



Chris Brown

The construction of a 'realistic utopia' : John Rawls and international political theory

Originally published in Review of international studies, 28 (1). pp. 5-21 © 2002 British International Studies Association, Cambridge University Press.

You may cite this version as:

Brown, Chris (2002). The construction of a 'realistic utopia' : John Rawls and international political theory [online]. London: LSE Research Online.

Available at: <http://eprints.lse.ac.uk/archive/00000744>

Available online: April 2006

LSE has developed LSE Research Online so that users may access research output of the School. Copyright © and Moral Rights for the papers on this site are retained by the individual authors and/or other copyright owners. Users may download and/or print one copy of any article(s) in LSE Research Online to facilitate their private study or for non-commercial research. You may not engage in further distribution of the material or use it for any profit-making activities or any commercial gain. You may freely distribute the URL (<http://eprints.lse.ac.uk>) of the LSE Research Online website.

This document is the author's final manuscript version of the journal article, incorporating any revisions agreed during the peer review process. Some differences between this version and the publisher's version remain. You are advised to consult the publisher's version if you wish to cite from it.

The Construction of a 'Realistic Utopia':

John Rawls and International Political Theory

'The limits of the possible in moral matters are less narrow than we think. It is our weaknesses, our vices, our prejudices that shrink them.'

Jean-Jacques Rousseau *The Social Contract* Book II, Chapter 12.2 [cited from John Rawls *The Law of Peoples* p. 7]

Chris Brown
Department of International Relations
London School of Economics,
Houghton St.
London WC2A 2AE

c.j.brown@lse.ac.uk

Introduction

This article examines the international theory of the American political philosopher, John Rawls, whose oeuvre was completed in 1999 by the publication of a revised version of his masterwork, *A Theory of Justice*, and of his *Collected Papers*.ⁱ Of particular interest to students of international relations, included in the latter is his Oxford Amnesty International Lecture of 1993, which he has also extended into a short monograph of the same title *The Law of Peoples*.ⁱⁱ Rawls has intimated that with these publications his contribution to the debate on the nature of justice – which he was largely responsible for re-invigorating 30 years ago – is at an end. This is, therefore, an opportune moment to reflect on the contribution to international political theory of a writer who is, without doubt, the most influential Anglo-American political philosopher of his generation, if not since J.S. Mill. Others have already had their say on this subject, and the reaction of liberal, cosmopolitan, universalist writers such as Charles Beitz, Allen Buchanan, and Andrew Kuper has been generally hostile.ⁱⁱⁱ Part of the purpose of this paper is to redress the balance, and present a qualified defence of Rawls from a less cosmopolitan perspective, and one perhaps more closely attuned to international relations theory.

Rawls has not been a prolific author, nor has he addressed more than one subject. In 1958 he published an essay, ‘Justice as Fairness’, which set out the basic elements of his thought, and everything he has written since has been an elaboration, correction, extension or defence of the ideas expressed then.^{iv} At the end of his career, Rawls’s writings can be contained in four books – *A Theory of Justice*, *Collected Papers*, *Political Liberalism*, *The Law of Peoples* – the last two largely reworkings, in some cases simply re-presentations, of material contained in the *Collected Papers*.^v Rawls was, and is, a man whose life has been spent in the ivory towers; educated at Princeton, he taught briefly at Cornell before moving to his academic

home since the early 1950s, Harvard University, where he remains an Emeritus Professor. Unlike many residents of Boston's Latin Quarter, he has not become a public intellectual; some of his students, and rather more of his critics, figures such as Michael Walzer and Michael Sandel, have such a public profile, but Rawls himself is mostly unknown to those of his fellow-countrymen who are not students of political philosophy. This anonymity is clearly a matter of choice, but is no doubt buttressed by Rawls's lack of an accessible literary style – his prose is dense, and the organisation of his work is notoriously problematic; finding one's way around *A Theory of Justice* is a daunting task.

All this makes presenting his work to an international relations audience rather difficult. By way of comparison it may be helpful to call to mind the work of another great philosopher who felt the need to complete his life's work by turning to the 'international' – Immanuel Kant, also a resolutely non-public intellectual with a poor writing style. Like Kant, Rawls realised that his position on the nature of justice and the good life *within* the polity would be incomplete without an account of the relationship *between* polities. As will be seen, there are points of contact between the conclusions they reached and there are further similarities between the genres they employed in these final works. Just as *Perpetual Peace: A Philosophical Sketch* is in many ways a strange pamphlet, adopting the eighteenth century 'peace project' for a new enterprise, so *The Law of Peoples* has disconcerting features, not least the somewhat old-fashioned ring to its title. A further point of comparison here is that just as *Perpetual Peace* is incomprehensible without some knowledge of Kant's system and the three *Critiques*, so *The Law of Peoples* needs to be situated within Rawls's wider theory. This article will therefore begin with a brief account of that theory before setting out, and criticising, the argument of *The Law of Peoples*. Some ways in which Rawls's categories could be improved and fruitfully employed will then be discussed, before a few comments on

the nature of moral reasoning in international political theory, and the construction of realistic utopias, are presented.

Justice as Fairness^{vi}

John Rawls is predominantly concerned to determine the conditions under which the institutions of a society could be considered just; his aim is to write ‘ideal theory’, and to generate what he calls in the *Law of Peoples* a ‘realistic utopia’, which, for the moment, can be defined as an account of the world which is *utopian* in so far as it does not reflect existing social arrangements, but *realistic* in so far as it does not contravene anything we know about human nature.^{vii} His account, which he summarises as ‘Justice as Fairness’ employs the well-worn device of a fictional ‘social contract’ – the basic institutions of a society are just if the principles upon which they are based would be agreed to, under ideal conditions, by those they concern. Society is taken, for these purposes, to be a bounded ‘co-operative scheme for mutual advantage’, and we are invited as a thought-experiment to imagine the arrangements to which potential members of such a scheme would agree prior to its formation, in what is termed the ‘original position’. These potential contractors make their choices under the ‘veil of ignorance’; they know that there are certain ‘primary goods’ that all rational persons behind the veil can be assumed to want whatever else they want – and in the revised version of *A Theory of Justice* it is, importantly, made clear that these primary goods include what people need in their status as free and equal citizens as well as what they need for their general welfare and survival – but they do not know certain key facts about themselves, such as their race, talents, gender, or intelligence, or even their ‘conceptions of the good or their special psychological propensities’.^{viii} We are to invited to consider what principles would be chosen under these conditions.

