discuss marriage without the recognition that men have a greater propensity than women to abandon their children. We cannot argue about property rights, without the recognition that people often refuse to share with others, even when they have more than they need. In an ideal world all of these problems would not exist, and it is always “possible” that they could be eliminated. But if we assume them all away, we simply eliminate from our purview all of the interesting questions that a theory of justice might be expected to address. In fact, there is good reason to think that in an ideal world, we would not need justice at all.

Many theorists have failed to take the institutional character of Rawls’s program seriously, and so have gone on to apply the difference principle on a global scale, ignoring the absence of a “basic structure” at this level. Others have argued that Rawls overstates the differences between the two cases, and that all of the essential elements of the basic structure are already in place at the international level. This is Beitz’s view:

The world economy has evolved its own financial and monetary institutions, which set exchange rates, regulate the money supply, influence capital flows, and enforce rules of international economic conduct. The system of trade is regulated by international agreements on tariff levels and other potential barriers to trade. To these global institutions should be added such informal practices of economic policy coordination among national governments as those of the Organization for Economic Cooperation and Development, which are aimed at achieving agreement on a variety of domestic policies of local and

international relevance. Taken together, these institutions and practices can be considered as the constitutional structure of the world economy; their activities have important distributive implications.⁹

Of course, Beitz is perfectly correct to note that significant cooperation does occur at an international level. The question is whether this amounts to a “constitutional structure” in the absence of enforcement. In this context, it might be helpful to distinguish three different levels of cooperation, each of which makes progressively greater institutional demands:

- **Coordination.** When there are many different ways of doing things, it is often advantageous for everyone to select just one. When individuals are relatively indifferent among the options, this is known as a coordination problem. Such problems are resolved through conventions – driving on the right-hand side of the road is the classic example. The important characteristic of coordination problems is that, once the convention is settled, no one has any incentive to deviate from it. Thus the outcome of a coordination problem is win-win, and the convention is self-enforcing.
- **Cooperation.** In many cases, even though everyone will benefit from doing things a certain way, there remains a free-rider incentive. Individuals can do *even better* by letting everyone else respect the rule, then defecting when it comes their turn. For example, while traffic flows more smoothly if everyone refrains from entering an intersection until they are sure that they will be able to clear it when the light changes, each driver can get through more quickly by breaking this rule. Thus despite the win-win character of the outcome, it is not self-enforcing.
- **Redistribution.** Individuals may also benefit from entering into relations that exhibit solidarity. For example, they may agree to pool certain risks in the face of exogenous uncertainty – drivers may all agree to indemnify those who have traffic accidents. In this case, even though the arrangement is advantageous *ex ante*, it may wind up producing win-lose outcomes in the end. Thus redistributive arrangements, far from being self-enforcing, always generate an incentive for at least one person (the “loser”) to resist.

⁹ Beitz, *Political Theory and International Relations*, p. 148-9.

With these distinctions in mind, I think it is easy to see how grossly Beitz overstates the level of cooperation that exists in international affairs. Obviously, coordination is much easier to achieve than either cooperation or redistribution. Yet even coordination failure is ubiquitous at the international level. No country in the world would permit the use of different systems of standardized measurement within its own borders, yet Beitz is writing from a country that rejects the metric system. People in Great Britain and Japan still drive on the left-hand side of the road. Basic things like electrical plug-ins, television receivers, wireless protocols, even the size of nuts and bolts vary wildly from country to country, not to mention more complex artifacts, such as accounting principles, academic and professional certification systems, engineering and product quality standards, and both civil and criminal legal systems.

All of these are examples of coordination failures that would be unthinkable within a nation-state. We have not even begun to talk about failures of cooperation. World military expenditures currently account for 2.5% of world GDP, or US\$128 per capita. This is of course in addition to whatever is spent on domestic police forces, and so it can pretty much all be categorized as the product of a collective action problem. If there were a credible international authority capable of eliminating the threat of war, almost all of this expenditure could be eliminated. It would also be possible to protect marine life in international waters, control the greenhouse effect, eliminate all tariffs, quotas, subsidies and trade barriers, prevent currency crises, and impose uniform environmental and labor regulations. The fact that none of these possibilities are even vaguely on the horizon shows how otherworldly it is to talk about a “basic structure” in the context of current international affairs.

Beitz underestimates the seriousness of these problems, in part because he mischaracterizes the structure of the free rider problem in international affairs. He treats the problem as though it involved a potential *unfairness* among states, in cases where one contributes and others do not.¹⁰ Thus he describes the collective action problems that arise in international affairs as though they were instances of an assurance game, to be solved through “effective coordination of the actions of all of the actors involved.”¹¹ This represents a fundamental misunderstanding. The most persistent problems in international affairs take the form of prisoner’s dilemmas, not assurance games. And the issue is not that one may comply, while others don’t; it is that *none* will comply. As the history of the

¹⁰ Beitz, *Political Theory and International Relations*, p. 158.

¹¹ Beitz, *Political Theory and International Relations*, p. 159.

modern state has shown in the domestic case, these types of free rider problems can *only* be resolved through coercion (even when the outcomes are win-win, and not win-lose as they are in the case of redistribution).

