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RAWLS ON GLOBAL DISTRIBUTIONAL JUSTICE

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ABSTRACT

Rawls on Global Distributional Justice

Frédéric Morneau

This thesis attempts to explain the Rawlsian position about global justice, and the distribution of wealth that he proposes. Going from *A Theory of Justice*, *Political Liberalism*, and to *The Law of Peoples*, this paper will first look at what Rawls considers international relations, and more particularly distributional justice. Is a global principle of justice necessary, or even possible, to guide mutual relations between countries and the assistance that they will bring to each other? The second question that this thesis studies is closely related to the first one. Indeed, at the social level, Rawls is recognized to have proposed a principle of justice called the *difference principle*, favouring relative equality in the society. The question which then needs to be asked concerns this principle. Is Rawls proposing a similar egalitarian principle of justice at the global scale, as at the domestic level?

To reach this goal, several notions have to be exposed. In the first section, the 'Rawlsian background' will be presented. Indeed, Rawls first establishes the principles of social justice in *A Theory of Justice*. We will consider this basic position, and the brief comment made by Rawls concerning global justice. We will then look at criticisms of his views on the subject. Going toward *The Law of Peoples*, we will introduce important notions coming from *Political Liberalism*. Then, *The Law of Peoples* aims at articulating a more precise understanding of international justice and the redistribution of wealth related to it. We will see that Rawls does not favour the principle of egalitarian redistribution suggested by many. To conclude, my own view on the matter will be introduced.

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1-Introduction

The fact is obvious; peoples composing the world face multiple inequalities of wealth. Some states are incredibly rich while in different parts of the world, individuals of some other countries are dying unable to assure their basic needs. This disparity is obviously subject to reflection. There are two mainstream approaches to questions of international distributive justice, both tendencies in dialectical opposition. On one side is cosmopolitanism theories of justice; on the other is the theory of patriotism or compatriot favouritism. The *Stanford Encyclopaedia of Philosophy* defines cosmopolitanism as a theory based on the belief in a possible union between every individual inhabiting the earth. The basis of this union must be the moral worth of the individual. Persons possess an intrinsic worth; they have an undeniable value. Individuals should be the nucleus of moral theories. In an international perspective, the global community has to respect this fundamental worth of the individual by being attentive to claims of justice and respect of human rights. Consequently, it will apply principles of justice impartially, respecting the equal worth of every individual. No matter where they live or who they are, persons deserve this fundamental respect, equally applied to everyone. This equal respect must present in the political, cultural and economic spheres.

Brian Barry and David Miller discuss these two ideas in an interesting way in *International Society*¹. Barry presents the cosmopolitan perspective. In a general way, he mentions that this thesis is based on the idea of the equal worth of every individual. He gives four main characteristics to this approach. The first one is the *presumption of equality*. In his view, all inequalities have to be justifiable or explained, but in a general way, equality must be the rule. This equality must apply in the fields of rights, opportunities, or resources. Obviously, this approach reinstates the idea of equal worth of every individual. The second principle that Barry presents is the one of *personal responsibility and compensation*. The broad idea of this principle is that inequality can follow a personal choice, but must be compensated for when it is the result of involuntary circumstances. The third principle is the one of the *priority of vital interests*. This idea

¹ International Society, Diverse ethical perspectives, Edited by David R. Mapel and Terry Nadin

stipulates that vital interest must have absolute priority to all other considerations. For instance, the interest of an individual dying of starvation must have priority over any other preoccupations. The fourth principle is the one of *mutual advantage*. According to this principle, it is acceptable to depart from these previous principles if it is in the advantage of every party involved. Then, this must result in better global situation by sailing away from the first three principles of cosmopolitanism. According to Berry, these four principles must be at the basis of a just global order.

By opposition to this vision, there is the patriotic one. According to patriotism, the fundamental obligation to bring justice concerns primarily the members of the local community of which one is a part. In a general understanding, and again following the *Stanford Encyclopaedia of Philosophy*, the basic notions of justice must be understood in the context of a particular community. This idea is mainly based on the fact that there can be no universal comprehension of what morality should be, a moral code being specific to a community's tradition and customs. Morality in this account is exclusively a local phenomenon. Translated at the international level, patriotism theories favour moral duty to help and assist members of the society where you belong in priority. This vision advantages the compatriot. The major consequence of these theories is that claims for justice made by foreigners are not considered a priority.

Responding to Barry's position, David Miller discusses the cosmopolitan position. Miller argues that asking for an equal respect of the individuals around the world moral is too demanding. The first major flaw is that this cosmopolitan idea may be too utopian to be applicable. Miller prefers to argue that social principles of justice cannot be extended to the whole world. Principles of justice must only apply to individuals connected in a certain way, for example by national borders. In that case, justice restricted to compatriots will result from the sharing of the advantages and burdens that comes with co-existence between inhabitants of a same country. This special attachment must be recognized, and questions of justice must, in priority, be aware of the singular bond created by the border. Furthermore, and according to Miller, questions of justice are not easy to translate from one community to another. Considering

the fact that justice is experienced differently depending of the groups, their claims are not necessarily compatible. Following this relativity, the claim that justice must apply to every individual may then seem useless. Therefore, the divergence between Barry and Miller could be summed up by the following statement: facing problems of international justice, we have to choose who should be given priority in being helped: members of a social group or just human beings no matter where they come from.

Without being able to associate Rawls clearly and precisely with one of these two positions, we will see that the distinction is still relevant. Indeed, the two mentioned perspectives will be implicitly present in the exposition of Rawls' conception of international justice. For that matter, this essay will explain the Rawlsian position about global justice, and the distribution of wealth that has to follow this justice. Going from *A Theory of Justice* to *The Law of Peoples*, this thesis will look at how Rawls considers international relations, and more particularly international distributional justice. Are principles of justice necessary, or even possible, to guide mutual relations between countries and the assistance that they will bring to each other? This first question includes many reflections relevant to problems of international justice. Do we have to help others countries, and if the answer is yes, how can we help them according to Rawls? We will study his position and then answer this first question.

The second question that this essay examines is closely related to the first one. Indeed, at the social level, Rawls is recognized to have proposed a principle of justice called the *difference principle*, favouring relative equality in the society. Then, following a *basic equality principle*, the *difference principle* will favour a redistribution of wealth in the society. The question which then needs to be asked concerns this principle. Is Rawls, similarly to what he does at the domestic level, proposing a similar egalitarian principle of justice at the global scale? Is he using an *international difference principle* to rearrange inequalities? Indeed, it seems that such an equalitarian principle at the domestic level should have a global complement. This essay seeks to give answers to these two important questions concerning global justice. To help clarify these complex ideas, some concrete considerations will be included in the study of these normative

concepts. These considerations could be understood as trying to bridge the gap between on one side reality, and political philosophy on the other side.

To answer these two important questions, several notions have to be elucidated. In a first section, I intend to present the *Rawlsian background*. Rawls first establishes the principles of social justice in *A Theory of Justice*. We will see this basic position, but also the brief comment made by Rawls concerning global justice. This first publication has raised numerous reactions. One of those came from Charles Beitz who criticizes the lack of importance that Rawls grants to distributive concerns in international justice. According to Beitz, Rawls should follow his own social premises, and propose an equivalence of the difference principle at the global scale. Basing his argumentation on the fact that states are interdependent, but also on the value of every individual, he argues for a just allocation of the advantages and burden that comes with the international interdependence. Beitz will propose the *resource redistribution principle*, as a better way to apply international justice than what Rawls proposes. Beitz is not the only one to suggest this idea. Thomas Pogge recommends a similar position, also suggesting an international redistribution of wealth. He first mentions the importance that must be granted to the notion of the individual, both locally and internationally. He then criticizes Rawls for not giving enough importance of that notion at the international scale. Like Beitz, he will favour egalitarian principles of justice based on the notion of the individual.

This thesis will next study *Political Liberalism*, a book important, among other things, for understanding the transition from *A Theory of Justice* to *The Law of Peoples*. The first topic studied will concern the importance that Rawls grants to the idea of a political conception of justice. Comprehensive doctrines, aspiring to transmit conception of what the good life is should not be part of a liberal social theory of justice. This priority granted to the idea of political is essential to his theory considering the plurality of doctrines defending different visions of the good. With the idea of the priority of the political, Rawls acknowledges in the same society a plurality of understandings of the good. He chooses to give a political structure capable of incorporating these various ideas in one coherent whole. Such constitution will assure

stability to a social life. Indeed, in Rawls' view, such society will be able to be solid, and assemble individuals around a common idea of the political life. All these elements present in *Political Liberalism* will influence *The Law of Peoples*.

The Law of Peoples aims at exposing a more precise understanding of international justice and the redistribution of wealth related to it. This part should make clearer the first question that this thesis aims to answer, namely Rawls' position concerning global distributive justice. Similarly to what he did at the domestic level, Rawls will choose principles guiding international relations. But he will make this choice following the interests of the peoples, and not of individuals. One of the consequences will be that the choice of principles is not based on an equality between individuals. It will rather be centred on the idea of independence between states. Despite this fact, Rawls still proposes ways to favour international redistribution of wealth. His *duty of assistance* will be a strategy to redistribute wealth globally, but, as we will see, it is not nearly as egalitarian as his domestic theory was. Three guidelines will direct his *duty of assistance*. The first one will grant importance to the fact that strict equality of wealth between countries is sometimes what morality requires. However, wealthy countries must help other states to develop a just political culture, way to eventually bring more wealth to their countries. The second guideline suggests to give importance to the betterment of the life of the individuals inhabiting poor countries. Following this guideline, human capital must be prioritized. The third guideline will propose to help poor countries to manage their own policies, so that they can eventually reach the point where they can function independently of any help. The next section presented will concentrate more of the idea of distributive justice among peoples. Rawls first reflects on domestic and global equality, and compares them. He then answers criticism presented by Beitz in his *Political Theory and International Relations*. Finally, Rawls concludes this section with a direct comparison between his *duty of assistance* with a more egalitarian principle of distributive justice.

Following this part, we will look at the second question studied by this essay. Indeed, we will examine various comments that try to explain the change concerning

equality in Rawls' position, from the domestic to the international level. The fact that Rawls' domestic theory is based on the idea of the individual makes it more egalitarian than his international theory based on the idea of peoples. We will see that this choice is in a large extent motivated by the will to respect international pluralism². The explanation is followed by criticism addressed to Rawls and his choice of not defending the individual in priority at the global scale. We will also present the critical positions of Beitz and Pogge following *The Law of Peoples*. We will introduce Beitz' comments on the duty of assistance, and also his discussion the idea of a people as presented by Rawls. As we will see, he does not agree with Rawls' position. Pogge also criticizes Rawls in two ways. In the first one, he mentions that a representative of the state would have to be preoccupied by the inhabitants of that country. His criticism also addresses the problem of possible incoherence between his conception of domestic and international justice that Rawls must recognize. The second criticism is addressed to Rawls' possible misunderstanding of the global situation. Indeed, Pogge believes that Rawls is mistaken on various accounts concerning the international reality.

To conclude, my own view on the matter will be introduced. I will criticize Rawls directly, following the presentation of what I consider to be problematic points. I will also present what I think should be said concerning Rawls' general ideas concerning distributional international justice, and put them in relation to the critical comments of Beitz and Pogge. I will then conclude the last part of this essay with a short presentation of my ideas concerning global justice. In a short presentation, I will first introduce what I believe could be a possible union between liberal and communitarian models. Then, I want to insist on the fact that it seems possible to defend international theories of distributional justice, even starting from a vision based primarily on the idea of community. Actually, such a model seems to be an even more efficient way to favour distributional justice at the global scale.

² As we will see, favouring international pluralism consists in granting a basic respect of the various ways to understand and live according to a moral code.

2- Rawls in *A Theory of Justice*

To understand how Rawls reflects on the international relations of justice between countries at the time of *A Theory of Justice*, we first have to briefly look at his social conception of justice. Rawls' understanding is based on what he calls the *principles of justice*. There are two principles, taken as guidelines of the just social order. The first principle is:

Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberties for all.³

Rawls mentions these basic liberties. They are political liberties; personal freedom in speech, thought, to join an assembly, the possibility of having personal property, the respect of the person, and to be free of coercion concerning what is not in the scope of the law. All of these basic liberties must be equally applied to everyone. Also, Rawls notes that they can not be removed from the individual for any further benefits; they have priority over all other principles. The only way to restrain these liberties is if they interfere with one another. Therefore, Rawls establishes the principle of equal basic liberties as first and fundamental to base a just society; a principle of justice which has expected priority over all the others.

The first principle being established, Rawls has to decide on the next one that will bring us toward the foundation of a just society. His second principle is:

Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged, consistent with the just saving principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.⁴

By this principle, Rawls allows some inequalities to be legitimately present in a new liberal political order. Inequalities are acceptable when they benefit the most disadvantaged group of the society, and that way it opens the door to a further equalitarian redistribution of resources. Let's note that the just saving principle addresses the problem of justice between generations, and it assures a fair distribution of wealth coming from

³ Rawls, *A Theory of Justice*, p.266

⁴ *Ibidem*

just savings. The second principle contains two distinct parts, the difference principle and equal opportunity principle.

The first part of the second principle is the difference principle. In a Rawlsian society, some inequalities at the social and economic level are allowed to happen. The purpose of the difference principle is to rearrange these inequalities to favour the least advantaged representative individual. Indeed, economic resources will be continually redistributed to allow the worst-off to improve their situation. By this principle, the least favoured person will benefit from general welfare. This redistribution measure assures a greater equality in this social context for those who are the worst off in the community. The second part of the second principle is the equal opportunity principle. By this principle, Rawls wants to give equal opportunity to everyone. Careers will be available for everybody, open to talents, the better endow obviously getting a better chance to succeed. But equal opportunity will also request background conditions that will make the equality as opportunity something more than formal. Following the lexical order given by Rawls, the equal opportunity principle will have priority over the difference principle. By the difference and the opportunity principles, Rawls allows fair equal opportunity, but also favours equality by the difference principle. In Rawls view, these two principles of justice are required if justice is to be present in the society.