Rawls assumes contractors will be risk-averse, which rules out principles that dramatically disadvantage some to the gain of the rest; thus, for example, no-one would choose a society based upon slavery unless they knew that they themselves would not be slaves, and this knowledge is denied them by the veil of ignorance. Accordingly, the first principle of justice that will be chosen by contractors is that 'each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others'.^{ix} More controversially, Rawls suggests that the second principle concerning distribution of social and economic goods will have two parts; first, is what he calls 'fair equality of opportunity', that is a system in which positions are, as far as possible, available to all under conditions where the influence of social circumstances such as social class is eliminated. Second, he argues contractors will accept as just only those inequalities of outcome which can reasonably be expected to be to everyone's advantage, that is, those inequalities which work to the benefit of the least advantaged members of society; this is what he calls the 'difference principle' (because it concerns legitimate differences in responsibilities and authority). There is a lexical ordering here; providing the most extensive equal basic liberties takes priority over distributional principles – contractors will not trade freedom for increases in economic efficiency. This is why they will reject the principle of average utility which is one possible alternative to the 'difference principle' set out above. On the other hand, the other possible principle of justice is strict egalitarianism, but this will be rejected because it could leave *everyone* worse off than under the difference principle.

A key question is whether these principles are thought to be universal in application, or are only appropriate to societies composed of people committed to liberal principles. The original text of *A Theory of Justice* was confusing on this point. Rawls now argues that his theory was actually intended to provide principles for a liberal society; however, he argues,

this theory was based on liberalism as a ‘comprehensive doctrine’ to which all were expected to adhere, and this was a mistake. In a ‘well-ordered’ society (a term Rawls adopts from Jean Bodin) there must be room for a plurality of ‘reasonable comprehensive doctrines’. Justice must be understood as political, not metaphysical. This means it must be based on principles that are capable of being the object of an ‘overlapping consensus’ amongst such reasonable doctrines. To elaborate this point, while a just society as such is based on liberal principles, it is not necessary for its members themselves to be full-blown liberals; what is required of them is that when arguing for particular principles or policies they do not rely on comprehensive doctrines (including secular liberalism itself). Thus, for example, practising Roman Catholics may believe abortion to be contrary to God’s law, but this is not an argument that they may validly employ in public debate, being required to defend their position via what Rawls calls ‘public reason’, that is, they must employ only those arguments to which believers in other reasonable comprehensive doctrines can reasonably be expected to respond.

This position is set out and defended in the essays that make up Rawls’s second major work, *Political Liberalism*. It is fair to say that the majority of liberal theorists who were inspired by *A Theory of Justice* have been much less enthusiastic about these later ideas, wishing, for the most part, to defend liberalism as a comprehensive doctrine.^x On the other hand, it will be seen that the arguments of *Political Liberalism* are more consistent with Rawls’s international thought than are those of *A Theory of Justice*, although it should be noted that the principles elaborated in *The Law of Peoples* were first set out in the earlier book, even though they sit more easily with the later development of Rawls’s thought. It may not be too fanciful to suggest that the shift from *A Theory of Justice* to *Political Liberalism* was, at least

in part, prompted by the realisation that there was a disjuncture in the earlier volume between Rawls's international and domestic thought.

The International Dimension – Take One

Rawls's oeuvre has generated more secondary literature than perhaps any other work of twentieth century political philosophy, in the Anglo-American world and beyond – continental philosophers as diverse as Jürgen Habermas and Paul Ricœur have engaged with Rawls.^{xi} *A Theory of Justice* is a grand treatise in the old style, very different in scope and ambition from the characteristic works of contemporary analytical political philosophy, but it is a flawed and incomplete masterpiece, and a veritable academic industry has been stimulated by these imperfections; indeed, Rawls himself has corrected and elaborated his original formulations at a number of points in a series of essays. Apart from the large scale critical studies it has generated – from libertarian, communitarian and socialist critics (e.g. respectively Robert Nozick, Michael Sandel, and Brian Barry)– the formal nature of his work has also encouraged a great deal of tinkering by friendly critics.^{xii} One aspect of *A Theory of Justice* that everyone, including Rawls, is agreed is unsatisfactory is the way in which international justice is handled.

Rawls assumes that there is more than one society, and that *for purposes of his theory* each society can be treated as though it were bounded, self-contained and self-sufficient; its members enter by birth, leave by death. Justice as between societies (he later says 'peoples', for reasons that will be discussed below) is to be determined by a second contract forged in a second 'original position', in which the representatives of just societies meet under a new veil of ignorance – this time they do not know the size of the territory, population, resources or relative strength of the people whose fundamental interests they represent, but they do know

that they represent just societies and in the new version of the argument set out in the revised *Theory of Justice*, just liberal societies. What will emerge from this second contract he suggests is, in effect, the conventional principles and practices of international law and diplomacy – equality of peoples, self-determination, non-intervention, non-aggression and so on; in the later version of the argument he includes, in addition, respect for human rights and ‘a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political and social regime’ (*Law of Peoples* p.37). These principles are explicitly taken to be analogous to the first principle of justice in society (the most extensive equal basic liberties) but there is to be no international equivalent to the second principle which concerns equality of opportunity and outcomes, that is, no principle of international *distributive* justice. This is because the ‘society’ composed of peoples who send representatives to the second contract, is not a society in the sense that it constitutes a co-operative scheme for mutual advantage, and therefore it has no output to distribute. Just institutions in domestic society must cover issues of distribution because all the members of society contribute to its collective output and therefore should have an equal say in the principles which govern the distribution of that output, but this reasoning does not apply at the international level.

Albeit for different reasons, virtually no-one has been happy with this reasoning.