All of this is just a way of emphasizing that the absence of the rule of law at the international level is not simply a detail, or an implementation problem. Rawls's two principles of justice are developed with the specific goal of assigning rights and duties to citizens who enter into cooperative relations with one another *within a duly constituted legal order*. It is difficult to imagine billions of people being able to resolve collective action problems outside of such an order, much less entering into relations governed by principles of distributive justice. So when we shift our attention to the international affairs, we are considering a fundamentally different institutional context – a context that is characterized, above all, by the absence of effective institutions. Here our obligations toward one another will of necessity be more modest.

2. *Conceptions of justice must be freestanding.* Rawls argues that a conception of justice suitable for a pluralistic society must not depend for any of its essential premises upon controversial religious, philosophical, or moral views. On the contrary, it must be capable of serving as the object of an overlapping consensus among those who are deeply divided over questions of value. Yet despite the central role that this constraint occupies in Rawls's later philosophy, it has been almost entirely ignored in debates over global distributive justice. This is surprising, given how heavily the issue must have weighed in Rawls's mind. After all, the idea that there are obligations of global distributive justice does not even secure agreement among left-wing liberals, much less among those who subscribe to other private comprehensive doctrines.

The most important point to recognize, in this context, is that Rawls is not a "luck egalitarian."¹² Luck egalitarians maintain that inequality is permissible only when the allocation that an individual receives is a consequence of a choice that he or she has made. Thus there is an obligation to eliminate inequalities that are due merely to circumstances that the individual finds him or herself in. Another way of putting it is to say that the goal of egalitarianism is "to extinguish the influence of brute luck on distribution."¹³ And since individuals who are born in poverty-stricken nations obviously find themselves with dramatically limited opportunities, due to circumstances

¹² See Samuel Scheffler, "What is Egalitarianism?" *Philosophy and Public Affairs*, 31 (2003): 5-39.

¹³ G.A. Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99 (1989): 906-944 at 931.

entirely beyond their control, it follows very closely from luck-egalitarian premises that there is an obligation to eliminate global inequality. Many partisans of global distributive justice have drawn a parallel between the case of natural talents and the inequalities of natural resources that exist in an international context.¹⁴ Some people are unlucky, and are born blind. Others are unlucky, and are born in famine-stricken countries, with no access to education or health care. If principles of distributive justice require that we redress the former sort of inequality, why would they not also require that we redress the latter?

Without getting into the merits of this argument, it is sufficient to note that Rawls does not subscribe to it, in either the domestic or the international case. While Rawls argues that social institutions should be *immunized* from the effects of natural inequality, he does not think that there is any obligation to *compensate* individuals who receive an inferior natural endowment. The circumstances of justice, in his view, are limited to cases in which individuals stand to engage in mutually beneficial cooperation. The principles of justice are designed to allocate the rights and duties associated with this scheme of cooperation. Thus the least advantaged representative individual, for the purposes of applying the difference principle, is the person with the lowest overall endowment of primary social goods, not the lowest endowment of primary natural and social goods.

In Rawls's view, being born blind, or being born in an underdeveloped country, is simply bad luck. A particular comprehensive moral view may impose an obligation to redress its effects, but that does not mean that justice imposes such an obligation. There are two obstacles that stand in the way of incorporating such an obligation into a conception of justice. The first is that for many people an obligation to redress such inequalities would eliminate the "mutual benefit" that arises out of social interaction. Many individuals would simply become net losers from a system of cooperation governed by such principles. The second problem is that it is too deeply anchored in a particular comprehensive doctrine, and so could not attract an overlapping consensus. Most people in the world do not believe in luck, they believe in fate and divine will. Consider the person who believes in reincarnation, and thinks that birth into disadvantaged circumstances is a form of atonement for wrongs committed in a past life. The prospect of a luck egalitarian achieving any agreement with this individual over the appropriate way to distinguish between the effects of choice and those of circumstance is close to zero. The wisdom in Rawls's political philosophy lies in the recognition that despite intractable disagreements of this sort, the two are still in a position to

¹⁴ See, e.g. Beitz, *Political Theory and International Relations*, p. 137-9.

engage in mutually beneficial cooperation, and should be able to agree to a set of principles for dividing up the benefits and burdens associated with such a scheme.

It should be noted as well that Rawls extends the principle of toleration, in the international context, so that he accepts not only non-liberal private comprehensive doctrines, but also non-liberal societies. He believes that, just as it is possible to have reasonable disagreements over the nature of the good life, and yet still live together under shared principles of justice, it is also possible for peoples to have reasonable disagreements over the desirability of liberal-democratic political institutions, and yet still co-exist within an international framework governed by principles of justice. Thus he rejects the view that liberal societies should not tolerate non-liberal regimes, and claims that the “society of peoples” should welcome into the fold what he calls “decent hierarchical peoples.” But this means that the principles of justice must be ones that would attract an overlapping consensus in this context.

Many critics have taken exception to this aspect of Rawls’s view. They believe, apparently, that there is no room for reasonable disagreement over, for example, the merits of representative democracy. Brian Barry, for example, argues that all non-liberal states should essentially be lumped together and treated as outlaw states.¹⁵ Rawls, on the other hand, rejects the sort of open-ended liberal interventionism that is entailed by such a doctrine. In the background is the plausible observation that, while intervention of this sort may be useful in promoting respect for fairly traditional negative liberties, it has not so far proved very successful in imposing the sort of political culture needed to sustain a democratic political order. However, the willingness to tolerate such disagreements means that, at the international level, not only can we not presuppose that everyone will accept every element of liberalism as a private comprehensive doctrine, we cannot assume that everyone will accept every element of political liberalism either.