These principles must be applied in the context of society. From the start, more precisely in the second chapter of *A Theory of Justice*, Rawls announces that the social principles do not apply between states. The limit for his theory of justice is the society. This is why we have called it domestic justice. Even without having strong principles of justice between states as a focal point, Rawls still briefly considers this relation. The fifty-eighth chapter of *A Theory of Justice* gives the guidelines of political relations between countries. Rawls mentions that to have a just international order, we need to imagine a hypothetical situation where representatives of states would have to meet, choosing principles guiding global relations. The states representatives should make their choices in certain circumstances. Indeed, according to Rawls, they must ignore the exact situation of their society. This specification is present to avoid that certain states take

unfair advantage of their precise position. The choice should be made considering that each society lives under *normal circumstances of human life*⁵. However, the parties have to know enough of the general human circumstances to be able to make a rational choice about the principles of cooperation. In this situation, Rawls argues very briefly that states would choose obvious principles of international relations⁶. According to him, the fundamental principle would be one of equality of rights between states. Countries that are behaving justly would choose to possess equal rights compared to other states. Resulting from this fundamental equality, Rawls suggests the following agreement: the principles of self-determination, the possibility of self-defence in the face of a military attack, and a general agreement that the treaties have to be kept. Representatives of states would only choose principles coordinating their mutual relations. Obviously, this vision takes the interest of the state as central in the conception of justice; principles are chosen according to the countries' rather than the individuals' priorities. Therefore, *A Theory of Justice* mainly establishes the limits of social justice, but is relatively silent on international issues.

3- Charles Beitz: A response to *A Theory of Justice*

Following Rawls' presentation of the international principles of justice, Beitz discusses the problem of global distribution of wealth. In Beitz view, it is plausible to argue in two different ways; either the state is self-contained and there is no imperative need for an international theory of distributive justice, or they are mutually dependent and such a theory is necessary. He mentions that Rawls is not very clear on the subject. It seems that, from Rawls' point of view, international relations exist, but they are not very significant, only having a marginal role in people's lives⁷. Following this, Rawls

⁵ Ibidem, p.331

⁶ In a way, we can say that Rawls, by his choice of principles at the international level, is in favour of a certain *status quo*, or to preserve the actual situation. It is obvious that his egalitarian concerns are not as present at the global level that they are at the domestic one.

⁷ We have to note that Rawls' methodology consist in starting from simple and abstract situation to eventually get to more complex and concrete ones. That's what he does here, being more interested in domestic justice in priority before getting, in his latter works, to the more complicated issue of global justice.

prioritizes coexistence between independent countries rather than a fair cooperation at the global level.

To attack Rawls' global principle, Beitz first notes the possibility of an unjust internal situation. He gives the example of the apartheid in South Africa. In such situation, Rawls' international principle of non-intervention seems hard to defend against criticism. However, he notes that Rawls' theory is meant to be applied following the choice of the social principles of justice, in a context of just states in an ideal world. According to Beitz, it does not follow that this respect of the states' independence has to be applied in the context of the non-ideal world. If we are not in the ideal world, we do not have to comply with ideal principles. An unjust inner situation does ask for intervention from other states. According to Beitz, Rawls' principle of global order should include the promotion of justice at the local level, the protection of human rights, and the implementation of conditions favouring this just international order.

The choice concerning which principles would be chosen by states' representatives is problematic. In Beitz view, it is clear that states would agree on treaties favouring a form of cooperation, seemingly like the one mentioned by Rawls at the social level. Beitz notes that states' representatives, having to agree on global principles of justice, would be mainly preoccupied with the importance of relative equality of wealth between countries. Indeed, such principles would favour an international context where every member can possess the internal conditions necessary to implement a just constitution. A possible equality would give enough wealth, allowing everybody to apply Rawls' social principles of justice. Beitz believes that such choices would have been made rather than the one proposed by Rawls concerning international justice.

However, it is appropriate to ask why does Beitz believe that the state's representatives would make such a choice based on equality of resources rather than, for example, choosing to have equal rights that guaranty independence versus other states. Beitz answers giving the example of the social situation where interdependence between individuals is obvious. The cooperation between persons has to come with the sharing of

the advantages and burdens coming from this cooperation. This moral consideration is at the basis of the idea of domestic justice. According to Beitz, the global situation has to work in a similar way. Indeed, the international activity is trans-national, indifferent to the countries' borders. At the moral level, this international interdependence must bring obligations, as it does at the domestic level. Borders do not stop moral obligation toward others, especially if there is a relation as it is the case at the international level. Then, states' representative choosing principles would respect the basis moral obligation of the sharing of advantages and burdens coming from this cooperation. The notion of borders is not a relevant element in this deliberation. Beitz then rejects the possibility of a choice of principles based on equal rights between states⁸.

Beitz continues his criticism of Rawls by discussing natural resources. From his view, states' representatives deciding on the principles guiding the international relations would know the general situation concerning the natural resources. Indeed, resources are not distributed equally in the surface of the earth. People living close to abundant resources will have more chance to live a good life than the one living without them. Life prospects of those populations so differently situated is evidently unequal. Beitz compares this situation to the one of natural endowment characterizing the individual in the Rawlsian theory of social justice. At the domestic level, Rawls constructs principles assuring that advantage coming from natural allotment, like talent or strength, should not constitute an unfair advantage in the social situation. The natural inequalities have to be rearranged giving a better chance for the less favoured. Obviously, it is impossible to transfer natural resources, but Beitz proposes to find a system to redistribute the wealth coming from these resources⁹. Following the redistribution, the prospects of life must be fairly equal for everyone in the society; distributive measures are necessary to achieve this. Similarly to the situation at the domestic level, it seems natural to suppose that states' representatives would choose principles protecting against inequalities resulting

⁸ As we will see, Beitz is defending a cosmopolitan perspective. Following this view, the individual must be the centre of morality. Therefore, establishing morality around notions like states or borders appears to be inadequate. According to Beitz, the individual must be the centre of justice considerations.

⁹ We have to note that Beitz is not very clear of how to redistribute this wealth. He mentions that each individual must have an equal claim of the total available resources. Concretely, this could look like the idea proposed by Pogge of taxing countries on the base of their natural resources extraction as presented in Moral Universalism and Global Economic Justice

from unequal natural allotment. Considering the importance of natural resources, and the fact that they are unequally distributed, states would choose a principle equalizing this natural distribution and enhancing their chance for welfare. Beitz believes that this principle is more able to promote the relative equality desired by states than the ones that Rawls defended.

Beitz then comes back to the initial distinction between self-sufficient states and interdependent ones. He first discusses the situation of self-sufficiency. Indeed, it might be said that states having no contact between them also have no mutual international rights or obligations. According to Beitz, self-sufficiency does not change the situation of equality desired. The natural distribution of resources is still arbitrary. People are deprived of wealth needed to assure social justice as a result of sheer luck; basic moral principles then ask us to redistribute the wealth coming from these resources. Self-sufficiency does not exclude moral obligations toward the needy in other societies. Even in a situation of self-sufficiency, a redistribution of resources will have to be made Beitz calls it the *international redistribution principle*.

Beitz follows this up by trying to support the *international redistribution principle* rooted in a social contract view. Indeed, from the social contract perspective, we can see a close association between cooperation and obligation. Peoples contract together with the idea of receiving benefits from cooperation and honouring several obligations themselves. This view can possibly give more weight to the self-sufficiency argument: no obligation without cooperation. But Beitz is opposed to this vision. He mentions that even though cooperation is a good way to justify obligations, it is certainly not the only one. It is possible to justify the obligations that we have toward less fortunate in many other ways. One way to justify them would be, as Rawls does, to imagine states representatives trying to agree on international principles of justice, ignoring their particular situation. In Beitz view, such representatives would agree on an *international redistribution principle*, and hence, justify cooperation even in an autarkic situation.

Taking off from this hypothetical autarkic situation, Beitz now looks at the redistribution needed under conditions of interdependence. He begins by giving an account of the actual situation between states. From his view, interdependence between states is obvious, particularly at the economic level. He notices that the volume of transaction between states is important enough to be considered in the general economic situation. Moreover, he mentions that the context is even more remarkable considering that economic decisions are taken following the different economical circumstances of each state. Beitz gives the example of countries' firms moving from state to state according to the price of the human labour. Inter-relations between countries seems to be the touchstone of economic growth and efficiency, and a proof of the already obvious situation of interdependence between states.

Beitz points out that the major consequence of this interdependence is an increase of inequalities between rich and poor states. Indeed, profits can be mutual, but the gap between rich and poor states grows, making the relative power of the poor less important. Hence, the economic advantages are for the most part unilateral, favouring the wealthiest states. Using their existing power acquired by an already richer country from the natural resources point of view, they make sure that international exchange will enrich them. Thus, the interdependence situation is even worst than the autarkic one if we consider the level of inequalities. Moreover, there are also important domestic consequences of this interdependence. Indeed, Beitz underlines the fact that this international economic interdependence makes the local government lose its power to control the economy of its country. Local economies are in important ways dependent on the global one. Also, it is difficult for a government to control the local effects of the international interdependence. This context changes the economic structure of the state by creating income disparities between members of the state. A wealthy class seems to benefit directly from this international interdependence while often most of the peoples of the poorest societies suffer from it. Considering these facts, the interdependence between countries appears hard to deny.

According to Beitz, the conditions of domestic justice are closely related to the ones of global justice. It seems to him that a society cannot live under just conditions, if their wealth comes from an unjust situation. A state cannot be considered just if it takes advantage of an unjust situation at the global scale. Also, according to Beitz, an international distributional principle would favour justice at the domestic level. A society assured of having the basic needs of its members meet would be able next to prioritize questions concerning human rights and just institutions. In these two different ways, international justice appears to be a necessary condition for domestic justice.

Following these distinctions, Beitz states his position concerning distributive justice. He presents a solution that he calls the *resource redistribution principle*. Beitz follows Rawls' social vision and transposes it to a global level, arguing for an *international difference principle*. From his point of view, the most important element in the reflection on redistribution of resources is that every individual, member of the international community, should have a fairly equal part of the total resources available, especially in this situation of interdependence. The boundaries of the countries not limiting the scope of interdependence, they should not be considered when it is time to address distributional matters. Thus, representatives having to agree on principles of justice, under the conditions previously exposed by Rawls, would select a principle favouring a redistribution of the complete international wealth for the benefit of the less-favoured individuals, enhancing their chance to live a good life and to experience social justice. As in Rawls' social principles, inequalities are still possible at the global scale, but only to favour a greater production of wealth that will be redistributed for the benefit of the least favoured persons. This importance on the notion of person is relevant in the understanding of Beitz theory. On this subject, he notes:

It seems obvious that an international difference principle applies to persons in the sense that it is the globally least advantaged representatives person (or group of persons) whose position is to be maximized¹⁰

Therefore, Beitz is contending for a *global difference principle* that he calls a *resource redistribution principle*, and that applies to each individual.

¹⁰ Beitz, Political Theory and International Relations, p.152

4- Thomas Pogge: A response to A Theory of Justice

In his book *Realizing Rawls*, Thomas Pogge discusses the questions of global justice following Rawls' presentation, as Beitz did before him. He begins by noticing that some elements in Rawls' general theory are important and should be present in an international theory of justice. The first element that Pogge underlines is the cosmopolitan character of Rawls' social theory. Indeed, Rawls gives a lot of importance to the value of each moral person. Every person possesses his own value in the social context; individuals are to be regarded as fundamentally equal and free. Pogge does not see any sufficient reason why Rawls should limit his understanding of the priority given to the person to the narrow context of a particular society. This understanding of the individual should lead Rawls toward an international theory of justice, making sure of the effective equality and freedom of every person. Moral individuals live all around the world and should be recognized. Indeed, peoples in all societies and in all times have Rawls' two moral capabilities; a sense of justice and a conception of the good which they are capable of revising. Hence, starting from Rawls' understanding of the person, Pogge is arguing for a global criterion of justice.

According to Pogge, there is another important reason why Rawls' social theory should be applied to the international context. Indeed, an interpretation of *A Theory of Justice* limited to a society could be sufficient if societies were self-sufficient. In that context, a global redistribution of resources would be arguable, but not necessary. However, the actual context is far from being one of self-sufficiency. The situation between states is one of interdependence. On Pogge's view, this global inter-relation makes obvious the need for an international theory of justice helping to redistribute wealth, and he justifies it in a similar way to Beitz's. Considering these elements, and trying to fulfill the void left by Rawls' silence on the subject, Pogge will discuss global distributional justice.

Pursuing his preliminary inquiry, Pogge raises questions about the choice by Rawls to select only basic principles coordinating the global relations. Pogge expresses

bluntly his surprise; talking about the choice of the principles he mentions: '*It is then astonishing that Rawls takes this global session to result in a reaffirmation of the 'familiar' principles of the international law*'¹¹. Pogge presents four objections to the choice of such principles. The first one mentions that the simple equality of right between states does not pay any attention to distributional considerations. To be able to talk about equal rights, in the case in the international relations, basic material circumstances have to allow the use of those rights. Indeed, it seems useless to talk about rights if there is no material circumstance making these rights effective. Rights ask for a material situation that makes them realizable, and Rawls did not consider this fact. The second objection concerns the commitments in this international order. In an unequal situation, treaties between governments are under a lot of pressure. Compliance cannot be assured in a situation of constant inequality between the members contracting. The third objection touches the lack of means of coercion to assure the execution of the global treaties. According to Pogge, the result will be non-compliance and suspicion between states. The fourth objection results from the previous one. In such a global order, governments will act in a way that favour themselves, even if it is a unilateral advantage. Therefore following Rawls principles, the initial situation of equal rights would degenerate into a *modus vivendi* where each government acts to advance his own interest without considering the interests of other states. From Pogge's point of view, it is then necessary to reject the principles chosen by Rawls. They are insufficient to assure global justice.

Guided by the Rawlsian social model, Pogge follows the choice of principles of justice in the society by another selection of principles, but at the international scale. According to him, the choice of the international principles would be closely related to the domestic one. States already in a situation of domestic justice would try to preserve that in an international context. Indeed, in order to achieve this just local situation, states have to possess a minimum of resources enabling them to implement this justice. Then, a minimum of wealth is needed to make sure that everyone in their society lives under conditions of justice. The choice of global principles of justice would have to be related

¹¹ Thomas Pogge. Realizing Rawls. p.243-244

to the local principles. Pogge notes that the principles of justice chosen at the domestic level will be prioritised, but the international one will be necessary to assure that the domestic justice could be effective. In short according to Pogge, the principles of justice at the local level need a complement: a global principle of justice. The desired result that Pogge is looking for would be captured to a just situation between just states.