Cosmopolitans such as Charles Beitz, Thomas Pogge, and Brian Barry have noted that under this schema great global inequalities could be legitimated.^{xiii} Individuals living in a world composed exclusively of internally-just liberal societies in each of which inequality would be strictly limited could still have radically different life-chances, which is, on the face of it, a perverse result. Pogge and Beitz wish to remain essentially true to Rawls’s formulations and argue that the facts of international interdependence, and the Kantian principle of respect for

individuals that Rawls also endorses, together mandate that there should be international principles of distributive justice, that is, that the difference principle should be applied universally and global inequalities should be accepted as just only when they work to everyone's advantage. To put the matter differently, Rawls's initial assumption that there is more than one society is regarded as premature by these writers; whether or not there is more than one society, and if so, the implications of this multiplicity, is regarded by them as something to be established under a veil of ignorance rather than simply assumed.

Barry, on the other hand, while sympathising with the radicalism of this suggestion, regards the international dimension of Rawls's thought as revealing a more general weakness with the notion of 'justice as fairness'. *Contra* Beitz and Pogge, Barry agrees that it is difficult to see the world as a 'co-operative scheme for mutual advantage' but, *contra* Rawls, he argues that 'mutual advantage' is, in any event, not a sound basis for a theory of justice. The point is that basing social justice on the notion of mutual advantage makes dealing with the claims of those for whom this notion is clearly inappropriate very difficult; examples here might include the mentally and physically disadvantaged whose contribution to society may be minimal or non-existent and future generations who by definition have done nothing for us, as well as members of other societies. The international inadequacies of Rawls's thinking are merely symptomatic of wider problems with 'justice as fairness', which Barry proposes to replace with 'justice as impartiality', impartiality, on his account, being a notion that does not rest on mutual advantage.^{xiv} Impartiality, he argues, leads to cosmopolitan principles, such as the notion that the basic needs of all should be met before the non-basic needs of some a principle with radical redistributive implications under present circumstances.^{xv}

For reasons which will be discussed later, Rawls rejects these criticisms, but there is a further point that is important to cosmopolitans such as Beitz, Pogge and Barry that does also concern Rawls. In the first version of Rawls's international thought the second contract is between just societies and *A Theory of Justice* is supposed to provide universal principles of justice. Now that, to the regret of Barry in particular, it is clear that the principles generated by the revised theory of justice are explicitly associated with liberal societies, a number of new questions arise. Are the principles set out in the second contract appropriate only for relations between liberal societies or peoples? If not, with whom else are these principles appropriate, and what other principles are appropriate to relations with other societies? These are the questions addressed in both versions of the 'The Law of Peoples'.

The Law of Peoples

In Part I of *The Law of Peoples* Rawls restates the argument presented above, with two main clarifications or elaborations, one helpful, the other perhaps somewhat less so. First, he explains why he refers to 'peoples' and not states. Liberal peoples, the subject of this part of his text, have three characteristics, all of which are important: 'a reasonably just constitutional democratic government that serves their fundamental interests; citizens united by what Mill called "common sympathies"; and finally, a moral nature' (p.23).^{xvi} This latter requirement, 'a firm attachment to a political (moral) conception of right and justice' (p.24), is essential, because liberal peoples are both rational and reasonable. They are *rational* in so far as they engage in instrumental reasoning in order to pursue their interests, but this pursuit is constrained by their sense of what is *reasonable*, reasonableness entailing a concern for reciprocity and the interests of others; it is only because of this sense of what is reasonable that just societies are possible in the first place, and reasonableness is equally required for the establishment of justice between peoples.

This is why the law of peoples is not quite the same as international law. States are generally inclined to act rationally but even liberal states cannot be relied upon to act reasonably – Rawls takes this from what he sees as the dominant realist tradition in international relations. For this tradition he relies upon classic realist texts and the modern work of Robert Gilpin, but his critique of a conception of the state that is rational but not reasonable fits very well (perhaps rather better) with current neo-realist (and, perhaps, neo-liberal) theories of international relations. Thus, the law of peoples is the set of principles that the representatives of peoples would agree upon in the second original position – but, and this is where some confusion and blurring of the argument seems inevitable, the same set of principles are *also* the underlying principles of contemporary international law which provides a framework for the relations of states. The law of peoples and the law of nations seem to be different sides of the same coin. Or perhaps, and this is the best that can be made of the argument, the law of nations is a *shadow* of the law of peoples. Because it is a law governing states, and states tend to act rationally but not necessarily reasonably, the law of nations is vulnerable to contingency, which the law of peoples, which rests on the rational and reasonable will of peoples is not. Similarly, the real, but state-based, United Nations is a shadow of the Confederation of Peoples, whose members are all those who adhere to the law of peoples.

Putting this last argument somewhat differently, Rawls is always, domestically and internationally, concerned with the stability of just institutions, concerned that they be not vulnerable to disruption by events, which, it seems, is why he is sceptical of the stability of international law, which is always vulnerable to the changing will of the states that made it. The second innovation in his presentation of the argument in *The Law of Peoples* concerns

the stability of the peaceful relations established by this law. For this he now relies on the so-called 'democratic peace' thesis of Michael Doyle, Bruce Russett and others.^{xvii} This may not be a wholly wise move, given the controversial and contested nature of this thesis, but Rawls does provide one of the most compelling versions of the thesis, largely because he moves the notion from its usual context – the foreign policy orientation of existing liberal-democratic states – and situates it within the realm of ideal theory. Thus, on his account, a constitutional democratic society is not to be described simply in terms of purely formal guaranteed constitutional liberties; it also involves fair equality of opportunity in education and training, a distribution of income that guarantees to all the ability to take intelligent advantage of their basic freedoms, basic health care for all citizens, society as an employer of last resort, and public financing of elections and for the provision of information on matters of public policy (p.50). His version of the democratic peace thesis is that peoples so constituted could be relied upon not to make war on one another – and the fact that actually allegedly constitutional regimes do sometimes behave in this way (he instances US interventions in Chile, Guatemala and so on) merely highlights the extent to which these regimes fall short of the requirements of a just society.