3. *Justice includes efficiency.* Rawls’s philosophy is often lumped together with Ronald Dworkin’s as simply different versions of resource egalitarianism. Yet there are important differences. One of the most important involves the role that each assigns to the Pareto-efficiency principle. Dworkin acknowledges the “familiar idea in political theory that a just society will make some compromise between efficiency and distribution. It will sometimes tolerate less than perfect equality in order to

¹⁵ See Brian Barry, *Culture and Equality* (Cambridge, MA: Harvard University Press, 2001), p. 138-139.

improve average utility.”¹⁶ Yet he conceives of this conflict not as one between two normative principles, which must be traded off against one another in order to determine what is “just.” Instead, the demands of justice are dictated entirely by the principle of equality. In Dworkin’s view, the tradeoff with efficiency arises only when it comes time to implement these arrangements. Thus we may, for reasons of efficiency, be led to accept an arrangement that is less than perfectly just.

Rawls, on the other hand, believes that efficiency is not merely a practical consideration, it is a normative principle that must be incorporated into the theory of justice. As he wrote so famously, cooperation is governed by both a mutual interest (to maximize cooperative gains) and a conflict of interest (over who gets what, within the system of cooperation). The principle of efficiency essentially specifies how the “mutual interest” question is to be resolved, while the principle of equality specifies how the “conflict of interest” question is to be resolved. Both have comparable normative status, in the sense that neither is obviously subordinate to the other. Thus the difference principle is introduced, in order to specify when tradeoffs between them are acceptable. In a purely competitive economy (such as Dworkin assumes in the formulation of his resource auction¹⁷), there is never a conflict between the two principles. Under such conditions, Rawls’s view would never depart from pure egalitarianism. The tricky questions arise only when, due to empirical circumstances, the only Pareto-improvements available are ones that take society away from equality. Here, the difference principle specifies that we must choose the one that maximizes the allocation of primary goods assigned to the worst-off representative individual. Thus it is legitimate to accept, under certain circumstances, greater inequality when it results in improved efficiency.

This has always been a characteristic of Rawls’s system – it is why he accepts institutions, such as inheritance, which exacerbate inequality. After all, it is difficult to formulate an egalitarian objection to the elimination of inheritance. The problem is rather that abolishing inheritance would dramatically reduce incentives to save, to the detriment of *all* members of future generations. Human nature is such that individuals are more likely to forego consumption for the sake of their own children than for the sake of someone else’s. Rawls’s recommendation is therefore that inheritance be taxed, rather than abolished. The goal of such a tax would be to reduce inequality as

¹⁶ Ronald Dworkin, *Sovereign Virtue* (Cambridge, MA: Harvard University Press, 2000), p. 54.

¹⁷ Dworkin does in fact tacitly include an efficiency principle in his formulation of the resource-egalitarian ideal, he simply does not notice it because of the assumption of perfect competition. See Joseph Heath, “Dworkin’s auction” (forthcoming).

much as possible, up until the point at which the negative incentive effects of the tax begin to erode the condition of the least advantaged. The important conceptual point is that this taxation level does not represent a compromise between the demands of justice and the facts of human nature, it represents rather the demands of justice, *given* the facts of human nature.

Another way of formulating the point is to say that egalitarians cannot disregard moral hazard. All egalitarian social arrangements have an insurance-like character – they indemnify individuals, to a greater or lesser extent, against the effects of bad luck. A town that is devastated by floods, in a society committed to equality, will receive a transfer that reduces the extent of the loss. Yet the knowledge that such a transfer is forthcoming invariably reduces the incentive that individuals have to avoid such risks, or to minimize their losses. Thus more houses will be built upon flood plains in a society in which individuals are compensated for losses due to flooding. Egalitarian arrangements, in other words, can themselves create inefficiencies. (There are documented cases of malnutrition and starvation caused by egalitarian distribution systems that make free-riding more advantageous than farming.¹⁸)

The moral hazard problems generated by egalitarian arrangements would be far more severe in an international context than they are in the domestic case, simply because the absence of the rule of law in international affairs means that there is often no institutional mechanism in place to counteract them. Compare, for instance, the contrast between inheritance and the national savings rate. When we talk about “wealthy” countries, what we are really talking about is countries that have high levels of labour productivity. One of the major determinants of labour productivity is the domestic savings rate. Savings provide the pool of investment capital that in turn supplies all of the machines that enable workers to be more productive. Yet this savings rate functions very much like a public good on a national scale. Most of the benefits accrue to future generations, and so present workers often lack an incentive to maintain a saving rate adequate to promote industrialization and development. Countries that have industrialized over the course of the 20th century generally did so in part through their ability to overcome this collective action problem (either through cultural resources, as in the case of Japan, or through coercive measures, as in the former Soviet Union).