Pogge articulates three main principles that are, he believes, a more appropriate choice following Rawlsian premises. In his selection, Pogge believes that an emphasis has to be made on the individuals' basic rights and liberties that Rawls defends for his domestic principles of justice. According to Pogge, and in his first principle, an international law should be open to distributional concerns at the economic level, and touching the individual. As he said earlier, Pogge supposes that the domestic justice needs minimum resources to be effective. A society cannot assure the basic needs of its citizens without any means to do so. An international principle of justice would then favour the meeting of certain needs of the individual at the local level, with the help of a distributional world economy.

Pogge follows with the presentation of a second general principle. From his view, the choice of global principles should include one favouring the settlement of international disputes. Indeed, Pogge says that it is highly desirable to have a way to solve global conflicts from a legal point of view¹². These procedures would have to be internationally accepted and they would also have to possess sufficient executive power to be recognized by the international community. The main advantage of this second proposal is that war would not be the best solution to resolve conflicts between states; a rule of law would be. Thus, Pogge secondly proposes a system of international law helping in solving international conflicts.

Pogge makes a third proposal concerning the choice of principles regulating the global order. International principles would have to assure the individual of a respect of

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his basic rights and liberties at the local level. Indeed, global principles should protect the individual from potential harm done by his own government. Pogge even proposes the possibility to apply economical or political sanctions¹³ against local governments not respecting the value of human persons. Hence, the third international principle would be preoccupied by the questions of justice at the local level. Therefore, we can see that, like Beitz did before, Pogge is opposed to the principles that Rawls choose in A Theory of Justice. He prefers principles protecting the liberal ideas of freedom and equality affecting primarily the individual.

5-From A Theory of Justice to The Law of Peoples: Political Liberalism

5.1 The priority of the political

Following the publication in 1971 of *A Theory of Justice*, John Rawls came to believe that it was necessary to readjust some points in his account. He did that in 1993 in Political Liberalism, to be more adapted to the existing social reality. Here, Rawls mentions that democratic societies of our time are characterized by a plurality of doctrines, guiding the lives of individuals. Even if they are incompatible with one another, these doctrines have to be able to co-exist in the same democratic constitution. Then, to be able to adapt his theory of social justice to this reality, Rawls must consider the fact of this pluralism where it is a reasonable pluralism. Also important is the priority that should be put on a political conception of justice in the society. Society must be lead by political ideas rather than other normative conception. Individuals in the public life must be guided by a political constitution. These two important additions if applied will lead to a society where it will be possible to establish a constitution incorporating a variety of conceptions of the good and will bring stability for the society. The following section will present these central ideas, conceptions that will be very important for Rawls' work to come, namely *The Law of Peoples*.

¹³ Political sanctions might touch economic needs

The first central point concerns the importance of the idea of political in this conception of the society¹⁴. Rawls gives three main characteristics to his political conception of justice. In the first one, he mentions that even if the idea guiding the political conception is also a moral or normative one, it applies to particular aspects: the political, social, and economic. In other words, norms and values can circulate in the society, but they must start from the existing institutions, and more importantly, they have to apply to these institutions. Norms, principles, and ideas must on Rawls' account be placed in the context of our actual social life. Starting from this concrete point, these norms and principles will be applicable to the institutional life as we know it. This political conception is then the first element to remember in Rawls' *Political Liberalism*. Moral or normative ideas can be present, but they start from and apply to political, social, and economical aspect of the social life.

The second characterization of the priority of political ideas is that the conception of social justice must be understood and presented as a *freestanding view*. By this last expression, Rawls means that the political conception will not appeal to a wider doctrine giving a general understanding of the world. It will not ask for philosophical, comprehensive moral or metaphysical justifications. For instance, even though a comprehensive moral idea will be present, it cannot be a justification for a political conception. The political is the fundamental element. Rawls importantly mentions that one of the main characteristics of the political conception of justice is that it finds its justification in itself. It does not appeal to other considerations outside the social world and its institutions. Basic structures of the society are going to be the main elements of the social life. Therefore, by contrast to general doctrines touching all realms of the social life such as comprehensive moral conception, a political conception only applies to the basic structures of society and does not need these general understandings of the world. Political conceptions of justice are *freestanding*: they do not appeal to metaphysical or comprehensive moral doctrines.

¹⁴ As we will see, the importance given to the idea of political is directly related to the further analysis of *The Law of Peoples*. Rawls being directed by the idea of possible application of the theory to the real world.

The third aspect of this political conception of justice is that such notions are related to a society already possessing a political culture. Indeed, political justice will be executed in the context of a specific constitution or political tradition proper to a society. The individuals living in the society, at least if they are at all represented, are taken to be aware of this political culture. Starting from this basic point, these basic intuitions have to be worked out in a political constitution, acceptable by reasonable citizens. They must be organized in a political manner, and able to reach an overlapping consensus¹⁵. In other words, the political idea has to begin with an already existing political tradition, and transform it to attain a purely political conception. Thus, the Rawlsian theory aspires to be mainly political in these three meanings. Getting further from metaphysical views of society, Rawls seems to be preoccupied with a possible applicability of his theory.

5.2 The importance of pluralism

Another important idea in Rawls' *Political Liberalism* is his conception of reasonable pluralism. In various articles, Rawls talks about the idea of pluralism. Indeed, today's societies are characterized by a multiplicity of doctrines, at the religious, metaphysical and philosophical levels. There is a variety of comprehensions of what is good for the individual and the society. Rawls notes that this fact does not only happen in some actual contexts, but rather is a fact that is common to, and permanent in all modern democracies. With the likelihood of institutions allowing various understanding of the good, the result must be a plurality of understandings of what is good. The freedom to choose a doctrine will lead to a multiplicity of results following that choice. Moreover, these various understandings need not to be compatible with each other; they can even be incompatible. A view of the world can be reasonable, but still oppose another understanding, as reasonable as the first one. A democratic and free society contains these irreconcilable views of the world, and this phenomenon is the rule of social

¹⁵ The notion of overlapping consensus will be defined when discussing the idea of stability in the part 5.3. However, we can already define it by quoting Rawls in a footnote of the article '*The Domain of the Political and Overlapping Consensus*': 'An overlapping consensus exists in a society when the political conception of justice that regulates its basic institutions is endorsed by each of the main religious, philosophical, and moral doctrines likely to endure in that society from one generation to the next'. In John Rawls, Collected Papers, p.473

life in a contemporary liberal society. Rawls presents this fact, the idea of reasonable pluralism, to be central in our actual political life, and at least insist on that fact in *Political Liberalism*.

Rawls completes this idea by saying that only an oppressive state can assure a univocal understanding of the good. The diversity of religious, metaphysical and philosophical doctrines can only be unique or univocal if an oppressive government rules on an acceptable understanding of what is a desired vision. Rawls believes that the only examples of societies proposing an univocal vision, as during the time of the inquisition for example, are the result of an oppressive state, impeding the power of the individual to direct his life toward what he believes to be good. Then, starting from the point of reasonable pluralism¹⁶, Rawls has to find a way to reconcile these various and incompatible conceptions of the good, and to allow them to function together in the context of a democratic constitution.

Actually, the fourth lecture of *Political Liberalism* sets out the way to resolve the potential problems related to this fact of pluralism contained in a constitutional society. Traditionally, communitarian societies, like the ones imagined by Aristotle and Rousseau, used to impose one main conception of the social good. On the other side, liberals allow this reasonable divergence. Obviously, *Political Liberalism* follows this last vision. As Rawls notes, free individuals will come to develop various understandings of the good if they have the freedom to use their reason. Furthermore, Rawls mentions that it is impossible to have a doctrine reaching a level of generality and incorporating all the visions of the social good. Such an 'assembling view' is impossible. One has to recognize the fact of pluralism in the public culture, and admit the impossibility of assembling all the various visions of the good under a common idea¹⁷.

¹⁶ This reasonable pluralism asks for acceptability of basic principles of justice by reasonable but diverse peoples, and it must be fair and guide cooperation between them.

¹⁷ As we will see, Rawls believes that this reasonable pluralism is impossible to reconcile at the international level too.

Rawls then raises the question of the exercise of the political power. How is the use of political power legitimate in this pluralist constitution? He answers that the constitutional use of power will be legitimate when the law or rule presented can be reasonably accepted by the citizens¹⁸. The expected acceptability will be the legitimation needed for the use of political power. Moreover, Rawls makes two precisions concerning the use of this political power. The first one mentions that in the use of the state's power, issues must be settled by appealing only to political values. No comprehensive moral or religious views must interfere; the political is the only value that should guide the exercise of the political power. In his second idea, Rawls mentions that the political has enough normative force to override all other conceptions when it is time for choosing a rule guiding the political ideas. The political will be more important than moral or religious conceptions. It will be the foundation of our social choice. Thus, closely related to the idea of reasonable pluralism is the one of the priority of having a political conception.

These last points lead us to the question concerning the legitimacy of the use of the political power to rule on questions touching the good. We should ask if it is possible to use political power to rule on non-political values. Rawls answers that it is inappropriate to act in that way. The political power cannot be used to rule on conceptions of the good. This is a misuse of the political power. Even in the case of what is believed by many to be a desirable conception of the good, it is unreasonable to impose it by the use of politics. Rawls clearly rejects the possibility of imposing a vision of the good on other individuals¹⁹. Political power must stay at the political level, including essentially the level of political justice, and not try to legislate on questions concerning the good. *Political Liberalism* aspires to be political, and preserve a reasonable pluralism: both views which are also fundamental in *The Law of Peoples*.

¹⁸ In *The Law of Peoples*, Rawls defines the idea of reasonable citizens. He mentions: 'Thus, reasonable citizens are characterized by their willingness to offer fair terms of social cooperation among equals and by their recognition of the burden of judgment'. (Rawls, *The Law of Peoples*, p.87)

¹⁹ Rawls will maintain the same idea in *The Law of Peoples*, but in the context of the relation between states.

At this point, I want to raise an objection formulated by Micheal J. Sandel²⁰, point that, I believe, will be illuminating in understanding Rawls' global theory of justice. As we saw, Rawls mentions that political liberalism allows us to make abstractions of the various understandings of the good, and to unite these various visions around a common political understanding of justice. However, Sandel points out that a plurality of conception of what the political must be may exist²¹. He gives a few examples like gay rights or funding of health care, which are political matter, but highly divisive in a community. As Sandel notes, Rawls may answer that there may exist pluralism concerning justice, but not a *reasonable* pluralism. Then, this assertion must logically lead to the recognition of superior principles, formulated following the idea of the reasonable, and guiding the political order. If we follow Rawls' reasoning, we would arrive at a univocal conception of the notion of political justice following the reasonable. This recognition of objective political value does not seem to make sense if we consider many cases where reasonable reflection may lead to confusion and indecision. Abortion or assisted suicide would be other examples where, even using the idea of reasonable, consensus is not likely. Sandel clearly notes that any political culture experiences controversies concerning questions of justice, point that seem to undermine Rawls' theory²².

5.3 *The idea of stability in a constitutional democracy*

An idea closely related to the one of reasonable pluralism is the one of the stability of a political constitution. Reflecting on stability, Rawls remarks that two points must be kept in mind. In the first one, he notices that, for his political project to work, individuals living under conditions of pluralism must come to develop a sense of justice.

²⁰ The objection is coming from: Micheal J. Sandel, 'Review of Rawls: Political Liberalism', pp.1782-1789

²¹ It seems possible to find a parallel version of this criticism at the global level. Indeed, Beitz and Pogge mention that despite the fact that Rawls wants to avoid a comprehensive doctrine at the international level, his choice of purely political principles can be contested. See Beitz' *Rawls' Law of Peoples*, and Pogge's *An Egalitarian Law of Peoples*.

²² We have to note that Rawls, following the idea of reasonable pluralism, wishes to establish general principles, not necessarily touching these particular cases. However, the presentation of Sandel's points illustrates the fact that even in a situation of reasonable pluralism, some problems seem to be almost impossible to be unproblematic in a social situation.

The constitution must transmit the idea of justice to the citizens. In the second point, he notes the importance of reaching an agreement concerning the general political questions, and particularly taking into consideration the fact of pluralism. The political culture under the constitution must be able to assemble common ideas coming from the individuals composing the society, even if they live according to various understanding of the good. At this stage of his reflection, stability becomes an important point, mainly due to the importance granted to the fact of pluralism. Indeed, in his previous reflections²³, Rawls was constructing the general outlook of the society, abstractly in a certain way. He was not considering the diversity concerning particular conceptions of the good. But when faced with the question of applicability, pluralism must bring in concerns about the stability of the constitutional regime.

Rawls gives more details on what he means by stability. In a very concrete sense, he mentions that it is useless to create a constitutional regime if it fails to be stable. Then, a conception of political justice must establish a solid political culture that seems reasonable to the majority of citizens. Moreover, the political conception must be able to find a way to assemble people around a common and reasonable conception of justice, even if coercion is needed. But Rawls explains that the stability particular to *Political Liberalism* is coming from individuals living under a just constitution. Indeed, in that context, the citizen will learn to develop the stable political vision of the society. Following the exercise of his reason, the individual is expected to grant *reasoned allegiance* to these institutions, reaching Rawls' idea of stability. Rawls puts this another way saying that living under conditions of justice will develop just attitudes in individuals, and will favour compliance to the institutions bringing stability. The motivation to act justly will be something to be expected. Therefore, political stability is a concern for Rawls, especially considering the fact of pluralism.

Rawls notes again the importance of the liberal understanding of stability. Indeed, the political stability is realized in the context of liberal institutions, seeing the individuals as free and equal. This context also favours a plurality of reasonable

²³ Referring to *A Theory of Justice*

conceptions of the good. The main point that Rawls wants to bring out is that the question of stability will not be worked out by the imposition of one conception of the good. Rather, a liberal constitution is only reasonable if it can win the support of the citizens seen as reasonable individuals. The only possible legitimation is by appealing to the possible acceptability of a rule by citizens understood as free, equal, and reasonable. The main idea that Rawls presents in the section concerning stability is that it is not necessary to impose views about a precise conception of the good. Rather, the plurality of conceptions of the good can be assembled around a common political idea²⁴.