This argument will not satisfy those realists who argue that there are features of the international system that generate the potential for war independent of regime type, nor will it satisfy those Marxist and anarchist critics who deny that the social democratic version of liberal freedoms advocated by Rawls are either possible, or if possible would amount to 'real' freedom – but, for those not falling into either camp, it is quite convincing, albeit perhaps partly because it lacks the empirical content of the more conventional version of the thesis. There is, however, the same potential crossing over from the world of states to the world of peoples and back again that was noted with respect to the law of peoples in general. While

noting that actually existing constitutional regimes do not fit his model of just liberal societies, Rawls is still prepared to use as supporting arguments for his position the statistical generalisations collected in support of the more conventional version of the democratic peace thesis.

Having established all this to his own satisfaction, in Part II, Rawls asks whether the law of peoples can be extended to non-liberal peoples, and if so, which. Much of the first part of *The Law of Peoples* relies on Kant, and the Kantian position here, summarised in the first definitive article of a *Perpetual Peace*, is that only ‘republics’ – which is nowadays, perhaps mistakenly, usually translated as liberal democracies – can be members of the Pacific Union.^{xviii} Rawls’s cosmopolitan critics such as Beitz and, especially, Barry follow Kant in this, but Rawls does not; his argument is that provided

‘a nonliberal society’s basic institutions meet certain specified conditions of political right and justice and lead its people to honour a reasonable and just law for the Society of Peoples, a liberal people is to tolerate and accept that society. In the absence of a better name, I call societies that satisfy these conditions *decent* peoples’ (p.60).

There are, in principle, different kinds of decent peoples, but Rawls puts most of his efforts into describing one particular kind – ‘decent hierarchical peoples’.

These peoples respect a minimal set of basic human rights, including political freedoms and subsistence rights; they live under something like the rule of law; they are un-aggressive with respect to the rest of the world; and, at a minimum, they have some form of mechanism for consultation. However, they are not liberal societies because they privilege a particular comprehensive doctrine – religious or political – and non-adherents to this doctrine are not

accorded the same rights as adherents (although they possess the minimum rights, which include, for example, freedom of speech and religion). The example he works through here is a fictional Islamic society, Kazanistan. In Kazanistan the Islamic religion has a privileged position, and certain leading posts in society are not available to non-Muslims; non-Muslims play a part in the polity but via group representation, and there is no political equality. On the other hand, other religions are tolerated and may be practiced, and their adherents are encouraged to take part in the civic culture of the society. 'Jihad' is interpreted in a spiritual and moral and not a military sense, and Kazanistan has no aggressive intent towards the rest of the world. Rawls's position is that such a society is 'decent', and a suitable member of a Confederation of Peoples. Crucially, were it to be represented in the second original position a decent society would choose the same set of principles that liberal societies have established as the basis for the Law of Peoples – it should be noted that it is not a question of liberals *inviting* decent societies to join a liberal scheme; the Law of Peoples belongs equally to both groups because, it is supposed, it would be chosen independently by both groups.

Clearly there is more to be said on the subject of decent peoples, but for the time being it is enough simply to note that *liberal* and *decent* peoples are two sub-sets of the *well-ordered* peoples who would choose the same principles for a just Law of Peoples, and who are entitled to the protection of such a law. Liberal peoples are entitled to hope that decent peoples will in time become liberal (and, presumably, vice versa, for that matter) but in the meantime liberal peoples must accept and tolerate decent peoples, treating them the same way that they treat each other. All this is a matter for 'ideal theory' – but not all peoples are well-ordered, and the world contains much that is unjust and evil and so liberal and decent people need to know how to operate under nonideal conditions. Rawls has interesting things to say about this; he suggests that as well as *liberal* and *decent* peoples, there are *outlaw*

states (states, note, not peoples), *burdened societies*, *benevolent absolutisms*^{xix} and possibly other kinds of regimes. A key point here, on which, Rawls argues, he has in the past been misunderstood, is the universal status of human rights. It is Rawls's position that the kind of minimal set of rights which are shared by well-ordered liberal and decent societies, are genuinely *universal* rights, which apply equally to people who live in societies that are *not* well-ordered.^{xx} Liberal and decent people ought not to tolerate *outlaw* states that violate this minimal set of rights; such states may be subject to condemnation, sanctions and, in some circumstances, actual intervention.

Unfortunately, in his discussion of non-ideal theory, Rawls gives too little guidance as to what those circumstances may be. Outlaw states may violate the basic rights of their peoples, but this seems not to be the key criterion Rawls uses to establish outlaw status – rather, states are outlaws because of their general non-compliance with a reasonable Law of Peoples, and in particular because these regimes ‘think a sufficient reason to engage in war is that war advances, or might advance, the regime’s rational (not reasonable) interests’(p.90). Because Rawls sets up the problem of non-compliance in terms of the war-making tendencies of outlaw states, his discussion of this problem focuses on the right of self-defence of well-ordered societies, the circumstances under which violence can be employed, and the limits to such violence. This is unfortunate, partly because Rawls does not actually have anything particularly interesting to say on his own behalf on this subject – his thoughts draw very heavily on the work of Michael Walzer^{xxi} – but also because it would have been more interesting to read his thoughts on the circumstances under which intervention in outlaw states might be justified.

The problem is that the category of *outlaw* state has too much content; outlaws both violate human rights and behave aggressively, and separating the appropriate response to these two distinct features is difficult. Such a separation is necessary, since many outlaw states do not actually have the capacity to act aggressively, much as they would probably like to, but do have the capacity to be internally repressive. It would be good to know what liberal and decent societies ought to do about such states – Rawls recognises their possible existence in a footnote, and unhelpfully remarks that they ‘may be subject to some kind of intervention in severe cases’ (p.90). The long term goal is to bring all outlaws into the society of well-ordered peoples, but how this is to be achieved is less clear. However, one interesting feature about Rawls’s emphasis on the willingness of outlaws to make war on ‘rational’ grounds, is that it makes it very clear that outlaw states are not to be seen as the same as the ‘rogue states’ sometimes pilloried by Western political scientists and decision-makers. Outlaws are outlaws because they behave as Clausewitzians with respect to war, not because they act contrary to Western interests – indeed some existing Western states may actually be outlaws, although this is a thought that Rawls does not express much less pursue.