Given the direct relationship between savings and labor productivity, it seems clear that any system of global distributive justice would have to pool savings on a global level. Take, for instance, an individual who is born in Japan. When she enters the labour force, she can expect to produce

¹⁸ Robert C. Ellickson, “Property in Land,” *Yale Law Journal*, 102 (1993): 1315-97.

over US\$20,000 worth of goods and services per year. She can also expect to receive a salary that is commensurate to her productivity. But this has very little to do with her innate qualities. It has nothing to do with access to natural resources either, since Japan has almost none. It is largely due to the fact that previous generations of Japanese citizens have saved upwards of 25 per cent of their income. But why should one person, who happens to have ancestors who saved a lot, be richer than another, whose ancestors saved nothing? Thus the egalitarian case against national savings is identical to the egalitarian case against individual inheritance. Strict equality would therefore require pooling in both cases. And in both cases, this would have significant moral hazard effects. In the case of national savings, the effect of pooling would probably be to induce global *dissaving*. After all, as the behaviour of the United States currently demonstrates, the ability to secure foreign *credit* is sufficient to induce a negative savings rate. Thus an entitlement to a distributive transfer to make up for any shortfall in savings would almost certainly have even more dramatic moral hazard effects.

If this empirical claim is correct, then global redistribution of national savings would turn out to be an exercise in pure leveling-down. And thus, from a Rawlsian perspective, the loss of efficiency would trump the gain in equality. In many ways, the traditional elements of state sovereignty give national communities something akin to a “property right” over their public goods, in the same way that private property rights gives individuals control over specific goods. In both cases, the arrangement may exacerbate inequality. Yet this may be justifiable, on the grounds that it enables individuals to organize to supply benefits that otherwise would not be provided.

Rawls’s critics have unfortunately ignored this aspect of his theory. Beitz dismisses the concern over savings rates, arguing that while “it may be desirable to have incentives for societies to encourage savings and investment, and maintaining these incentives may require donor agencies to deny or restrict aid,” this is purely an “instrumental” question, “not a matter of justice.”¹⁹ This essentially Dworkinian way of framing of the issue is deeply contrary to the spirit of Rawls’s project. Efficiency questions, for Rawls, are normative, not instrumental. Moral hazard problems must be considered in the formulation of the theory of justice, not just at the level of implementation.

4. *Pragmatism*. Given the stature that *A Theory of Justice* has achieved, it is easy to forget that Rawls’s primary ambition, in writing that book, was to displace utilitarianism from its position as the dominant public philosophy. In his view, the problem with Kantianism, and social contract theories

¹⁹ Charles R. Beitz “Rawls’s Law of Peoples,” *Ethics* 110 (2000): 669-696 at 692.

more generally, was not that they lacked adequate theoretical expression, but that they had never been made operationalizable. No one had ever shown, in concrete terms, how Kantian contractualism could be used to resolve any of the problems that arise in the day-to-day operations of the state, or of any other large-scale bureaucracy. Thus utilitarianism persisted, not so much because of its theoretical merits, but because people understood how to do cost-benefit calculations, and knew how to apply the method to practical problems.

This objective is not simply a background feature of the project, it informs many of the theoretical choices that Rawls makes in the development of his program. One can see this quite clearly in his choice of primary goods as the *equalisandum* for the theory of justice. His primary rationale is simply that they are relatively easy to observe, measure and redistribute. In other words, his reason for choosing primary goods is pragmatic (in the non-philosophical sense of the term), rather than strictly philosophical. Similarly, he avoids tricky questions concerning the construction of an index to measure the value of these goods, with the observation that the worst-off representative's allocation of these goods will tend to be dominated.²⁰

One can see similar practical ambitions at work in *The Law of Peoples*. First of all, it is worth noting that Rawls is not primarily concerned with the question of how international relations should be structured, he is concerned to develop a set of principles to guide the *foreign policy* of liberal states (or “well-ordered peoples”) (83). Second, in the same way that he was concerned to defeat utilitarianism in *A Theory of Justice*, his primary ambition in *The Law of Peoples* is to dislodge “realism” – the idea that states should pursue their rational interests, while disregarding normative constraints entirely – as the dominant view in foreign policy thinking. In the United States, there is still an unusually strong tendency to pose all questions of foreign relations in strictly instrumental and strategic terms, i.e. with respect to the “national interest” narrowly defined. In this context, idealized constructions, in which the United States is instructed to give away large fractions of its GDP, are unlikely to have much of an impact.

Many philosophers consider these sorts of pragmatic considerations to be beneath them, or as contaminating influences in the development of normative theory. Of course, there are some good reasons for holding this view. But anyone who does so, then carries these presuppositions over into the discussion of *The Law of Peoples*, is not really engaging Rawls's project on its own terms. At the international level, Rawls's goal is to develop the outlines of a “realistic utopia,” one that could

²⁰ Rawls, *A Theory of Justice*, p. 94.

be achieved within, say, two decades. At the moment, states cannot even cooperate to eliminate massive collective action problems. No federal state would permit an arms race to develop within its own borders. Yet since it seceded from Ethiopia, Eritrea has spent roughly 25 per cent of its GDP on military expenditures. Ethiopia in return has spent up to 10 per cent of its GDP on the military. All of this is driven by a frivolous border dispute over an inconsequential piece of territory. The fact that the international community lacks the governance structures needed to prevent these sorts of collective action problems from arising shows how far off we are from being able to contemplate distributive justice. Nations (foremost amongst them, the United States) won't even cooperate with one another when everyone stands to gain. To imagine that any of them would accept net losses, and transfer significant portions of their wealth to foreigners, in order to conform to an abstract principle of distributive justice, is utopian in the most pejorative sense of the term. Rawls's unwillingness to countenance such an obligation, far from being an embarrassment to his philosophy, should rather be regarded as a minimum condition for participation in serious discussions of international relations. As he wrote in *A Theory of Justice*, "Conceptions of justice must be justified by the conditions of our life as we know it or not at all."²¹