We will now briefly present the Rawlsian idea of an *Overlapping Consensus*, an aspect of his account that should be related to the idea of reasonable pluralism and stability. According to Rawls, an overlapping consensus might happen when a plurality of general doctrines can be united around a political conception of social life. These various reasonable doctrines will be united around an understanding of justice. Once again, the idea of reasonable pluralism is central. Indeed, the overlapping consensus is only possible if the general views about the nature of the good are reasonable. Reason will allow this union around a political conception of justice. In the institutions of liberal societies limits of justice must respect this reasonable diversity. Constitutional justice does not have the task to try to include unreasonable visions of the good. Its mandate must be limited to presenting a vision fitting within the limits of the reasonable. We have to remember that this reasonable pluralism is the result of the freedom granted to the individual by a constitutional regime. It seems therefore normal that this regime will be able to work out a conception of political justice respecting this freedom, as long as it is in the limits of the reasonable. The idea of stability following the overlapping consensus can be summed up by this quotation from his article '*Justice as Fairness: Political not Metaphysical*':

The aim of justice as fairness as a political conception is practical, and not metaphysical or epistemological. That is, it presents itself not as a conception of justice that is true, but one that can serve as a basis of informed and willing political agreement between citizens viewed as

²⁴ Once again, it must be noted that the idea of stability and the non-imposition of a particular vision of the good will be fundamental to understand The Law of Peoples.

free and equal persons²⁵.

Therefore, Political Liberalism shows a step in Rawls' vision adding the ideas of the political, plurality, and stability, all of which are fundamental ideas for *The Law of Peoples*.

6- Rawls in *The Law of Peoples*

*6.1 General context and principles of *The Law of Peoples**

In *The Law of Peoples*, John Rawls gives his clearest and fullest explanation concerning justice at the international level. To understand how Rawls presents his view on distributive questions in international relations, it is useful to summarize very briefly the important points in Rawls' global theory. Similarly to what he did in *A Theory of Justice* to choose domestic principles of justice, Rawls believes that representatives of states would hypothetically have to meet in an original position and agree on global principles guiding the world order. The final contract would reunite members of the well-ordered societies, which include both liberal and decent peoples. By 'decent peoples', Rawls means a society that is not liberal, but still lives according to right and justice and will accept global principles of justice acceptable by liberal peoples. Representatives would, in an original position, have to agree on principles guiding the international order. They would consent to a contract realized under conditions assuring the impartiality of the choice of principles. Indeed, like the international contract previously discussed, representatives would not know the exact situation of their society. It is under these circumstances that the international principles would be chosen.

Instead of the two principles at the domestic level, Rawls selects eight principles to constitute his Law of Peoples. In the first seven, Rawls mainly coordinates the relation between states, and promotes the interests of the peoples. Concerning states, Rawls mentions the obligation to observe treaties, not to interfere in the internal constitution of other states, the right to self-defence and in the case of a non-aggressive war, the duty to

²⁵ John Rawls, *Justice as fairness: Political not Metaphysical*, in Justice and Economic Distribution, p.324

observe certain rules. Rawls also gives importance to the human condition. In the first, third and sixth articles, Rawls talks about the freedom and independence of the peoples, their equality and the importance of human rights. The eighth article is the most important one concerning the current discussion on international distributive justice:

8. People have a duty to assist other people living under unfavourable conditions that prevent their having a just or decent political and social regime.²⁶

The following part of this essay will principally discuss this eighth principle, but we first have to look at the first seven briefly.

Rawls gives a general overview of these seven principles. He mentions that the principles guiding *The Law of Peoples* are incomplete. Some principles would have to be added, and the understanding of the ones selected is open to a wide range of interpretation. But we have to remember that Rawls mainly understands the principles chosen in *The Law of Peoples* as guideline for the international order. The central idea is that free and independent people living in well-ordered societies would recognize these principles of justice, and would choose them as basis and guide for the international relations between states. To reach this union, he notes that the principles guiding *The Law of Peoples* would have to be chosen by representatives aiming at justice at the international level. They would, he claims, be selected by peoples having to decide on global principles not knowing their particular situation in the world. Even if these principles are incomplete, they constitute a basis for international agreement.

6.2 The duty of assistance applied to burdened societies

As we previously saw in the eighth article of *The Law of Peoples*, Rawls is concerned with the question of distributional justice at the international level. He starts his reflection on the subject by presenting the concept of *burdened societies*. From his point of view, these societies are defined as not having the characteristics, or not living under conditions present, in well-ordered societies. In Rawls' words, these communities are characterized by the fact that they *'lack the political and cultural traditions, the human capital and know-how, and, often, the material and technological resources*

²⁶ Rawls. *The Law of People*, p.37

*needed to be well-ordered*²⁷. Facing these burdened states, the well-ordered societies should favour an integration of these states into a well-ordered world. To promote this goal. Rawls talks about a duty to assist burdened societies.

The first general clarification that he makes concerns the distributional question. Rawls does not favour a global distributional principle targeting equality of wealth. Moreover, global assistance should not be limited to mere resource distribution. He then talks about the problems of principles of distributional justice. For Rawls, there are some problems facing such principles. First, there is the fact that these principles do not seem to have precise goals. Indeed, it is hard to give a clear account of what a distributive situation aims at. The second problem that Rawls notes concerns the difficulty to give a precise limit of when the help should stop, to estimate when the situation is equal enough. But these problems do not mean that there is not any way to help burdened societies to improve their social and economic situation.

Rawls continues his general overview on the subject progressively making his thought clearer. He adds that it is a fact that wealth varies from one society to another. There is an obvious difference from country to country in the level of wealth that they possess. However, the duty of assistance does not have to deal with this difference in wealth. The help is mainly concerned with assisting burdened societies, and only them. The aim of this principle is not to level the international situation and to promote equality of wealth between states. Furthermore, Rawls mentions that the fact of being a well-ordered society is not mainly characterized by a possession of sufficient wealth. A state can be rich and be included in the burdened society category, as a poor country can be well-ordered. The criterion to judge if a society is well-ordered is not directly related to holdings. It rather has to meet the basic requirement of right and justice while respecting global principles chosen. Therefore, it is important to note that Rawls' duty to assist cannot be interpreted uniquely in terms of wealth, and consequently he rejects an exclusively economic distributional principle of justice.

²⁷ *ibidem*. p.106

To direct in a more specific way the duty of assistance, Rawls gives three guidelines for the actions needed. The first one considers the level of wealth implied in the assistance act. Indeed, as we noticed before, a society does not need to be wealthy to be well-ordered. To illustrate the level of wealth needed, he refers to the *just savings principle* from *A Theory of Justice*. Rawls explains in three points the just savings principle, and the duty of assistance will take its image. In the first step, he notes that at the social level, the just savings principle aims at creating socially just institutions using available resources. These institutions will secure democratic traditions, promoting at the same time the personal worth of the citizens of the society. The second step for the principle is that, when the society arrives at a level of good governance, it can stop investing resources for this purpose. Investment can end when justice is attained and assured for the reasonable foreseeable future. Rawls defines the level of good governance when the establishment of a constitutional democratic society is attained, and when the individuals of the society are able to pursue a *worthwhile life*²⁸. It is important to note that a part of the general level of wealth coming from resources should be kept aside or replace for the generation to come, but there is no need to save more than what is basically needed to assure just institutions²⁹. The third step for Rawls is to mention that it does not take great wealth to attain this just situation. The amount of wealth will vary from society to society, but only a minimal amount is needed to assure a just society. The just saving principle establishes just institutions at the social level.

Rawls thinks that it is possible to compare the just saving principle at the domestic level and the duty of assistance at the international level. In both cases, the goal of those principles is to assure some basic and just social institutions. From step to step, well-ordered societies can help burdened communities to create just institutions, and stop the assistance when the objective is attained. No great wealth is needed to attain this goal. As we noted before, Rawls notes that it is not necessary to reach an equal amount of wealth between states. Such a situation would ask for indefinite measures of adjustment.

²⁸ *ibidem*. p.107

²⁹ Rawls mentions briefly that the community must keep enough resources, or regenerate the used ones, to allow the human population which live on the territory to be able to sustain itself in the present.

The first step in the duty of assistance can therefore be at the image of the just savings principle, helping burdened societies to attain a just social situation.

Following this first step, Rawls gives a second guideline directing the duty of assistance. He begins by noticing the importance of the culture present in the burdened societies. Every society lives under a social scheme, particular to their precise situation. It is then a problem to try to implant another political and social culture to replace an already existing scheme. Rawls mentions that there is no easy way, no precise recipe, to operate the change. Furthermore, it seems to him that multiple elements are present in a burdened society, all related, and influencing directly the wealth of the community. Indeed, not only limited to natural resources questions, the wealth of a country is mainly and directly associated to the political and cultural tradition present in this society. These ways of functioning being an important part of the institutions, they will directly influence the wealth of the country.

Rawls adds that, present in the cultural scheme, peoples and their abilities are an important part of the wealth of a state. The way in which every individual will be able to participate in his state at the economic level will influence the general functioning of a society. According to Rawls, peoples will in some important ways reciprocally be influenced by the society where they live. It will guide their personal action, always in relation to a particular community. Political culture will have the power to motivate the individual's way of life. Thus, the first step of this second guideline is to underline some of the several elements composing a state's wealth, all reunited around a political culture.

Rawls pursues his investigation considering more precisely the bond between resources and the general level of wealth of a society. Indeed, he notices the fact that it is not easy to establish the bond between national wealth and resources possessed. It is possible to meet a prosperous society with few natural resources, as it is also possible to encounter a country with rich natural potentiality, but not wealthy. The real source of

wealth rather seems to come from a just political culture³⁰. Rawls adds that he does not believe that there are countries so poor at the resource level that they are not able to establish a political system characterizing a well-ordered society. Every state has sufficient resources to be able to implant and preserve such community. A just political culture will influence the totality of the society, and will bring it wealth independently of the resources possessed. Therefore, according to Rawls, natural resources possess only a marginal importance to help a society to be wealthy compared to the political culture.

Rawls continues his exposition making details clearer concerning the importance of the political culture. He mentions as an example the significance of birth control in burdened societies. Central to the management of a territory, the number of people living on it has to be controlled, the economy of a territory being only able to sustain a limited number of persons. An efficient political culture will take such measures assuring an adequate use of the land and functioning of the economy.

To illustrate what he is saying here, he uses the work of Amartya Sen from his book *Poverty and Famine*. Indeed, Sen notes the importance of human rights and democracy to help against famine. That goes with the Rawlsian assumption that a good political culture based on human rights will be well positioned to alleviate social problems. Sen studies the relation between human rights and famine. He shows that the lack of food is not the major problem in the famines. Indeed in time of famine, the quantity of food produced can stay the same, but for some reasons, members of the population will not be able to appropriate it. Sen's study demonstrates that government acting according to human rights will develop measures allowing every member of the population to have a sufficient amount of food to reasonably sustain themselves. A just political regime will implement ways to avoid mass starvation. Following Sen, Rawls believes that a just political order will prioritize human rights in such a way to avoid problems like famine. As Sen shows, the problem has not been the availability of food but the entitlement to it. The question of distribution of food is then central to the

³⁰ Obviously, there can be badly ordered states that are wealthy. The Nazi Germany would be an example. But in our time, and as a general rule, most of the badly governed states do not possess a lot of wealth.

problem. The consequence will be social progress. Once again, Rawls illustrates the importance of the political culture and its crucial role for the flourishing of burdened societies.

Even if there is no universal recipe to help burdened communities to put forth a just political culture, Rawls suggests prioritizing human rights and more particularly as they are articulated in the sixth article of *The Law of Peoples*. He already mentioned the problem of having to propose a change in a society already possessing its own scheme of value and culture. However, it seems to him that implanting a political culture based on human rights is a feasible action. Obviously, this change would mean to transform the existing political culture and practice of an illiberal tradition. But according to Rawls, this change is necessary to have a good political culture. Rawls believes, even in societies where religion plays a central role, a minimum conception of human rights cannot legitimately be denied. Fundamental principles of a religion guiding social culture would have difficulty to justify the need to disregard of human rights. These hierarchical societies must acknowledge the importance of the individual. Therefore, the second guideline directing the duty to assistance concerns the establishment of a political culture that will lead to a better life for the members of the society, goods already recognized in all well-ordered communities.

Rawls then arrives to the third guideline in the duty of assistance. This third step consists in helping burdened societies to be able to manage their own affairs by themselves. Former burdened societies should be able to administrate their own political situation, following principles guiding the well-ordered world. Indeed, once the necessary assistance is given by the well-ordered society, burdened communities should be able to join the well-ordered states. Rawls adds that when the previous burdened societies are in a position to become well-ordered, the duty to assistance stops. This is the end of assistance. Even if the level of wealth is unequal, it is not the purpose of the duty to assist to rectify that situation. The final aim will rather be a relation of freedom and moral equality between states, all becoming members of the well-ordered world.

Rawls once again notes the importance of having a distinctive culture as an integral part of a state. Belonging to a political order, determinate in a society, gives a feeling of fulfillment to the members of the society. Rawls uses the word '*patriotic*' to talk about the desired attachment to his own society, while at the same time respecting similar claims from other states. Joining the well-ordered states does not mean to renounce his own culture. The union is possible while preserving the states' distinctive culture. The union of states following *The Law of Peoples* is characterized by their well-ordered manner is wide enough to accept the particularity of everyone of its members.

My first criticism addresses the choice of the duty of assistance proposed by Rawls. As we saw, the duty to assistance does not prioritize equality, but it mentions that a decent political culture³¹ will be sufficient, allowing relative equality between states. I believe that Rawls underestimated the importance of equality at the international scale. The idea of assistance seems legitimate, but I tend to believe that it is unable to bring a just situation in a long-term perspective. Allow me to explain. If we follow Rawls premises, we arrive to a community of well-ordered states, not necessarily equality between them. In a previous criticism, Beitz accuses Rawls of neglecting the importance of the inter-connection between states. In the actual context of globalization, this inter-connection is hard to deny, and I will include it in this assumption about global justice. The situation is then one of interaction between unequal states.