Many of the states usually signified as rogue, may actually fit into another category of Rawls’s namely *burdened societies*, societies ‘whose historical, social and economic circumstances make their achieving a well-ordered regime, whether liberal or decent, difficult if not impossible’ (p.90). Well-ordered societies have an obligation to assist burdened societies to become members of the society of well-ordered peoples, but this is essentially a matter of helping such societies to develop the appropriate political culture, and a rational and reasonable approach to their affairs. A well-ordered society need not be a wealthy society, and there is no reason to regard inequality in wealth as necessarily something that requires correction. The only obligation on well-ordered societies is to assist

burdened societies to get to the point where they can make their own choices; once they have reached that point, whatever inequalities exist are a reflection of social choices which well-ordered societies have separately made, and which they are entitled to make without external criticism or interference.

There is a clear point of conflict here between Rawls and his cosmopolitan critics; partly it concerns the level of acceptable variation between peoples, but the key difference is, perhaps, a function of different accounts of the origins of wealth in the first place. Rawls believes that socio-economic variations that exist in the world today are essentially the product of the political culture, the political and civic virtues of particular societies, and of the choices they make. The level of resource endowment is, except in extreme cases, pretty much irrelevant. Basic human rights are of far greater significance, and development assistance that does not take into account the need to develop the appropriate political culture will be ineffective. Once societies become well-ordered (that is, liberal or decent) they may well make choices that dramatically affect their long term wealth – by, for example, having a relatively high savings rate – and because they may, in fact almost certainly will, make different decisions this will increase inequality but the Law of Peoples has nothing to say on this, and there are no principles of international justice involved.

In an earlier essay, this argument was criticised as demonstrating a lack of interest in the actual functioning of the international economy; it was suggested that to think that internal factors are the only determinants on international economic success is unrealistic and naïve.^{xxii} This was, perhaps, a little harsh. Rawls here is walking a line between ideal and non-ideal theory; he is trying to determine what the appropriate duty of assistance of a Society of well-ordered Peoples would be towards burdened societies, and in a Society of

well-ordered Peoples the kind of neo-liberal economic consensus that currently dominates the major organs of the international economy would no longer be in place. Given that Rawls's account of a just society is essentially social democratic, it might be expected that in a world where the law of peoples pertained, international economic regimes would reflect this orientation, looking in general rather more like the kind of world envisaged in the 1980 in the Brandt Report than the current world of the Washington Consensus.^{xxiii} In such a social democratic world, there is every chance that the external obstacles to economic development would be removed, or at least would be of much less significance than they currently are, and in those circumstances internal political culture might well take on the importance Rawls attributes to it. Still, it has to be acknowledged that, in the context of current international economic relations, Rawls clearly overstates his case.

In any event, Rawls's approach to international inequality is explicitly non-cosmopolitan. From a cosmopolitan perspective in which the well-being of individuals is paramount, the variations possible under the Law of Peoples would be unacceptable.^{xxiv} Rawls proposes a final thought experiment. Assume two just, liberal societies in each of which inequalities are arranged to the benefit of the least advantaged, but where the least advantaged in one is worse off than the least advantaged in another; suppose it were possible to redistribute from one society to another so that each continued to meet the criteria of justice, but the variation between them would be lessened. The cosmopolitan would prefer the redistribution to the initial distribution, but the Law of Peoples is indifferent between the two positions. 'Basic fairness among peoples is given by their being represented equally in the second original position with its veil of ignorance (p. 115) and nothing more is required.

Rawls's Contribution

How is *The Law of Peoples* and the international side of Rawls's work more generally, to be assessed? The first point that needs to be made is that there are actually very few connections between his work and contemporary international relations theory. Because he uses the term '*Society of well-ordered Peoples*' and because his distinction between peoples and states is not well understood, it might be thought that he is actually providing an account of '*International Society*' – thereby identifying him as a kind of outlying member of the English School. Although there are, to be sure, some affinities here, in general this will not do. A 'people' is not the same kind of animal as a 'state' and, even if it were, his understanding of society is different from that of the English School.

In point of fact, he seems to have very little interest in recent IR theory. The only area he investigates at any depth is work on the 'democratic peace' and this is for his own purposes; his account of realism rests on a limited number of sources. He has his own agenda which he is bringing to international relations and he takes very little from the established discourses of IR. This is one of the reasons his work so interesting – precisely because he is not concerned with the stock questions and the stock answers. To make an irreverent analogy, first year undergraduates are often enjoyable to teach because their reactions to problems are so unpredictable; they have not had the opportunity to learn the boring 'correct' answers – or rather the approved range of possibly-correct answers – and even if many of the things they come up with are either patently absurd or re-inventions of the wheel, they are also, at their best, capable of making one think anew about subjects where the established discourse has effected a closure. Rawls's work can be seen in the same light, valuable not because of its contribution to the world of IR theory, but valuable because it problematises so much of that

theory, not as a conscious act of iconoclasm but through thinking about the subject with the mind of an outsider.

What then can be taken from his work? Three features are of particular value; the categories of states he employs, and in particular his approach to categorising states; his move from states to peoples and the accompanying critique of ‘rationality without reasonableness’; and finally, the moral motives he brings to the work which establish the key distinction between utopian realism and a realistic utopia.