The Wealth of Nations

In *The Law of Peoples*, Rawls rather brusquely dismisses one of the proposals for a global redistribution scheme that has received substantial attention in the philosophical literature – the global resource dividend proposed by Charles Beitz and developed further by Thomas Pogge. In my view, he is quite right to do so, since the proposal is entirely devoid of merit. Not only is it based upon a profound misunderstanding of the nature and causes of the wealth of nations, its overall consequences would be regressive – it would penalize underdeveloped nations and benefit richer ones. Rawls does not get into the details of these problems, he simply references some appropriate literature. In my view, the issue deserves greater attention. This is because the commitment to resource redistribution is what allows many partisans of global distributive justice to avoid confronting many of the difficult institutional problems that would attend any effort to implement their principle.

At the time that Locke wrote the *Second Treatise of Government*, the economy of Europe was almost entirely agricultural. As a result, the most important distributive issue was access to *land*, and

²¹ Rawls, *A Theory of Justice*, p.454.

the most pressing question was how to justify the unequal appropriation of this natural resource. Pogge and Beitz basically take this analysis, along with its physiocratic presuppositions, and apply it to the current international situation.²² Thus they argue that global inequality is based upon an unequal division of the world's natural resources. Beitz sums up the background theory of economic development in the following way: "Some areas are rich in resources, and societies established in such areas can be expected to exploit their natural riches and to prosper. Other societies do not fare so well, and despite the best efforts of their members, they may attain only a meager level of well-being because of resource scarcities."²³ Pogge analyzes the problem in similar terms, as one of "uncompensated exclusion from the use of natural resources." Since the "appropriation of wealth from our planet is highly uneven," the global poor must "watch helplessly as the affluent distribute the planet's abundant natural wealth amongst themselves."²⁴ Thus both Beitz and Pogge propose a global tax on resources, the proceeds of which would presumably flow from countries with an above-average resource endowment to those with a below-average endowment.

The problem with this analysis is that, between the 17th century and the present day, there have been some noteworthy changes in the structure of the economy. After all, Locke was writing before either the industrial revolution or the emergence of capitalism. As every economist since Adam Smith has affirmed, the explosion of wealth that we have seen in the past 200 years in richer nations is due to the effects of *capital*, not resources. This should be obvious to anyone familiar with the history of economic development in England, Holland, Japan, Taiwan, Iceland, or Hong Kong. There is essentially no correlation between the domestic supply of natural resources and the wealth of a nation, simply because the two have nothing to do with one another. The only exception is oil, which appears to be the example that set Beitz and Pogge off on the wrong track. Oil trades at artificially high prices because it is cartelized. If one looks at any other example (e.g. diamonds, gold, nickel, molybdenum, fresh water, agricultural land) it should be clear that resource endowment does

²² The reference to Locke is explicit in both Beitz, *Political Theory and International Relations*, p. 139, and Pogge, *World Poverty and Human Rights*, p. 202.

²³ Beitz, *Political Theory and International Relations*, p. 137. He goes on to make the ill-considered suggestion that resource-poor states might resort to war as a way of redressing these inequalities, and that "it is not obvious that wars fought for this purpose would be unjust," p. 142. At the risk of rationalizing the Japanese invasion of Manchuria, or the Iraqi invasion of Kuwait, it is perhaps best to leave these sorts of *lebensraum* arguments to the dustbin of history.

²⁴ Pogge, *World Poverty and Human Rights*, p. 202-3.

not translate into wealth in any direct way. (In fact, many have argued that the industrial revolution occurred in England precisely because its *lack* of domestic resources encouraged manufacturing.)

Thus the distributive effects of a global resource tax would be, at best, random. At worst, it would become a tax on poverty, since much of the burden of paying into it would fall upon nations with the least capital-intensive production techniques. Pogge is tempted by the thought that this cost would be “passed along” to wealthy nations, in the form of higher commodity prices. He forgets that it will be passed right back to poorer nations, in the form of higher prices for manufactured goods, which is what these commodities are exchanged for. Meanwhile, the “value-added” by the wealthy nations would be almost entirely untaxed, because their production is more capital-intensive. (25 per cent of the value of American exports is made up of intellectual property, which presumably has as close to zero resource content as possible.) Thus the overall effect of a global resource tax would simply be to reduce demand for goods whose production requires more natural (presumably non-renewable) resources, and to increase demand for more labor or capital-intensive substitutes.²⁵ Thus, for example, nuclear power would become less expensive than electricity produced in coal, oil, or gas-fired plants. This shift would benefit industrialized nations, simply because they are precisely the ones that use more capital-intensive production techniques.