I will now set out the consequences of what I believe would be the long-term perspective. Unequal states functioning together in a global context would eventually lead to greater and greater inequalities. Indeed, stronger or wealthier states would use their power to make the global situation work in their advantage. Progressively, the global wealth would be concentrated in a few states while the majority of countries would be poorer. The inequalities would obviously be gradually more accentuated by this process. There are various possible consequences of this widening inequality problem. A plausible one is that this unequal economic situation could lead to problems at the domestic political level. Indeed, confronted to these widening inequalities, countries.

³¹ By decent political culture, we mean, as a general rule a state that respect basic human rights.

especially poor ones, would be internally shaken. Populations would be directly affected at the economic level due to the deprivations of their own government. The growing poverty of their state would translate in poverty for them. This situation would eventually lead to internal strife, or other internal problematic situations, and the Rawlsian idea of just political culture would be undermined.

Moreover, there is no guaranteed that poorer states would continue to participate in this international community ruled by this unequal *Law of Peoples*. Thus, the main problem seems to be that without a rule constantly favouring an egalitarian context, the global situation would fall in what was at best a *modus vivendi* where every state would do anything to make the situation turn to its advantage. An unequal situation leads to a constant power struggle. By opposition, more equal circumstances, favoured by a relatively equal redistribution of wealth between states, seems to at least to avoid this problem. Mutual respect, and possibly fear, could result from this equality. Equal states would not be able to take advantage of one another. Therefore, the solution could possibly be a mechanism keeping economic wealth relatively equal, such action equalizing the effective power of the various countries. Following this reasoning, we can say that the duty of assistance seems to be a short-term solution, not able to propose a global just situation in a long-term perspective.

To conclude this section, Rawls deals with the question of the possible affinity between members of the well-ordered community. Is it possible to create an affinity bond between each member of the community of well-ordered states? While at the level of domestic justice such bond is possible following the close psychological connection uniting members of a state, the situation is different at the international level. Indeed, the wide range of conceptions of good life makes the union more difficult. However, Rawls suggests that starting from a purely instrumental cooperation, different communities would come to know each other, their relation going toward eventual affinity. Eventually, he notes that a union of well-ordered states can aspire to an international bond characterized by mutual affinity between members.

It seems important to look at the idea of possible affinity a little more closely here. It appears legitimate to ask if this closeness between states is really possible. The best way to pragmatically evaluate this claim seems to be by adopting the realist school of international relations' point of view³². Having in mind empirical considerations about the world today, this position appears to be a good way to reflect on philosophical propositions, and see their plausibility. We will then look at three of their claims. The first one mentions that relations between states are based on power, particularly military, but also economic. Indeed, military threat or economic sanctions can be applied, directly imposing a relation of strength between countries. This underlines the fact that states are directly using the power that they have to advance their own interests. The second relevant claim undermining Rawls' idea of possible affinity between states mentions that international relations are based on power politics. This idea means that the notions of morality, or in that case affinity between countries are only possible when backed by a group of powerful states. Affinity between states would then be possible if the world's powers would choose to unite but that situation that is not likely today. The third point brought by the realist school of international relation is that real morality and concern between states is not possible. Even in the case where morality is mentioned to promote international interventions, such idea of morality is only a disguised way to strive for the interest of a country or a group of countries. Real international morality does not exist; it is only a way to mask states' private interests.

Using this criticism, we can now look at Rawls' idea of possible affinity between states. As we just saw, if we look at international politics from a realist point of view, this idea is not plausible. But Rawls mentions that with time, states can experience closer ties united around the common *Law of Peoples*. However, it seems that *The Law of Peoples* gives us no means to overcome this relation between states mentioned by the realist school, and mainly based on power. Indeed, Rawls based his theory of the international relations mainly on the independence between the states. Such independence is not favourable to a possible union between them. Furthermore, as we

³² As presented by Fred Halliday in *Morality in International Affairs: a Case for Robust Universalism*

saw and will also see further³³, *The Law of Peoples* does not seem to be egalitarian enough to favour discussion between states on an equal basis. Even following *The Law of Peoples*, I can hardly imagine negotiations made from a position of equality between, for instance, Uruguay and the United-States. It appears to me that certain equality is needed if we wish to attain a possible international affinity between states. Affinity can only be established between countries respecting each other, relative equality being an important pre-requisite in that case. It then seem that Rawls' *Law of People* is not egalitarian enough to allow a possible affinity between states.

6.3 Distributive justice among peoples

Following the exposition of the duty of assistance and its desired consequences, Rawls makes clearer his understanding of the role of distributive justice. His first step is to look at the concept of equality. He mentions that there is two ways to understand equality. The first one takes it to be a good in itself. It is something which is intrinsically good. From this understanding, justice requires equality among peoples. However, it is the second view that is defended in *The Law of Peoples*. The main point of this view is that inequalities are not necessarily unjust. We can encounter inequalities, but still have a just situation. According to Rawls, it appears that global justice comes from the basic principles guiding the global order, and from the way that peoples and communities interact with one another in this order. Following that view, equality is not needed to have a just situation. In fact, it is not an essential element to evaluate the fairness and the unfairness of a situation in *The Law of Peoples*.

To clarify his position on equality and wealth redistribution, Rawls uses three examples, and compares the domestic situation to the global one. In his first comparison, he considers the position of the worst-off at the domestic and international level. From the social point of view, it is necessary to alleviate the less wealthy's suffering. Members of the community have a duty toward the less favoured of their members. Rawls notes that if we look carefully at the principle of social justice, it does not ask that everyone

³³ Beitz and Pogge will criticize this point

possess absolute equal wealth. Some variation in the amount of wealth can be legitimate. Indeed, strict equality is not an essential characteristic to be able to have a just situation, though in domestic justice it is a baseline from which we start. Rawls mentions that it is not the ultimate priority to consider the gap of wealth between more and less favoured. The important element is not to have complete equality in wealth, but to be in a society where the less favoured have enough resources to allow them to effectively use the freedom assured by the social principles of justice. Equality is not the or even an ultimate end of society, and should not be looked for after reaching the point where every member of the community has enough resources to allow him the possibility to live a good life. Rawls mentions that the situation is similar in *The Law of Peoples*. Indeed, redistribution made by the duty of assistance aims at allowing every society to possess a sufficient amount of resources³⁴. This will create a situation where the government can act according to principles recognized in well-ordered states. Equality of wealth between states is neither the aim of the global principles of justice nor the necessary criterion for justice.

In his second step reflecting on equality, Rawls considers more precisely the gap between the rich and the poor at the domestic and international level. He notes that in a society, injustice does not come directly from the gap between rich and poor. Unjust situations happen when the wealth difference leads to a lack of respect toward the worst-off group. The wealth gap is permissible, but a just society must make sure that every member will be treated with respect. Once again, Rawls mentions that the situation at the global scale is similar. Indeed, injustice does not come from the wealth gap, but from the lack of respect associated with this gap. Due to their lack of resources, members of a burdened country can experience inferiority feelings compared to states belonging to the well-ordered community. Following these circumstances, they can feel that they do not possess the self-respect needed. As in the domestic situation, a principle must assure that everyone has the means to secure self-respect. With the duty to assistance, it seems to Rawls that such feelings of inferiority would have no reason to exist. Members receiving

³⁴ We have to remember that the sufficient amount of resources needed is attained when the society is able to reach good governance as presented earlier.

assistance have no reason to complain of their situation³⁵. The duty of assistance empowers them with sufficient tools to make the inferiority feeling fade away. Similarly to the social situation, the gap between rich and poor does not need to be erased, what is mandatory is a community of states where every member possess self-respect, and that is done with the duty of assistance.

Rawls gives a third comparison between equality at the domestic and international level. At the social scale, equality between members of the society allows everyone to be part of the political life; it is possible for each individual to be a member of the public discussion. In that situation, Rawls mentions that social justice is not attained only by formal equality. To allow everyone to possess a fairly equal opportunity to be part in the social political process, each citizen must be empowered with enough capacity to be able to use this formal equality. It is not enough to be formally equal; the individual must be able to exercise his powers. To allow the person to use them, the society must favour a context where everyone possesses a similar chance, or has an equality of opportunity to access to power. This can be attained by ways such as education, or the avoidance of discrimination. Formal equality is normally not sufficient for it. Such a context should then allow a society where every member of the community will have real and equal opportunity to take part in the political life. For a third time, Rawls compares this domestic setting of equality to the one at the international level. Indeed, the global situation under *The Law of Peoples* must be one where everyone will have a fair chance to be politically present³⁶. Attaining such equality at the global scale not only needs formal equality, but most importantly it also asks for equal opportunity for the members of the global community to be a real source of influence.

The criterion of Rawlsian justice at an international level is then not uniquely based on equality. Indeed, he concludes this part of The Law of Peoples by giving his

³⁵ It can rightly be said that the measures proposed by Rawls to diminish inequality between peoples are not sufficient to make the feeling of inferiority fade away. Obviously, Rawls proposes a few measures to reduce inequality, but it seems to me exaggerated to believe that feeling of inferiority would disappear at the global scale.

³⁶ From a pragmatic point of view, we have to note that it seems that being politically present must include process like free and informed elections, free press, or frequent referendums.

standard of justice. According to him, we can talk about fairness when states' representatives select, under conditions already characterized, principles guiding the global order. Justice is realized when a just procedure is applied. And the result of this choice would be principally based, as exposed in the eighth article from *The Law of Peoples*, on the independence of every society and the equality in relations between the states. In this context, states will be in a position to work together sharing mutual contributions and benefits trying to improve their chances for a better life for their citizens. Moreover, Rawls adds that countries will cooperate directly by the way of organizations that will help stabilizing realms such as fair trade and cooperation. Therefore, far from being only an equality question, it seems to Rawls that the conception of justice promoted by *The Law of Peoples* appeals to a just procedure, using the hypothetical device of the original position, favouring independence and equality of opportunity, like in the domestic sphere.

I have a criticism to make concerning this point. As we just saw, Rawls does not believe that at the global scale, equality is needed to have a just situation. Instead, he believes that justice is possible if we follow a just procedure to establish international principles. According to me, a problem seems to arise when the principles chosen do not reflect the general and intuitive idea of fairness. Allow me to explain a little more this idea. From the basis, Rawls uses procedural justice. If the process used to arrive at justice is just, then following this process will lead us to a just situation. If representatives have to choose principles of justice in an equal and just context, the result will be just. Until now, the technique seems to be a good path to follow leading us toward justice. But the problem seems to be in the selection of the principles.

Following this procedural strategy, Rawls chooses principles that would ultimately help societies to preserve their independence. But if we try to justify this choice, we face the gap of this Rawlsian form of procedural justice. It is impossible to justify the principles chosen unless we refer to intuition, or what Rawls calls considered judgments. But in the final analysis, this considered judgment is the only basis for the choice of the principles. In this case, the choice made is to base global justice principally

on the independence of the states. The problem is that the choice for independence appears deeply counter-intuitive. It seems intuitive to believe that relative equality of wealth between states would be at least as important as independence is. I believe that Rawls, as we will explain later, chooses these principles in order to respect moral pluralism. But this choice can hardly be considered as intuitive. It looks like Rawls chooses these principles aiming at something. He did not select them without any background ideas, as representatives are supposed to do. It looks as if Rawls was trying to already defend some principles even if he was not supposed to follow his way to select principles of justice. I believe that this way of proceeding is a misuse of procedural justice. Thus I believe this to be an important criticism, that Rawls is trying to justify in a procedural way the choice of some principles, but that here he is not in accordance with our considered judgments.

In trying to be too general, Rawls' proposition seems to lead to unsatisfactory results. As it is counter-intuitive in our culture, Rawls' appealing to considered judgments would not be able to justify these principles in hierarchical societies either. More precisely, the sixth article concerning human rights is certainly not intuitive in collectivist forms of societies. Some principles appear counter-intuitive in every community, and thus impossible to justify for the procedural justice that Rawls chose to use. He does not propose an intuitive idea that could reach the wide acceptance that he is looking for, if such a general and intuitive idea about justice is possible, which I doubt.

Rawls continues his analysis on international relations discussing the objections formulated by Beitz in *Political Theory and International Relations*. As we saw in Beitz' criticism at the beginning of this essay, he defends two principles of international justice: the *resource redistribution principle* and the *global distribution principle*. To recall them briefly, the *resource redistribution principle* is meant to be applied in a situation where societies are autarkic, but where a distribution of resources still needs to be made to assure good conditions of living. On the other hand, the *global distributional principle* is applied to rearrange an economic situation where states are interrelated, and this is done by an international version of the Rawlsian difference principle. Rawls mentions that he

will pay no attention to the *resource redistribution principle* because the basis of this principle is the redistribution of resources, which Rawls considers, as we previously saw, not primarily relevant to the general welfare situation of a country³⁷.

Discussing the *global distribution principle* proposed by Beitz, Rawls begins with the claim that it is reasonable to consider a principle of justice based on redistribution of wealth. The problem, according to Rawls, occurs when that principle has no clear limits or no exact goal, boundaries that are proposed by the duty of assistance. Rawls presents two examples where problems might occur if the distributional principle is not sufficiently restrictive. In the first case, he presents two well-ordered societies living under similar demographical conditions such as wealth and population. Starting from this relatively equal point, Rawls imagines a situation where one of the two societies decides to make numerous efforts to improve its economic potential while the other does not. The second society may choose to give importance to values like leisure or pastoral lives. After a few years, is it just to tax the industrialized society to narrow the economic gap dividing it from the leisure society? Rawls does not think that this would be just, and he notes that this is the problem with distributional measures like the one Beitz proposes. The absence of limits guiding redistribution may lead to unjust situations. If one only aims at equality, taxation for the purpose of redistribution would be never ending; always trying to narrow the gap between various societies, without taking any account of the situation of the countries. According to Rawls, this situation is not desirable. *The Law of Peoples* does not encounter this problem. It concerns itself only with the duty to assistance not looking for an equality of wealth between states.

The second example is similar to the first one. Once again, Rawls presents two well-ordered societies with similar characteristics. These communities are confronted with rapid growth of population. Both treat women as equals and with respect, yet the first society gives its citizens a more active part in the economic life and in political

³⁷ We have to remember that Rawls believes that the wealth of a country is related more to the political culture than to the resources possessed.

institutions. The consequence is that in the first society, the growth rate decreases, while in the other community, it stays very high. After a few years, the first society will obviously possess more wealth *per capita* than the other. Once again, Rawls asks if justice demands an economic redistribution from the first society to the second? And once again, the answer is no. An economic redistribution would be unjust for the first society. Rawls notes that the duty of assistance considers the societies as free and responsible, enabling them to make good decisions for themselves, without the help of an external distributional principle of justice.