First, establishing the kinds of states, societies and peoples with which we must deal in international political theory is an important and neglected task. Apart from those neo-realists who take rather too seriously the Walzian idea that states are ‘like units’, functionally similar albeit differing in capabilities, most everyone agrees that there are relevant differences between different kinds of states, but nonetheless, no classification of states exists that comes close to Rawls’s in complexity or utility. The idea that democratic states are different is commonly held, but the characterisation of ‘democratic’ is usually excessively formal. Other categories (the ‘trading state’ and the like) are too ad hoc – as are the references to political culture which have become commonplace with much constructivist writing.^{xxv} Arguably, Rawls provides the right questions for a classification. He is right to make the basic distinction between peoples that are, and are not, ‘well-ordered’; this is a much more useful and substantive distinction than that between democracies and others, or the ‘West vs. the Rest’.^{xxvi}

This is, of course, a major point of disagreement between Rawls and his cosmopolitan critics; they wish to argue that only liberal-democratic states can be just and that a fire-wall exists

between liberal states and the rest. From this perspective *all* non-liberal states are essentially illegitimate, even though some may be less obnoxious than others. As a liberal himself, Rawls clearly regards all non-liberal states as to some degree defective, but he does not build a fire-wall on this basis, that is, on the boundary between liberal and non-liberal states. Rather, he argues that some non-liberal states are ‘decent’ and do not lie at one end of a continuum at the other end of which are the outlaw kleptocracies and tyrannies; the boundary must be drawn elsewhere, between well-ordered peoples and the rest. The basic proposition is that all well-ordered peoples of whatever kind will have points of contact with each other that they do not have with those outside the category. This is a position that stands against the moral solipsism of much cosmopolitan thinking, which assumes that only one kind of society is fit for human habitation; it also de-legitimizes the kind of crusading ‘democracy promotion’ that has all too often recently served as a cover for the promotion of Western power in the world.^{xxvii} Neither of these latter stances constitutes a sensible or a prudent approach to contemporary issues of cultural diversity.^{xxviii}

What constitutes a well-ordered people is another question, and one upon which, fortunately, Rawls is not dogmatic. He argues that liberal peoples are well-ordered, as are ‘decent’ peoples – but whereas the former is described in detail, the latter are partly left in the air for us to fill in the details. His own suggestion of a decent hierarchical society – Kazanistan – is based on a religious comprehensive doctrine, and those such as the present writer who believe that other, non-religious bases for society may be equally deserving of ‘decent’ status are, in effect, invited to construct a case for describing, say, the mildly authoritarian rule of a country like Singapore as essentially ‘decent’. He sets up the criteria for ‘decency’ (a minimum set of rights, some kind of rule of law, some kind of consultation system) and invites us to get on with task of describing the different ways in which these criteria can be

met, if we so wish. These are, of course, essentially liberal notions, and what he is offering here is a kind of ‘thin’ liberal universalism: as noted above, many cosmopolitan liberals regard this universalism as too ‘thin’ – by the same token, cultural relativists will regard it as too liberal. Perhaps this suggests he has got it about right. In any event, Rawls is not arguing that liberal societies should admire or emulate decent societies or *vice versa*; rather the point is that if a society meets the criteria for being well-ordered, whether decent or liberal, it is entitled to be regarded as a member of good standing in a Society of well-ordered Peoples, and fully entitled to the protection of the norms of the Law of Peoples, in particular the norm of non-intervention.

What of peoples who are not well-ordered? Rawls offers three categories here and again invites us to invent others. *Burdened societies* is certainly a useful coinage – although, as noted above, it could be argued that some societies are burdened by more than their own political culture and lack of the appropriate civic and political virtues. Sometimes the burden has been laid upon them. The notion of *outlaw states*, however, is rather too broad, incorporating both a rational, Clausewitzian approach to war, and the domestic violation of human rights and the rule of law. These characteristics sometimes go together, sometimes not. More thought is needed here – but one feature of the notion of outlaw states is interesting and useful, and that is the association of outlawry with a particular kind of rationality. This leads to the next area where Rawls’s work is of great value.

Rawls moves from ‘societies’ and ‘international law’ in *A Theory of Justice* to ‘peoples’ and a ‘law of peoples’ in his later work, and it is clear that this shift is largely to do with the distinction he wants to draw between rationality and reasonableness, rather than being, for example, a response to interdependence or globalisation. Rightly, it can be argued, he sees

the reliance on arguments about interdependence of Beitz and Pogge as a weakness in their work. To reiterate an earlier point, for his purposes what matters about a people is that they have a constitutional government, common sympathies and a moral nature and neither complex interdependence nor globalisation is likely to create the conditions for this trilogy to exist on anything like a global scale in the foreseeable future.^{xxix} On this he is surely correct – it is difficult enough for particular peoples to come close to his account of what they could be, and to spend too much time thinking about the emergence of a global ‘people’ is wasted effort, especially since he believes that a justly constituted society of well-ordered peoples could provide everything that one could want to find from a global political order

The key feature of a justly ordered society is that its members are not solely governed by considerations of instrumental rationality. It is important to be clear about this; Rawls shares the core liberal position that individual people and ‘peoples’ have interests which they are entitled to pursue using their capacity for rational action; when he writes of ‘men as they are’, or ‘the laws of our nature’ in the context of a rational utopia, it is this liberal anthropology that he has in mind. Rational, efficient, use of one’s resources is an important part of the construction of the just society – burdened societies are burdened because they lack this rational capacity – but rationality is not enough. It must be combined with a reasonable willingness to co-operate with others and this commitment to reciprocity comes from our common sympathies and our moral nature; it is not part of rationality as such. Pace neo-liberalism, the kind of co-operation that rational egoists will engage in cannot create the just institutions that will be part of a Society of (well-ordered) Peoples, because such institutionalised co-operation requires a commitment to co-operation which goes beyond the rational to the reasonable.