The underlying fallacy lies in thinking that wealthy nations are wealthy because they consume so many resources. It is often mentioned, for example, that Americans make up 5 per cent of the world’s population, yet consume over 25 per cent of the world’s energy. Yet Americans are not wealthy *because* they consume so much energy. On the contrary, it is *because* they are wealthy that they consume so much energy.²⁶ It is their wealth, grounded ultimately in their labour productivity, that allows Americans to outbid others when it comes to buying this energy. The problem cannot be fixed by redistributing energy, it can only be fixed by eliminating the underlying productivity gap. To take just one example, in 1999 the average steel worker in China produced 41 tonnes of steel. Meanwhile, just across the border, the average worker at South Korea’s largest steel manufacturer produced 1,362 tonnes per year.²⁷ This statistic says pretty much everything that needs to be said

²⁵ Pogge regards this incentive effect as one of the advantages of the tax – but unhelpfully blurs the issue of externalities with distributive justice.

²⁶ Thus Kok-Chor Tan gets the lines of causality exactly backwards when he claims that “it is indisputable that much of global poverty is caused and sustained by a pervasive inequality in the distribution of the globe’s resources,” *Tolerance, Diversity and Global Justice*, p. 161-2.

²⁷ “Lovingly touched by Mao,” *The Economist* (Jan 31, 2002).

about why workers in China are poor and workers in South Korea are rich. Is it then any wonder that, when it comes to buying heating oil for his house, the South Korean worker can outbid the Chinese?

It should be clear from this discussion that when we talk about global distributive justice, resource redistribution will not do the trick. Any serious proposal must involve the redistribution of goods or of capital. Beitz tacitly acknowledges this, in an afterword to *Political Theory and International Relations*, written 20 years after its initial publication. In it, he subtly shifts his claim, so that he now grants that a nation's wealth is based upon "both natural resources and accumulated capital."²⁸ But this changes everything. Once it is granted that "accumulated capital" is a major determinant of national wealth, it becomes clear that international distributive justice could only be achieved through massive transfers of capital. And this immediately raises all sorts of problematic "equality of what?" questions (since one cannot simply redistribute money).

Within a given society, it is possible to come up with a reasonably plausible list of basic primary goods to serve as an *equalisandum* for the theory of justice. But this is because the basic institutional structure entrenches certain large-scale choices that have been made, regarding population levels, savings rates, development policy, industrialization, education levels, work hours, etc. and applies them universally to members of that society. This makes it possible to make rudimentary comparisons across individuals. For example, France has a legislated 35 hour work-week, which effectively fixes the minimum amount of leisure that all French workers receive. Income comparisons across individuals make some sense against this background. But how does one compare a French to an American worker? The United States has higher per capita GDP than France only because Americans work longer hours and have a higher rate of labour-force participation.²⁹ Thus the French should not be entitled to a transfer of wealth from the United States; they are poorer simply have a preference for leisure over consumer goods.

But then what do we say about countries that make more radical choices, such as refusing to industrialize, or refusing to institute population-control measures (the two examples that Rawls appeals to).³⁰ In a sense, people that opt not to industrialize, or participate in the world economy, in

²⁸ Beitz, *Political Theory and International Relations*, p. 206.

²⁹ Bart van Ark and Robert H. McGuckin, "International Comparisons of Labor Productivity and Per Capita Income," *Monthly Labor Review* (July 1999): 33-41.

³⁰ Tan claims that, in these examples, Rawls is appealing to the choice/circumstance distinction, claiming that because these countries "choose" to foregone wealth, they are not entitled to compensation. Rawls does not actually say this, he

order to preserve their traditional culture, are poorer simply because they have a preference for that culture over wealth (e.g. Bhutan). And people who refuse to use birth control have a preference for children over wealth. Neither of these two preferences is different in kind from the French preference for leisure over wealth. Of course, these people often don't have a choice in the matter, but neither do the French.

Thus the only way to come up with the system of global distributive justice that is not palpably unfair to certain nations is to specify an *equalisandum* that is sensitive to the all of these conceptions of the good life. Rawls's list of primary goods already attracted enormous criticism when it was first proposed (and he never came up with any solution to the problem of constructing an index to weigh the value of these goods against one another). Yet that list was formulated for the highly circumscribed context defined by the basic institutional structure. Such a list is much easier to formulate in this context, because the legal structures that exist at a national level already reflects the outcome of collective deliberation about societal priorities: economic growth vs. leisure, modernization vs. preservation of traditional culture, liberal education vs. job training, etc. In the absence of any basic structure, it is difficult to see how any such list could be adopted that would not unfairly penalize some nations.

In later work, Beitz recognizes that if redistribution is no longer to be based on resource endowment, then there is a difficulty in determining the appropriate basis. He dismisses this, however, as just one more "implementation" problem, one that does not speak against "the principle itself."³¹ He does not consider the possibility that the institutions needed to resolve this implementation problem *may be precisely those that make up the basic structure.*

World Government

Kok-Chor Tan claims that "various plausible institutional means of regulating global distribution have been proposed that do not invoke the idea of a world government."³² Pogge argues

merely claims that such transfers "seem unacceptable," without explaining why. Tan's criticism is based upon the false assumption that Rawls is a luck egalitarian. There are in fact all sorts of reasons why we might find transfers unacceptable: because they arbitrarily privilege one primary good among others, and thus fail to respect neutrality; because they generate severe moral hazard problems, etc.