Rawls continues to criticize Beitz using the idea of self-responsibility. He reminds us that the duty of assistance aims at regrouping countries under a union of states following common international principles of justice. Once at this point, they will possess sufficient tools to allow them to create a social situation where supplementary measures of economic adjustment will no longer be necessary. Once again comparing with the domestic situation, he notes that the just savings principle has the same target, namely to give the individual enough resources, enabling him to function by himself. The circumstances are the same in *The Law of Peoples* where following the duty of assistance, every society can become able to take care of itself. From that point, assistance is no longer needed. Rawls is very clear, talking about both principles he says:

They assure the essential political autonomy: the political autonomy of free and equal citizens in the domestic case, the political autonomy of the free and equal liberal and decent peoples in the Society of Peoples.³⁸

Therefore, Rawls deems that the duty of assistance is sufficient to allow members of the well-ordered communities to be able to live a good life under *The Law of Peoples*, answering Beitz's criticism at the same time³⁹.

To conclude this section concerning the principles of distributive justice, Rawls opposes his vision to more egalitarian ones. He already mentioned several times that the duty of assistance possesses the advantage of being precisely limited. He gives a further explanation on this idea. Rawls first reaffirms that the duty of assistance gives the point

³⁸Rawls. *The Law of people*. p.118

³⁹ We will examine Beitz answer to this Rawlsian answer in a further section of this text

where the help should stop. Indeed, Rawls targets the point where the least favoured will at least be *free and equal citizens of a liberal society or member of a decent hierarchical society*⁴⁰. Following that, no further equalization will be necessary. Rawls mentions very clearly that the raising of standards of living is not a goal of *The Law of Peoples*. Rawls then looks at egalitarian principles of global justice. He notes that it is possible to see similarities between such principles and his approach. Indeed, the proximity is conceivable if these egalitarian strategies come to establish a cut-off point where the situation between countries is estimated to be sufficiently just⁴¹. But this limit has to be clearly established. Hence, by promoting the duty of assistance in *The Law of Peoples*, Rawls holds as very important the fact that a cut-off point can be identified, and consequently that the help to other societies is not never-ending, a frequent problem for an egalitarian approach.

In a next step, Rawls compares his distributive vision with a cosmopolitan one. From a cosmopolitan point of view, individuals are the final point of justice, the end of a just world order. Global principles of justice would then have to target a situation where each individual's welfare is considered as equally important. Taking this fact into account, it is reasonable to desire the implementation of an egalitarian and international principle of justice. Beitz and Pogge have already defended that cosmopolitan approach. In opposition to this view, Rawlsian justice is more concerned with justice applied to individual societies. The target of *The Law of Peoples* are societies. In choosing the principles of global justice, society has priority over the individual. And from that point where societies can experience justice between them, it will be possible to apply social justice concerning the individual. Once the states live according to principles of the well-ordered society, a just social situation must inevitably be the consequence. As Rawls remarks:

The Law of Peoples assumes that every society has in its population a sufficient array of human capabilities, each in sufficient number so that the society has enough potential human resources to realize just institutions.⁴²

⁴⁰ John Rawls, *The Law of Peoples*, p.119

⁴¹ See discussion on equality at p.35

⁴² *Ibidem*, p.119

Therefore, and in contrast with the cosmopolitan view where the target is the individual, the global principles of justice chosen by Rawls considers the society as the touchstone of international justice.

Before looking at the specific critical responses made to Rawls' *Law of Peoples*, I want to present a general objection presented by Allan Buchanan. One of the most important problem of Rawls' analyses of international justice, if not the most important one, concerns his conception of the world today. To present what appears at least to be a major flaw in his account of the world today, I will use an article by Allan Buchanan, which criticizes Rawls' understanding of the global political situation⁴³. Buchanan mentions that Rawls comprehends the international situation in a Westphalian sense. He gives two main characteristics of this view. The first one is that a Westphalian world is composed of states relatively self-reliant at the economic level. Indeed, in such a world, states are expected to answer to their financial needs by themselves. They are expected, under the condition of good governance, to satisfy the financial needs of the members of their population. Following this model, economic relations between states are greatly neglected. The second characteristic of the Westphalian world is that states are understood as uniform in their populations, and quite homogeneous in the choice of the internal policies. A Westphalian world then recognizes states as sovereign, homogenous, and internally politically united.

According to Buchanan, this Westphalian understanding is essential to Rawls' conception. It is at the centre of his theory. One obvious consequence is the absence of egalitarian measures assuring a just distribution of wealth around the world. Buchanan undermines Rawls argument by mentioning that a society can be well governed, but not able to assure a good quality of life for the individuals composing it. Indeed, he mentions that the society can be badly placed in the global structure composed by the world's states. This international structure can restrain the power of the state in two ways. In the first, Buchanan mentions that the global structure can weaken the capacity of a state to produce what it is able to. Indeed, international economics can affect internal wealth.

⁴³ In Allan Buchanan, *Rules for a Vanished Westphalian World*

The second way than the global structure can restrain a state is by impeding the just internal distribution of what is produced. States may not possess the freedom to distribute wealth in their society as they wish. In both of these situations, a just state will not be able to produce a good quality of life for the individuals composing it, and this goes against Rawls' assumption.

Buchanan mentions that such an international structure is present. The notion of globalization gives this idea of the world becoming more and more inter-connected, creating this mutual dependency, and going against the Westphalian model. Buchanan gives the examples of the North American Free Trade Agreement, or institutions like the World Bank. These two examples are sufficient to show the deep problem of a conception of the world today organized around the idea of the Westphalian model. If Buchanan is right about the basic Rawlsian assumption, and he seems to be, Rawls international theory of distributive justice must be in serious trouble.

7- From domestic justice to the international principles of justice

One important point concerning the international principle of justice presented in *The Law of Peoples* is particularly noticeable. Indeed, in his global vision, Rawls rejects moral individualism. He rather chooses to base his vision around a collective understanding of the political situation. It is worth recalling that in *A Theory of Justice*, Rawls looks for principles of justice at the social level. To select these principles, he asks himself which principles would an individual choose for the society without knowing the exact position that he is going to have in this community. There, the notion of the individual is central to this vision. A person would be selecting principles of justice that would apply to other persons taken as separate individuals. Thus, after prioritizing his basic liberties and the possibility of equal opportunity, the individual will select a principle relatively equalizing the social situation. The difference principle will rearrange social inequalities to the advantage of the worst-off representative individual. Hence, that social vision locates the individual in the central choice of the principles of justice. It is highly individualistic from a moral point of view.

By opposition to that vision, the international principles of justice abandons the individualistic point of view. Indeed, in a similar situation where principles of justice have to be chosen, it is not a person but peoples who will have to decide on global principles. In the selection of these principles, the notion of the individual will not have a lot of weight. Principles chosen will address states, giving importance to this collective aspect of justice. The previous moral individualism is abandoned for global justice. This choice also constitutes a rejection of moral individualism taken in its global understanding, namely cosmopolitanism.

Rawls' readers have been trying to explain this change from the individualistic principles of *A Theory of Justice* to the collectivist vision in *The Law of Peoples*. Rawls explains this change from moral individualism to the social collectivism by a desire to be more open to several conceptions of the good. Liberal societies should tolerate different understandings of the good at the global level, as they tolerate such visions in their own society. Here, it is easy to see the continuation of the ideas developed in *Political Liberalism*, particularly the one of toleration of the plurality concerning the understandings of the good. At the global scale, the major difference between liberal and hierarchical societies is in the conception of the individual in the society. Liberal societies understand the individual as a moral end while hierarchical communities are more collectivist, prioritizing society over the individual. Hierarchical societies would not recognize this individualistic vision of liberal societies taking the individual as free and equal. It then seems important for Rawls to propose a basis for *The Law of Peoples*, which presents a wide understanding, respecting several conceptions of what is a good life. Decent conceptions of the good in hierarchical societies will be acceptable for Rawls.

Some clarifications have to be made on the collectivist vision of Rawls. Is he really committed to a collectivist understanding of the global situation? According to one

group of authors⁴⁴. Rawls only works with the notion of peoples as a basis for making the agreement possible between different communities. Kok-Chor Tan more explicitly mentions that a principle of justice based on a cosmopolitan basis, or defending the individual in priority, could not be acceptable by the hierarchical societies. Then, following Rawls' idea, societies themselves have the right to be tolerated, and to live according to their conceptions of the good. A comprehensive doctrine cannot be imposed on a community from the outside; their moral choices, as a society, must be respected. *The Law of Peoples* then follows this idea, proposing a principle in accordance with these values. More pragmatically, this choice is a compromise between liberal societies and hierarchical society, which leads the former to include hierarchical communities in the choice of global principles of justice. The commitment seems to be only a way to find an agreement, but not a real statement prioritizing society over the individual.

One important fact to note is that Rawls understands this global union in a context where he is preoccupied with the question of possible applicability. In the beginning of his book, he talks about a *realistic utopia*⁴⁵, giving importance to the plausibility of his model as something that has application to the world. The principles of global justice have to be able to unite peoples around a conception of the justice, even if this means, for the liberal, to renounce to the priority of liberals values at the international level. In that sense, it is possible to say that this vision is political, not metaphysical. The major consequence will be that Rawls has to abandon his difference principle favouring equality at the individual level. Rawls seems to believe that, for the sake of global justice, an individualistic principle like the difference principle cannot attain the wide acceptance desired. So Rawls' changes from moral individualism to a collectivist conception as the only a way to have principles of justice which is globally acceptable to all the well-ordered states.

⁴⁴ Andre Duhamel. Droit des gens et pluralisme international, and Kok-Chor Tan, Critical notice. John Rawls, the Law of Peoples: With the 'Idea of Public Reason Revisited'

⁴⁵ Rawls. The Law of Peoples. p.4

By opposition to this previous vision, Michel Seymour interprets this change from individualistic morality to a collective one in a different way.⁴⁶ From his point of view, it is a mistake to understand the late Rawls as a moral individualist. Seymour contends that from *A Theory of Justice* to *The Law of Peoples*, Rawls has changed his view, favouring a more collectivist approach. The choice to emphasise on collective rights in *The Law of Peoples* would come from the fact that Rawls has draw closer to the value of the community over the one of the individual. It would then be a mistake to see, in Rawls' change of attitude, as a strategy to attract hierarchical societies. The choice is a sheer preference for collective rights. His vision is clearly expressed when Seymour notes:

Non seulement Le droit des gens ouvre t'il la porte aux droits collectifs, mais il permet aussi de contredire ceux qui croient que le libéralisme de Rawls est un individualisme politique.⁴⁷

Thus, Seymour believes that Rawls changes attitude since *A Theory of Justice*, and that he now takes collectivist stance.

I believe that the explanation given by Kok-Chor Tan must be the more accurate one. Indeed, if we look carefully at *Political Liberalism*, an important transition to *The Law of Peoples*, we can see clearly that Rawls is committed to liberalism and to moral individualism. Obviously, he is more open to the notion of rights granted to group. But if we try to explain why, it appears that it is by commitment to the liberal idea of toleration, and not strictly speaking to favour group's rights. Even in *The Law of Peoples* where he gives the priority to peoples, I rather see a commitment to toleration and possible applicability that a defence of the right of the community similar to what can be defended by David Miller or Michael Walzer. According to me, Rawls is fundamentally liberal with the moral individualism typical to liberals.

In relation to this explanation of the Rawlsian transition from social to international justice. I will now look at what I consider important objections to the understanding presented in *The Law of Peoples*. The criticism that I want to mention is

⁴⁶ Seymour, Rawls et le droit des peuples, in Philosophiques

⁴⁷ *Ibidem*, p.117

shared by several authors⁴⁸, but is expressed in its clearest and complete form by Allan Buchanan. As we just saw, Rawls uses a more collectivist approach in *The Law of Peoples*. From there, he seems to suppose that the only logical consequence is to abandon principles of distributive justice such as the difference principle, such principles as being too individualistic to be accepted by collectivist societies. Buchanan, as well as some other authors, is opposed to that. According to him, peoples in the position of choosing principles of global justice would be inclined to choose principles of distributional justice, and collectivist societies as well as in individualistic one would make that choice. The representative of the community, egalitarian or hierarchical, would choose more equality. Buchanan seems to admit that redistribution of wealth may not be based on the individuals composing the society, but that does not cancel the demand of redistribution. He thinks that a distributive principle could be acceptable even for decent hierarchical societies. According to him, this principle is not opposed to collective values. Thus, independently of the fact that a society is egalitarian or hierarchical, principles favouring equality of wealth would be chosen.

Buchanan gives two reasons for his claim. In the first, he mentions that each society, trying to attain values that they consider good or just, would desire global principles of justice that make this quest possible. Indeed, states' representatives would try to select principles that allow societies to live according to their vision of the good or their idea of justice. Only a society with at least a reasonable minimum of resources can with any hope of success engage in the pursuit of good and justice. In other words, material equality is required to promote social values. Then, a more global egalitarian context would give to every community a fair chance to pursue the values that they consider right. Therefore, we can see that hierarchical societies would have to agree with a certain redistribution of wealth because it helps the society to promote their own idea of good and justice.

⁴⁸ Kok-Chor Tan. John Rawls, the Law of Peoples: With the 'Idea of Public Reason Revisited', p.11-12. Seymour. Rawls et le droit des peuples. p.137. Buchanan, Rawls's Law of Peoples: Rules for a Vanished Westphalian World. p.708. Thomas Pogge. An Egalitarian Law of Peoples, p.104-107

The second reason touches the value of equality. At the domestic level, Rawls is concerned by equality because it will favour self-respect for the individual. Relative equality of wealth will allow everyone to possess a sense of worth. Similarly, it appears to Buchanan that equality also is as necessary at the international level. States would, with such equality, make sure that they are in a position of equality with their counterparts, this equality relative to the amount of wealth that the community possess. Once again, we can assume that hierarchical societies would give their approval to a principle of economic redistribution allowing this relative equality and favouring mutual respect. Relative equality between societies seems to be a logical choice to assure a global respect between states. In short, Buchanan notes that every form of society having to agree on principles of global justice would include economic redistribution. Either justified on individualist grounds or on collectivist one, the choice of relative equality at the global scale seems appropriate to favour mutual respect, and also to promote particular understanding of the good. Therefore, it seems that Rawls was mistaken in believing that hierarchical societies would reject an egalitarian principle of distributive justice. If we follow Buchanan argument, they would agree with such idea. Then the non-egalitarian *Law of People* does not seem justifiable, at least for the reasons that Rawls choose.