Is Rawls right to think that states are incapable of such a step? It is certainly the case that the dominant view of International Relations as a discourse has been, and remains, that this is so – and this is not just a realist position. Scepticism about the state is deeply engrained in radical thinking about IR, and Rawls’s characterisation of states as driven by rational considerations alone is simply the most recent restatement of the ‘states-as-cold-monsters’ critique that has been part of the vocabulary of both left and right for more than a century. The difference is that Rawls proposes a rather more interesting alternative to the state than is usually the case with his notion of a ‘people’ – or perhaps this is not so much an alternative to the state, as a reconceptualisation of the state, a recovery of what the state could be under the right conditions. It is at this point that John Rawls, the analytically-minded liberal from the Anglo-American tradition, can be seen to make contact with the continental European liberal tradition of Kant (and, perhaps, Hegel). Rawls’s ‘peoples’ are, on the face of it, very close cousins to Kant’s ‘republics’ and, perhaps, Hegel’s ‘ethical states’. Rawls’s central point is that the existence of democratic institutions and the rule of law is not on its own enough to characterise a society as ‘liberal’ or ‘just’; common sympathies and a moral sense are also required. For an Anglo-American liberal, a descendant of Hobbes and Locke, to see the state as an ethical community of this kind is a major step; rather, in this milieu, the tendency is to see the state as a facilitator, a solver of the problems associated with collective action. But, from a Hegelian or (continental European) Kantian perspective, the state is based on precisely such common sympathies and a collective moral sense. In short, it may be that the, at times rather confusing, shift from societies and states to ‘peoples’ is not a necessary feature of the argument. The key point that both rationality and reasonableness must be found to underlie action does not rule out the state-form as such, although Rawls may well be right in thinking that the concept of the state employed by a great deal of IR

theory does indeed rest on the promotion of instrumental rationality at the expense of reasonableness.

Conclusion: ‘Realistic Utopia’ or ‘Utopian Realism’

Rawls’s normative intent is clearly set out in the introduction and conclusion to that work; from the latter –

[two] ideas motivate the Law of Peoples. The first is that the great evils of human history – unjust war, oppression, religious persecution, slavery and the rest – result from political injustice with its cruelty and callousness. The second is that once political injustice has been eliminated by following just (or at least decent) social policies and establishing just (or at least decent) basic institutions, these great evils will eventually disappear. I call a world in which these great evils have been eliminated and just (or at least decent) basic institutions established by liberal and decent peoples who honor the Law of Peoples a “realistic utopia”.^{xxx}

This world is realistic because it does not violate any of what Rawls calls the laws of our nature; its achievement does not require of us that we re-make ourselves as human beings. It is utopian in the sense that it tells us where we ought to want to be; it is the product of ‘ideal theory’. A realistic utopia is not a compromise between what is realistic and what is utopian; nothing has been compromised here – unless one were to take the fundamentalist position that the Rawlsian notion that liberal and decent societies must taken into account the fact of a reasonable pluralism of comprehensive doctrines is itself a compromise, which Rawls would deny. Such fundamentalists – who may be liberal as well as religious – will reject Rawls’s utopia and there is no getting round this rejection; indeed, there is no reason to look to get round it, the very fact that the position can be rejected in this way shows that it has content, is not simply an academic construct.

Rawls sees this issue as distinguishing his position from that of E.H. Carr as well as from the fundamentalists. Carr is famous in international relations circles for his 'realist' demolition of 'utopian' thought, but, as Ken Booth has demonstrated, *The Twenty Years Crisis* was not intended to endorse a purely realist position.^{xxx1} To be a 'utopian realist' is, Booth argues, a plausible aspiration. In a brief, but insightful, reading of *The Twenty Years Crisis* Rawls acknowledges the complexity of Carr's thought and argues that Carr

never questioned the essential role of moral judgement in forming our political opinions; he presented reasonable political opinions as a *compromise* between both realism (power) and utopianism (moral judgement and values). In contradistinction to Carr, my idea of a realistic utopia doesn't settle for a compromise between power and political right and justice, but sets limits to the reasonable exercise of power.

Otherwise power itself determines what the compromise should be, as Carr recognised (*The Twenty Years Crisis* p. 222 Harper Torchbook Edition).^{xxxii}

This is an acute observation, but where Carr's utopian realism may be of more value is not in the realm of 'ideal theory', but when it comes to 'non-ideal theory'. Rawls is right to believe that ideal theory, telling us where we ought to want to be, has an important role. But there is also an important role for non-ideal theory, that is for theory that tells us how to get on in the world as it is, and here the kind of compromise that Carr had in mind may be very important. It is interesting that when he comes to non-ideal theory, Rawls is much less specific than when he deals with ideal theory, presumably because the exercise of judgement about when, for example, it may be justified to intervene against an outlaw state, requires precisely the kind of compromise between power and political right and justice that he suggests Carr is committed to – and the fact that 'power' determines the nature of this compromise although it

must concern us, cannot be wished away. His unwillingness to grapple with this dilemma constitutes a weakness in his approach.

His position on the political role of ideal theory is, however, important and refreshing. This is how he chooses to end *The Law of Peoples* and it is how this article will end. His point is that although there is no guarantee that a just Society of Peoples *must* come into existence or that it *will*, the very fact that it *could* has in itself significance – it affects our attitude towards the world, it makes us appreciate that political action need not simply be about compromise. ‘By showing us how the social world may realize the features of a realistic utopia,’ says Rawls, ‘political philosophy provides a long term goal of political endeavour, and in working towards it gives meaning to what we can do today’.^{xxxiii} Or, in other words, mostly those of Jean-Jacques Rousseau, ideal theory and political philosophy may help us to understand that the limits of the possible in moral matters are rather less narrow than we will think they are if we allow the compromises that a non-ideal world forces upon us to constrain our imagination.

Earlier version of this article were presented as the Annual E.H. Carr Lecture at the University of Wales, Aberystwyth in October 2000, and to a panel on *The International Political Theory of John Rawls* at the International Studies Association Annual Convention in Chicago, IL in February 2001. I am grateful to Ken Booth and the Department of International Politics at Aberystwyth for the invitation to give the Lecture, and for their comments thereon, and to fellow panellists at ISA Simon Caney and Cornelia Navari, discussants Brian Barry and Terry Nardin, and to Molly Cochran and Andrew Mason for their comments. The usual disclaimers apply with particular force on this instance since few of the above were persuaded by the argument. I would also like to thank two anonymous reviewers for their comments.

ⁱ *A Theory of Justice* Revised Edition, (Cambridge MA: The Belknap Press of Harvard University, 1999) first published 1970. The revisions in question were first made for the German translation of *Theory* in 1975, and change the argument at crucial points, making the earlier version obsolete (and undermining thirty years of scholarly commentary based on a text that is no longer available); *Collected Papers* (Cambridge MA: Harvard University Press, 1999).