³¹ Beitz, "Rawls's Law of Peoples," p. 691.

³² Kok-Chor Tan "Critical Notice of John Rawls: The Law of Peoples," *Canadian Journal of Philosophy*, 31 (2001): 113-131 at 130. The first example he gives, however, is Pogge's Global Resource Dividend, which reinforces the suspicion that a

that a decentralized system of sanctions would be sufficient to enforce his redistribution scheme.³³ Beitz argues that “global normative principles might be implemented otherwise than by global institutions conceived on analogy of the state.”³⁴

If all this is true, then someone should inform the architects of the European Union, because they have been drawing the opposite conclusion. To take just one example, the European Union now exercises more power over the administration of its Structural Funds than the federal government does over many comparable programs in Canada. In fact, the experience in Europe has been that, even when it is possible to create supranational institutions that are weaker than traditional state structures, redistribution schemes cannot be implemented without removing many of the prerogatives that sovereign states have traditionally enjoyed.

All of the talk about globalization in the past decade seems to have led many philosophers to forget just how “sovereign” the sovereign nation-state still is. It is worth remembering that nation-states can, and do, declare war in order to advance their national interests, often with complete impunity. The thought that they should be able to externalize the costs of such wars, transferring them to the international community, is intolerable. Yet this is precisely what a system of global distributive justice would permit. Humanitarian assistance already has this problem – yet at least in this case the moral hazard is minimized by the fact that the transfers are targeted and capped. Open-ended obligations of distributive justice would be far more vulnerable to exploitation.

Of course, this is a somewhat dramatic example. Yet it proves an important point. Warfare is one of the most anti-social forms of behaviour imaginable at an international level (the equivalent of pre-meditated murder in interpersonal relations). Yet if the international community is powerless to stop wars of aggression, consider what other forms of behaviour states are able to get away with. There are thousands of ways in which the traditional prerogatives of the state would interfere with the attempt to institute distributive justice on a world scale. The following list presents just some of

widespread misunderstanding of the sources of global inequality underlies the failure to take seriously the institutional obstacles to the implementation of global distributive justice. The second example that he gives is the “Tobin tax” on short-term capital flows, which he characterizes as a “long-term means of redistributing wealth globally.” This represents a misunderstanding of the nature of this tax. The Tobin tax is a species of Pigouvian tax, which means that it is designed to promote efficiency, not equality.

³³ Pogge, *World Poverty and Human Rights*, p. 208.

³⁴ Beitz, *Political Theory and International Relations*, p. 183.

the elements of state sovereignty that would need to be curtailed, before one could start thinking seriously about global distributive justice:

- **Currency.** States have the power to print money, and have proven themselves willing to abuse this power whenever given the opportunity. To date, no system of distributive justice has ever been implemented that extends beyond a single currency zone (or a set of “pegged” currencies). Entitlements would presumably need to be calculated using PPP values. Yet transfers would have to be denominated in some currency. There is enormous potential for manipulation here.

- **Savings rate.** Many states exercise enormous control over their national savings rates, through control of the public pension system, the public employees’ pension system, and tax-sheltered retirement savings vehicles. States also influence savings indirectly, through the central bank and control of interest rates. Given the connection between savings, capital accumulation and national wealth, this gives states the power to directly manipulate their entitlements under any system of distributive justice.

- **Budgeting.** One of the most significant powers of the state is the ability to transfer arbitrarily large portions of the burden of current expenditures to future generations, by issuing bonds and other forms of debt. How should this affect entitlements? Furthermore, global distributive justice would be equivalent to having the international community insure these bonds (with predictably perverse incentive effects). There is a reason that most federal states prohibit subsidiary units from borrowing. The European Union has had to impose restrictions upon its members in order to prevent abuse of the currency union.

- **Population policy.** Any measure of a country’s “endowment,” whether it be of wealth or resources, must be calculated per capita. Yet states control how many “capitas” there will be, through their almost exclusive control of population policy (e.g. whether to permit access to contraception, abortion, and family planning information, or whether to take measures needed to upset patriarchal family structures, etc.). One need only compare India and China to see the influence that population policy can have on development. Global distributive justice would eliminate one of the major incentives for sound family planning.

- Education and training. Most states exercise almost complete control over the education of their citizens, fixing the global education budget, determining the period of compulsory education, and in many cases determining what students will learn. This investment in turn has a massive impact upon capability development, labor productivity, and overall wealth. Should states that fail to make suitable investments be indemnified? What to do with states that invest more heavily in “liberal arts,” rather than scientific and technical education?

- Trade policy. It is important to recall that all trade barriers, whether they take the form of tariffs, duties, quotas, subsidies, or even anti-dumping laws, are all beggar-thy-neighbour policies – one nation benefits only if some other loses. Thus there is good reason to suspect that nations would never accept global distributive justice without global free trade as a precondition. At very least, there would have to be some absolutely binding arbitration mechanism. (It is not an accident that a customs union has preceded each step of European integration.)

- Defense policy. Obviously all states would need to renounce the prerogative to wage war. Yet it seems equally obvious that any system of global distributive justice would need to claw back transfers equivalent to any military expenditure above and beyond the minimum amount needed to maintain civil order and discharge peace-keeping responsibilities. This is not far from having the international community dictate the military budget of all countries.