8- Beitz's answer to The Law of Peoples

8.1 Beitz on Rawls' global principles of distributive justice

Before concluding my discussion on The Law of Peoples, it seems important to look at a few critical responses that have been made to Rawls' *Law of Peoples*. I will briefly consider Beitz responses since we studied his position following the publication of A Theory of Justice. Beitz begins this new argumentation mentioning that Rawls' most important point in *The Law of Peoples* is the importance that he puts on the difference from one society to the other in their capacity to satisfy peoples. Liberal and decent hierarchical societies seem to be successful doing it while burdened communities fail to do so. Beitz presents *The Law of Peoples* as a model helping burdened societies to reach

this point where, like liberal and decent hierarchical societies, they can achieve good institutions. The Rawlsian model suggests a well-ordered constitution. Furthermore, it is a duty for liberal and decent hierarchical societies to help burdened groups to reach this target making the lives of their peoples better. They must assist these burdened groups. But the main question that Beitz wants to raise concern the amount of help that Rawls proposes to bring to less-favoured peoples. Is the amount of help suggested by Rawls enough to meet the criterion of justice required at the international level? And in what sense does Rawls reject cosmopolitan principles of justice to direct global redistribution of wealth?

In his review of the global Rawlsian principles of justice, Beitz looks more specifically at Rawls' duty of assistance. In presenting this principle, Rawls criticizes Beitz's idea of a distributional principle of justice applied globally, and then promotes his own principle in three ways⁴⁹. Beitz looks carefully at these answers, and uses them to criticize at his turn the *duty of assistance*. According to Rawls, the first reason to accept the duty of assistance and reject a distributional principle is because the economy of a country is mainly determined by political reasons, not purely economical ones. Indeed, and as we saw, the wealth of a state seems to be determined by the political culture and not natural resources. Therefore, purely economical redistribution based on natural resources is not sufficient, and what is needed is a just political system⁵⁰.

Beitz raises doubts concerning this understanding of the international situation, and he argues against it in two ways. He contends that numerous factors influence the wealth of a country; it can be various reasons like natural resources, technology, or human activity. Beitz mentions that it is hard to select the most important factor contributing to the wealth of a country. Furthermore, he underlines the fact that state's economy is intermeshed in the global economic flow. Local economy is greatly influenced by this world phenomenon. Beitz concludes his remarks here by making clear

⁴⁹ He presents these three arguments against Beitz in the pages 117-118 of *The Law of Peoples*

⁵⁰ It is interesting to note that a Marxian criticism could probably note the fact that political situations are determined by economical ones. Therefore, Rawls would commit the mistake of seeing the reality upside down. The political factors would be in fact determined by economical reasons.

that it is impossible to tell for sure which phenomenon, natural or social, is the more relevant concerning the wealth of a state.

In the second part of this argument, Beitz argues that even if Rawls were right about the importance of the political life, it would not erase the claim for a form of redistribution. Indeed, if Rawls conception of international justice is accurate, Beitz believe that claims for international redistribution is still needed. He claims that locally and internationally, a redistribution of wealth from rich to poor is probably not the better solution. Rather, Beitz believe that improved educational conditions and the chance to be an active member in the economic life would be more appropriate in gaining a more equal situation. Obviously, these political measures must be backed by economical means. Beitz briefly mentions that taxation on wealth can be a solution to favour transfer of wealth from rich societies to poor ones⁵¹. Therefore, even if societies' wealth is determined by political reasons, as Rawls seems to believe, favouring political factors like education and participation in the economical life it would allow a better form of redistribution. Hence, the Rawlsian presentation of the first reason to accept the duty of assistance does not satisfy Beitz.

The second reason, Rawls mentions in his Law of Peoples is that a distributional principle would not respect the social and economic choices made by various societies and would impose on them duties toward others for actions for which that they are not responsible. In Rawls view, it would be unfair to impose on a liberal society the cost of redistribution to help societies that have voluntarily chosen not to adopt policies favouring the wealth of their peoples. Each society is responsible for their political choices. Beitz believes that this vision is idealized. This idea supposes that the consequences of the economic decisions can be foreseeable and predictable, and Beitz does not believe that it can be the case in the actual world. Furthermore, Beitz argues that it is reductionist to suppose that societies possess political and economic independence, and hence that they can decide unrestrictedly on their policies. They are dependent on a

⁵¹ However, Beitz also mentions the obvious problem of the implementation of such transfer of wealth.

global economic system, and obviously, some countries do not have the freedom to extensively control their economic destiny.

But once again, Beitz accepts the Rawlsian presupposition, but denies that it is incompatible with principles of redistribution. Rawls' idea is that peoples must take responsibility for their choices if they are made in the condition of freedom and non-coercion. However, this does not seem to be the case at the international level because the peoples are not the ones suffering the consequences; individuals are. Indeed, it seems that the choice of societies may have disastrous consequences, but mostly suffered by individuals who did not choose the policies. The real victims are persons who did not make the political choices. Of course, societies may be encouraged to adopt just economic and social policies to favour the individuals composing the society. But social and economic decisions influencing the well being of a nation seem to belong to what Beitz calls *instrumental judgements*. They are for the most part technical decisions helping to bring a better life for the individuals. According to Beitz, it is a mistake to intertwine these technical considerations with conceptions of justice⁵². They are two separate views with no necessary bond. Distributional justice should not be restricted according to managerial questions.

The third reason to accept the Rawlsian duty of assistance mentions that relative equality is needed at the global scale to assure the possibility to live a good life, to avoid an interstate feeling of inferiority by the citizens of poorer countries, and to assure the basic conditions for democracy, three elements allowed by the duty of assistance. Empowered by these basic elements, each society must be able to live a decent life, and answer to the criterion of justice. Beitz criticizes this point by insisting on the fact that the choice of principles in the original position is made according to the interests of the state seen as an administrative device. Indeed, the choice is done to protect social institutions, not individuals. According to Beitz, a different construction of the global

⁵² Obviously, technical considerations often have impacts on distributional measures, but mainly at the moral level. In these cases, social considerations help develop ideas like justice or equality. However, I believe that Beitz rejects technical considerations taken from a purely political point of view. In these cases, it seems that decisions are made more according to administrative notions than moral ones.

original position would place a party concerned with the personal interests of the individual. The representative would then choose principles allowing persons to advance their personal conceptions of the good, and chance to live a better life. But even if peoples had to make the choice that Rawls proposes, Beitz believes that they would choose more equality than the relative one that Rawls suggests. Relative wealth plays a role in international politics favouring the rich countries in the three categories mentioned by Rawls. They have a *de facto* advantage over the less-favoured ones. Peoples, Beitz claims, would choose a principle equalizing this situation. Thus, Beitz rejects the third Rawlsian reason to favour the duty of assistance by comparison to a principle of international distributive justice.

Beitz concludes this reflection on international distributive justice by general reflections on Rawls work. First, he mentions the problem of defending two different theories of justice, locally and internationally. Defending on one side the right of the person, and on the other the rights of the peoples seems to create instability in the general Rawlsian theory. Following this point, Beitz mentions that Rawls' attempt to prioritize his principle of international justice is not convincing, but that does not imply that cosmopolitan principles of justice must then be applied. Cosmopolitanism would have to be independently defended; criticizing Rawls is not sufficient to promote this other vision. He even mentions that the Rawlsian principle is *highly progressive* in today's world. The redistribution following the application of this principle would be very important, even if it is still a lot less than what cosmopolitan justice would ask for. Wealthy countries would have to give a lot more than what they actually do. He concludes this section with a question that he leaves open: how could the states concretely work starting from *The Law of Peoples*?

8.2 The primacy of peoples over the individuals

As we saw in various instances, Rawls in *The Law of Peoples* grants a fundamental place to the notion of peoples, and Beitz reflects on the subject. He sees two senses in which peoples can have priority over individuals. In the first, he mentions that.

the global society is established around the idea of peoples. They are the basic elements composing the global world. Politically and legally in such a conception,, peoples have the priority over the individual. Mostly, peoples also have a certain control over their economy, they are free, for the most part, to take decisions and live according to their own economic policies. In the second sense, Beitz mentions that the priority of peoples can also be seen as non-exclusive for the individual; actually peoples serve to represent them. Indeed, peoples are the way for the individual to be represented at the international community. Beitz notes that Rawls' conception of peoples is the first one, namely that he organizes the international relations around the idea of peoples. In his global theory, peoples have ethical priority over the individual⁵³. It is peoples that are placed in the global original position. They have the choice of the principles ruling the international society. They make the choice of principles following collective interests, not the ones of the individuals. Beitz mentions that this vision is collectivist; peoples choose following collective interests. Hence. Beitz begins this reflection presenting the priority of the peoples over individuals in Rawls' work.

Rawls' three main characteristic of decent peoples are that they belong to a democratic system, they have common interests as people inhabiting a territory, and that they express a political and moral view of justice⁵⁴. Beitz mentions that this vision of the peoples is idealized, not necessarily reflecting reality. Reality works mainly with the notion of states. One of the main differences would be that peoples see themselves as having to answer to moral considerations while states do not necessarily submit to these norms. However, Beitz claims that using the notion of peoples is idealized, but this fact does not matter. The real question according to him concern the desirability of this choice as a basis of international relations. Is the notion of peoples important enough to base questions of justice at the international level?

⁵³ Obviously Beitz supposition goes against Rawls' previous works. The only way to preserve a coherent interpretation of Rawls' work is to use Chor strategy and give importance to the respect of the facts of pluralism.

⁵⁴ These three ideas are discussed at pages 23-24 of The Law of Peoples

According to Beitz, it is insufficient to say that peoples is a good analogy at the international level of what individuals are at the domestic level; this does not justify the utilization of this notion to talk about global justice. Also insufficient is the rejection of an international theory of justice rooted in the individual and based on the idea that this atomism must result in a collection of unrelated individuals, not belonging to any particular country. Rawls must justify the choice to use the notion of peoples rather than the one of individuals. Beitz notes two answers that could be made by Rawls. The first one presents the choice of the notion of peoples as a pragmatic one. Considering the actual political situation, and preoccupied with a possible applicability, Rawls chooses a notion that can be applied. The notion of peoples seems to be a strategic choice bringing possible applicability. Rawls' second answer could be that a cosmopolitan conception would be less tolerant to various forms of culture. Reflecting on the international situation beginning with the notion of individual would lead to a conception of morality not very popular in hierarchical societies. The concept of peoples is also a more suitable way to preserve values proper to a community. Cosmopolitanism cannot defend the proper character of a desirable culture or position based around the idea of peoples.

But according to Beitz, these justifications for the choice of prioritizing the peoples over the individual are not satisfactory. First, considering the idea of political realism saying that the notion of peoples is closer to a possible applicability, Beitz mentions that it gives priority of the *status quo* over the idea of a possible change. Using the notion of individual could lead to a revolution at the global scale. The question then becomes one of structural matter, asking whether a change of view is desirable or not. However, Beitz notes that these technical considerations take the priority over the real issue, the one of international justice. According to him, moral considerations must give priority to the idea of the person, and there is no impossibility that this decentralized vision may become the reference at the political level too⁵⁵. Thus, Rawls' first possible justification of the choice of peoples as a priority in international justice does not satisfy Beitz.

⁵⁵ Here, I have to note that I agree with Rawls' position. Basing his argument on notions like *realpolitics* and possible applicability. Rawls uses the notion of state. Beitz uses the one of individual. It seems to me that for the sake of applicability, we must choose Rawls' position.

Following this first criticism, he looks at Rawls' second argument favouring the notion of peoples over the one of individuals. He first reinstates the question, which concerns the ethical diversity of the peoples. Do people experience a wide enough range of forms of life to justify and give priority to it over the individuals' conception of the good? In other words, are cultural differences so important that a principle of toleration overrules the aspirations of equality lived by individuals? Are the diverse forms of collective lives worth preserving even if they do not give priority to the individuals composing these societies? This question hides another one, more complex. Indeed, Beitz directly asks if liberal societies should tolerate non-liberal values. At that point, Beitz mentions that Rawls had in mind the importance of the toleration toward non-liberal cultures when he made the choice of principles in the original position. It seems to Beitz that Rawls presupposes that toleration of non-liberal values is a good when he chose to grant priority to people over the individual. But according to Beitz, this presupposition goes against the assumption that the choice in the original position is an un-informed one. It goes against the Rawlsian assumption about the original position. The choice is a directed one, intending to something, namely the toleration of non-liberal values in this case. As a final note, Beitz mentions that the choice for toleration is defensible, but Rawls must defend it, and not presuppose it as he does in this case. Therefore, according to Beitz, favouring a vision of global justice based on the idea of peoples rather than individuals has not been justified by Rawls, it has not even been defended using the idea of toleration of other cultures.

Having critically looked at these two arguments, Beitz notes that the priority of peoples over the individual still has to be justified. He then proceeds to try to do it from Rawls' perspective. Beitz mentions that Rawls believes that an international organization requires borders or boundaries. Presenting Rawls' view, Beitz mentions that it seems important to have an entity responsible for the management of a distinct territory. Without this stable entity, common assets like a territory could deteriorate. A government must unite individuals around a common idea. It will then have to gain public support and create a political culture protecting these common assets. The

political culture of liberal societies is based on these values of loyalty to institutions, solidarity, and a common nucleus of political values. Stability in a liberal society depends on a shared idea of the political; it lives by following norms of a determinate political culture. Individuals are cooperative members of a common project. Always presenting Rawls' position, Beitz mentions that peoples then deserve this ethical priority, they ought to have special rights recognized at the international level. Governments allow the peoples in these societies to possess this power. In other words, peoples are justified in having ethical priority in the choice of the principles of justice at the international level. Peoples must be in a position to assume the responsibilities of managing the life of a group in various realms touching the individual's lives. Peoples are best placed to assure the protection of the institutions at the global level. Thus, Beitz mentions that Rawls could justify his choice in a way similar to the one presented.