ⁱⁱ ‘The Law of Peoples’ in Stephen Shute and Susan Hurley eds. *On Human Rights: The Oxford Amnesty International Lectures, 1993* (New York: Basic Books, 1993); *The Law of Peoples* (Cambridge MA: Harvard University Press, 1999)

ⁱⁱⁱ Symposium on John Rawls *The Law of Peoples*, Charles Beitz ‘Rawls’s ‘Law of Peoples’’ & Allen Buchanan ‘Rawls’s ‘Law of Peoples’: Rules for a Vanished Westphalian World’ *Ethics* (110) ,4, July 2000: Andrew Kuper ‘Rawlsian Global Justice: Beyond the Law of Peoples to a Cosmopolitan Law of Persons’ *Political Theory* (28) 5, October 2000.

^{iv} See *Collected Papers* pp 47 - 72

^v *Political Liberalism* (Cambridge MA: Harvard University Press, 1995); Rawls has recently published his *Lectures on the History of Moral Philosophy* (Cambridge MA: Harvard University Press, 2000), which are revealing as to his relationship to Kant, but do not substantially challenge the judgement that his substantive work has focused on the single issue of the nature of justice.

^{vi} This section draws upon material first published in a brief review essay Chris Brown ‘John Rawls, ‘The Law of Peoples’ and International Political Theory’ in *Ethics and International Affairs* (14), 2000.

^{vii} In what follows Rawlsian terms of art are placed in inverted commas on their first appearance in order to indicate that they actually *are* terms of art.

^{viii} *A Theory of Justice* (1999 Edition) p. 11

^{ix} *A Theory of Justice* (1999 Edition) p. 52

^x See, for example, the essays in ‘Symposium on John Rawls’ *Ethics* (105), 1, October 1994 and Brian Barry ‘Review Essay: John Rawls and the Search for Stability’ *Ethics* (105), 4, July 1995.

-
- ^{xi} Jürgen Habermas ‘Political Liberalism: A Debate with John Rawls’ in *The Inclusion of the Other: Studies in Political Theory* (Cambridge MA: MIT Press, 1998): Paul Ricoeur *The Just* (Chicago: University of Chicago Press, 2000).
- ^{xii} Robert Nozick *Anarchy, State and Utopia* (Basic Books: New York, 1974): Michael Sandel *Liberalism and the Limits of Justice* (Cambridge; Cambridge University Press, 1982): Brian Barry *The Liberal Theory of Justice: A Critical Examination of the Principle Doctrines of ‘A Theory of Justice’ by John Rawls* (Oxford: Clarendon Press, 1973).
- ^{xiii} Charles Beitz *Political Theory and International Relations* (Princeton: Princeton University Press, 1979): Thomas Pogge *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989): Brian Barry ‘Humanity and Justice in Global Perspective’ in *Democracy, Power and Justice: Essays in Political Theory* (Oxford: Clarendon Press, 1989).
- ^{xiv} See Brian Barry *Justice as Impartiality* (Oxford: Oxford University Press, 1994).
- ^{xv} Brian Barry ‘International Society from a Cosmopolitan Perspective’ in David Mapel and Terry Nardin, eds. *International Society* (Princeton, NJ: Princeton University Press, 1998).
- ^{xvi} References in text are to the 1999 version of *The Law of Peoples*.
- ^{xvii} Michael Doyle *The Ways of War and Peace* (New York: Norton, 1997) : Bruce Russett *Grasping the Democratic Peace* (Princeton: Princeton University Press, 1993).
- ^{xviii} See ‘Perpetual Peace: A Philosophical Sketch’ p.102, in Hans J. Reiss ed. *Kant’s Political Writings* (Cambridge: Cambridge University Press, 1970).
- ^{xix} Benevolent absolutisms respect a minimal set of human rights, are not aggressive, but do not have proper mechanisms for consultation. Rawls largely ignores benevolent absolutisms and so will I.
- ^{xx} He suggests Peter Jones ‘Human Rights, Philosophical or Political’ in Simon Caney, Peter Jones and David George eds. *National Rights, International Obligations* (Boulder CO: Westview Press, 1996) misses the point that this was his (Rawls’s) position in the 1993 version of a ‘Law of Peoples’; if so it seems to me that obscurities in the original text produced the error.
- ^{xxi} Michael Walzer *Just and Unjust Wars* (New York: Basic Books, 1977).
- ^{xxii} See Brown, *op cit*.

^{xxiii} Report of the Independent Commission on Development Issues (The 'Brandt Report') *North-South: A Programme for Survival* (Pan: London, 1980).

^{xxiv} See e.g. Thomas Pogge, 'An Egalitarian Law of Peoples' *Philosophy and Public Affairs* (23), 1994 and footnote 3 above.

^{xxv} For example, the essays in Peter Katzenstein ed. *The Culture of National Security* (New York: Columbia University Press, 1996).

^{xxvi} Kishore Mahbubani 'The West and the Rest' *The National Interest* (28) 1, Summer 1992

^{xxvii} Michael Cox, John Ikenberry & Tashi Inoguchi, (eds) 2000: *American Democracy Promotion: Impulses, Strategies and Impacts*. (New York: Oxford University Press, 2000)

^{xxviii} See Chris Brown 'Cultural Diversity and International Political Theory' *Review of International Studies* (26) 2, April 2000.

^{xxix} It is for this reason that Buchanan's observation that Rawls is providing rules for a 'Westphalian World' is accurate, but misses the point (see footnote 3 above). In so far as 'peoples' remain separate for normative purposes, the Westphalian world is, indeed, for the time being, the correct frame of reference.

^{xxx} *Law of Peoples* p. 126.

^{xxxi} *The Twenty Years Crisis* (London: Macmillan, 1939): Ken Booth 'Security in Anarchy: Utopian Realism in Theory and Practice', *International Affairs*, (67) 527-45.

^{xxxii} *Law of Peoples* p. 6.

^{xxxiii} *Law of Peoples* p.128.