- Social programs. States maintain exclusive jurisdiction over the balance of private and public goods that will be offered to their citizens. The value of these public goods is difficult to quantify, precisely because they are not traded on the market, (e.g. clean air, literacy rates, personal security, etc.). Yet unless a system of global distributive justice was able to quantify these correctly, in a way that was weighted for national preference, then any redistributive scheme would generate incentive effects that would favour one class of goods over the other.

- Environmental policy. Apart from public goods issues, states also impose enormous costs upon each other in the form of negative environmental externalities. It would be very difficult to calculate entitlements under a system of global distributive justice as long as there was no uniform system of environmental regulations. Regional variations in environmental policy have proven to be a major barrier to the extension of equalization programs in Europe.

- Taxation rates. States have the exclusive right to tax their citizens, which in turn gives them significant power over the distribution of wealth and income within their own borders. If the principle of global distributive justice were to take a cosmopolitan form, i.e. with entitlements determined by the endowment of individuals, then the power to determine taxation rates would give states enormous power to manipulate their entitlements. States could simply stop financing social assistance programs, and responsibility would default to the international community.
- Immigration. Freedom of movement of individuals across national borders would create adverse selection problems that, if left unchecked, would destroy all of the “universal” social insurance programs currently administered on a national level. So unless there were some world agency prepared to take over the primary functions of the welfare state, states would need to retain controls on immigration. Yet while immigration control eliminates the adverse selection problem, it does create the opposite “cherry-picking” problem. Under a system of global distributive justice, countries that were being “brain-drained” might reasonably demand compensation for the human capital lost.

The example of the European Union is useful, because one can see clearly how European states have had to surrender some portion of their control over each of these different areas, as part of the process of European integration, in order to make possible even modest redistributive programs. Furthermore, the extension of these programs is clearly limited by the outstanding differences in regional practices.

The important point is that these are not *merely* implementation problems. A state that insists upon retaining these elements of its sovereignty essentially declares its right to defect from cooperative agreements, and to pursue its national interests at the expense of the common good. A declaration of sovereignty is equivalent to a declaration that the circumstances of justice do not obtain. And thus, states that want enter into cooperative relationships governed by principles of distributive justice must be prepared to abandon some aspects of their sovereignty.

Conclusion

The real problem with the debate over Rawls’s views on global distributive justice is that his most outspoken critics all subscribe to what might best be described as a “reverse Thrasymachus”

view of justice. They believe that justice is simply the advantage of the weaker. Since the underdeveloped world is poor, and the developed world is rich, it seems to them self-evident that justice must require a transfer from the latter to the former. Any set of principles that doesn't produce such a conclusion must be false *eo ipso*. As a result, their underlying mode of reasoning is essentially consequentialist. Unlike Rawls, who takes seriously the idea that justice is grounded in a set of principles, his critics have an essentially instrumental attitude toward principles.

One can see this attitude front and centre in Beitz's work, who begins his section on international distributive justice by stating that "contractarian political theories... might be expected to encounter problems when they are applied to questions of global distributive justice," precisely because "it is not obvious" that these theories "support any redistributive obligations between persons situated in different national societies."³⁵ In other words, Beitz takes as his point of departure the assumption that a theory of justice must impose redistributive obligations across national borders. This normative conclusion is non-negotiable, the task is simply to rig up a theory that will confirm it.

Pogge and Tan exhibit similar instrumentalism. Both, for example, dismiss Rawls's concern that principles of distributive justice would not attract an overlapping consensus in an international context (due to the presence of non-liberal societies), by pointing out that non-liberal societies also tend to be very poor. So while they would never agree to *pay into* any sort of global redistribution fund, they will be more than happy to take money out. And since they are all likely to be net beneficiaries, their unwillingness to shoulder any obligations does not pose any obstacle to the implementation of a global redistribution scheme.³⁶ "Expediency" alone, Tan writes, is enough to motivate them to participate. This suggestion obviously makes a mockery of Rawls's claim that there is an internal connection between justice and reciprocity.

In contrast to many of his critics, Rawls never subordinated his work in political philosophy to the goal of promoting some particular political agenda or defending his prior moral convictions. He established rather a basic framework for thought about questions of justice, then explored the consequences in order to see where such a framework would lead him. Thus, in order to evaluate the theory, one must be at least open to the possibility that the development of a theory of justice

³⁵ Beitz, *Political Theory and International Relations*, p. 127.

³⁶ See Pogge, *World Poverty and Human Rights*, p. 107, Tan, *Tolerance, Diversity and Global Justice*, pp. 170.

will produce some surprising results, or that it may force us to reconsider our pretheoretic convictions. It is this openness that one senses is lacking among Rawls's critics.

In his work on international affairs, Rawls's primary concern is to consider what an egalitarian law of peoples would look like, absent any of the institutions that constitute the basic structure of society. In so doing, he formulates a major challenge for those who want to embrace wide-ranging state sovereignty, and yet still impose obligations of distributive justice among nations. After all, the idea that you can have distributive justice without world government is not so dissimilar from Marx and Lenin's view that you could have communism without the state. To dismiss this as merely an empirical difficulty, or an "implementation problem," is to ignore all that which is challenging and exciting in Rawls's political philosophy.