With this understanding of the importance of respecting the collective aspect of the society, Beitz notes the collectivist international vision can cohere with the general theory defended in *The Law of Peoples*. The collectivist understanding just presented seems to fit with the general theory. The next step would be to prioritize distributive measures favouring a just political culture at the domestic level. According to Beitz, Rawls defends the position that the vision within the society must be one of solidarity between individuals; he favours social unity around a common idea, the political one. Thus, if we follow Rawls' idea, an international theory of justice must favour the chance of success in the social life. It must establish global principles favouring the achievement of this collective form of life.

However, Beitz responds to this collective ideal with two points. The first step is to admit that indeed, the state and institutions representing peoples seems to be the better way to manage a territory over time. The administrative device appears to be able to control and administrate a territory with the support of a population. However, the recognition of this fact does not lead to the fact that this institutional form possesses a priority over the individual in an ethical way. The fact that a state is the best administrative device does not give it priority over the individual, especially concerning

morality. Its function cannot be accepted as a justification of the priority that it has over the individual. The only consequence that we can extract from this fact is that any determinate society can be compared with other societies at the global scale by his control over a territory. We can recognize a government by its function at the international level, but that does not give it ethical priority over the individuals inhabiting the territory under its jurisdiction.

The second point concerns the motivation and solidarity that the notion of peoples is suppose to bring. Rawls justifies the priority of the peoples by the idea that social solidarity and affinity between members must be prioritized. But Beitz remarks that this solidarity is not a certainty in the social world. Beitz believes that depending of place and time, this affinity between individuals composing a group can be very variable, sometimes reaching the point where it can be hard to identify any solidarity at all. Especially today, multicultural states make it almost impossible to reach this feeling of closeness in the social context. The opposite movement of openness to other forms of lives makes the idea of a parochial form of life slowly to fade away. The actual political content is one of dissolution of a determinate culture, at the opposite of what Rawls seems to defend. Putting the people in the original position seems to preserve this restricted vision. It leads Beitz claims to a parochial vision of the society, almost ethnocentric. Thus, Beitz believes that Rawls is unable to defend the choice of the priority of peoples over individuals as representatives in the original position. The whole point of *The Law of Peoples* appears once again to be shaken.

9- Pogge's response to The Law of Peoples

Thomas Pogge also replies to *The Law of Peoples* in '*An egalitarian Law of Peoples*'. In a general way, Pogge criticizes Rawls on the basis that his international theory of justice is not egalitarian enough. Pogge believes that Rawls was mistaken to give primacy to the peoples rather that to the individuals. However, placing himself in the hypothetical situation where representatives of the peoples would have to choose principles of international justice, Pogge argues that Rawls' choice of principles was not

the right one. Pogge criticizes Rawls in two ways. In the first part of a first criticism, a criticism similar to Beitz' but defended differently, Pogge says that he sees no reason why representatives of a society would not choose principles favouring relative equality of wealth between states, a way to give the persons composing this state a better chance for welfare. Indeed, it seems plausible that representatives of states would care primarily for the individuals who make up the country, and not be preoccupied with the relations between these states or that its preoccupations with states or peoples would be instrumental to its preoccupations with individuals.

According to Pogge, a state representative has to be concerned by the well being of the individuals that he represents. But that does not seem to be the case if we look at Rawls' choice of principles. In that case, and according to Pogge, Rawls implicitly assumes that the represented peoples have no preoccupation for the quality of living of the individuals composing the state. In other words, states representatives do not have the mandate to assure the welfare of their peoples. From that point of view, the Rawlsian international principles seem questionable. They appear even weaker if we consider alternative principles assuring a decent quality of life of the peoples. For instance, Pogge suggests international measures against economic stagnation, principles providing basic help for deprived peoples, or assistance in time of natural catastrophes. In Pogge's view, a representative caring about his people would rather make similar choices, making sure at least that the basic needs of the people are assured. Therefore, Pogge believes that representatives behind the *veil of ignorance* would try to maximize the chance of well being for the individuals composing the state.

In the second part of this first criticism, Pogge attacks Rawls' for a possible incoherence concerning the transition from domestic to global justice. On the one hand, Rawlsian principles of social justice consider the individual as a moral end. The individual is the fundamental unit of justice. On the other hand, the global principles take the society to be the goal of justice. It has priority over the individual. What value would then be the most important one? To illustrate the claimed incoherence, Pogge describes a hypothetical situation where individuals, acting as representatives of the other individuals

composing a collectivity, would have to choose behind the *veil of ignorance* social principles of justice. These representatives would then have to meet representatives of the peoples choosing on global principles. What principles would the 'social representatives' suggest? Pogge mentions that the members of a society already respecting social justice based on the individual would make sure that the representatives choosing global principles would manage to preserve these social conditions prioritizing the person. He mentions that to protect the interests of the society are valuable only if they ultimately serve to look after the individuals living in the society. Global principles targeting peoples are not goals in themselves. According to Pogge, the social representatives would favour this idea based on the individual, and suggest to the *global representatives* to prioritize it. By choosing differently, namely by prioritizing the interest of the peoples, Rawls seems at least to be incoherent. Therefore, Pogge thinks that Rawls is mistaken in his suppositions about the choice of principles, prioritizing individuals and people at the same time. He thinks there is fundamentally an incoherence in his position.

In a more recent article⁵⁶, Pogge takes again this idea of incoherence, but presents it in a more critical way. In the context of a larger discussion on contextualism and universalism⁵⁷ at the moral level, Pogge attacks Rawls' choice of global principles of distributive justice. Targeting more precisely the incoherence between local and global justice, Pogge mentions that Rawls defend a moral universalism at the domestic level, but he seems contextualist and non-universalist when it is time to choose global principles of justice. Pogge makes the difficulty obvious by qualifying Rawls position of *contextualist moral universalism* (p.40). Pogge appears to be particularly critical of Rawls' choice because Rawls does not explain, or defend what seems at least to be an obvious contradiction⁵⁸. Rawls only mentions that his global principle wants to accommodate some non-liberal societies. This choice seems strange to Pogge considering the fact that the population of these non-liberal countries are generally poor while liberal states are

⁵⁶ Thomas Pogge. Moral universalism and global economic justice

⁵⁷ Contextualism wants moral principles to be contextual, or particular to a determinate society while universalism sees morality as basing itself on universally applicable moral ideas.

⁵⁸ It seems possible to be at the same time contextualist and universalist. Pogge point is that Rawls does not defend his *contextualist moral universalism*

wealthier. Rawls' position then appears to be far from equalitarian measures. But even in the case when these non-liberal societies would indeed favour the non-equalitarian *Law of Peoples*, Pogge mentions that Rawls does not justify the choice of abandoning moral universalism at the global scale while maintaining it in the local communities. Why is the difference principle fundamental at the domestic level and unacceptable at the international level? Pogge clearly reflects Rawls' choice mentioning:

He (Rawls) fails to meet the burden of showing that his applying different moral principles to national and global institutional regimes does not amount to arbitrary discrimination in favour of affluent societies and against the global poor⁵⁹.

This quote seems to suggest that Rawls' global idea of justice is intended to preserve wealthy societies from spending resources on assistance to poor states. Therefore, we can once again see the sharp opposition by Pogge to the Rawlsian principles of global justice.

According to Pogge, in order to defend a *double standard position*, or to give priority to the interests of individual at the local scale, and of the people at the international level, Rawls has to not only defend his global principles, but also justify why he does not propose equalitarian measures globally, a value that he defends domestically. Pogge mentions that the two positions of domestic and global justice have to be clearly discussed, presenting the pro and cons of both ideas relative to economic equalitarian measures. In other words, if Rawls is equalitarian in one context and not in the other, he must explain why he is and why he is not in both cases. He cannot just mention that he favours equality in one context, and not favour it in the other without explaining why. He has to assume the burden of proof concerning this *double standard*, and in the case of *The Law of Peoples*, he must defend why he does not favour equality. Pogge points out that Rawls owes this explanation to the world poorest individuals.

Pogge presents a second argument against Rawls' choice of global principles of distributive justice. In his opinion, Rawls does not understand the current economic situation. Pogge believes that Rawls sees the actual economic circumstance as the norm. Rawls seems to suppose that the *laissez-faire* of the global economy is a regular situation, and therefore, peoples' representatives have no reason to change it. If we look at the

⁵⁹ Thomas Pogge. Moral universalism and global economic justice, p.42

actual global situation, of course, major changes would have to be made if we desire to have a more egalitarian context. Rawls seems to believe that these changes are too demanding to the world community. Once again, this choice is strange if we compare it with what he does at the domestic level. Again, and in the light of this reflection on the normality or not of the actual economic order, Pogge asks if the Rawlsian choice is the good one.

In Pogge's mind, the economic situation that we experience is not typical, and it is unacceptable to let it go this way. Taking a pragmatic approach, he tries to illustrate the abnormality of the global economic order. In our unjust world order, poor societies are more often than not victim of this global unequal circumstances. For instance, Pogge mentions the work of rich firms belonging originally to industrialize countries, and affecting negatively the economical, political, and even social life of poor countries. Corruption is a frequent phenomenon in these cases. Rawls does not blame rich countries, he rather accuses the local political authorities of the poor states for their bad governance. A just political analyses must consider both aspects of the situation, and Rawls must admit the obvious interference of the industrialized countries in the economic and social lives of the poorest states. Pogge gives the example of coups overthrowing a government, they sometimes secretly help to favour corporate interests against the poor. This corruption touches multiple realms of the social life, for instance in the tourism business, industrial life, of the agricultural one. All these aspects are subject to corruption and exploitation where industrialized states or corporate interests take advantage of an unjust global economic situation. Only a more equal world order can alleviate the level of corruption that we can experience today; it is only in a situation where states will deal as relatively equals that this phenomenon will be avoidable. Pogge adds that representatives of the peoples must know this basic fact concerning the global order. They would therefore have to choose a more egalitarian Law of Peoples than Rawls'. The actual situation is not a typical one as Rawls seems to suppose, and it requires immediate change.

10- My own position concerning Rawls and on global distributinal justice

10.1 Rawls' criticism and distributinal justice

I will begin this personal reflection on distributinal justice at the international scale by commenting briefly on Rawls' work. I first have to make a remark on the objection of incoherence made concerning Rawls' position on global justice. Indeed, numerous authors have reproached to Rawls for his change from moral individualism at the social level to a more collectivist approach at the global scale. It has been argued that this change results in incoherence or contradiction. I have to admit that I do not completely understand this interpretation. From my point of view, I do not see a contradiction in this duality of principles. It seems possible to adopt simultaneously a collective understanding at the international level, and to be more individualistic one at the domestic level. I would even say that the two levels of principle are complementary. If each level of competence answers to its function, the consequence will be two just situations functioning in a parallel manner, internationally and domestically. The two principles appear to complete one another, and I therefore see no contradiction in including both of them in the same overall conception of justice.

I believe that it is possible to find an implicit suggestion of this complementarity in *The Law of Peoples*. We have to remember that the duty of assistance aims at realizing just institutions at the domestic level. At one point, former burdened societies should be able to manage their own political situation following just rules. This result comes from the global principles. Following this, Rawls seems to believe that complementarity is possible. In accordance with this interpretation, Rawls exposes the target of his global principle of justice: '*The final political end of society is to become fully just and stable for the right reasons*⁶⁰. Then, collective international justice does not exclude the individual. International principles of justice deals mainly with the relation between states while societies are taking an individual perspective. Rawls' two distinct

⁶⁰ John Rawls, *The Law of Peoples*, p.109

approaches can make the understanding of his theory more complicated, but they do not necessarily involve a contradiction. Collectivist and individualistic principles can be present in the same theory, especially if they operate at different levels. Thus, I believe that a primary reflection on the subject leads to the idea that the principles presented in *The Law of Peoples* can cooperate with those set out in *A Theory of Justice*.

However, the problem that Rawls faces appears more clearly when, as noted by Pogge, there is an unjust social situation. That is in the concrete case when unjust societies are allowed to violate basic rights. In that particular situation, Rawls indeed faces the problem of having to choose whether, the individual or the collectivity, possess the priority. A complementarity between his domestic and international justice seems only possible in an ideal world where all societies are just. Rawls' position seems to be contradicted once again by the empirical situation. In the precise case of human rights, we are faced with the difficult question of having to choose between a universal form morality, or a priority given to the notion of non-interference in a state or community's life. Is it possible to apply a universal conception of morality internationally as Beitz and Pogge believe? Rawls, guided by the idea of toleration of local communities seems to say that imposition of such universal morality is impossible, and in that context, he appears to be in conflict with his domestic perspective. He cannot justify why we are not required to protect the individual living in an unjust society. In that sense, criticism like the one by Pogge seems to be right.

Still concerning Rawls, cosmopolitan criticisms have proposed the idea that *The Law of Peoples* was not sufficiently egalitarian. Taking the individual as the basis of moral reflection, some of them have criticized Rawls for not trying to rearrange the global situation to make the individuals more equal between themselves. I have a comment to make following this criticism. I think that if we look at this Rawlsian perspective from a realist point of view, it looks very egalitarian, and it is hard to criticize it as not doing enough against inequality. Indeed, if we observe the actual global situation where international assistance is at a minimum, only four countries reaching the target of 0,70 % of the GDP in foreign assistance established by the United Nations

(Japan 0.35 %, United-States 0.10 %) ⁶¹, it is hard to accuse Rawls of not being sufficiently egalitarian. The assistance that he proposes seems to have an egalitarian target, it is even too egalitarian to be applicable right now.

I realize that the criticism and my opinion are not made at a same level. Indeed, the criticism is made from an ideal point of view, my opinion being based on realistic and pragmatic considerations. My opinion could therefore be considered as not applicable to the criticism. However, I want to note that there seems to be the same problem between *The Law of Peoples* and the criticism. Indeed, Rawls wants *The Law of Peoples* to be applicable, and the international aid is viewed from a non-ideal perspective. It seems that the criticism does not attack Rawls at the right level. For my part, I wanted to note by the presentation of this criticism that, in a non-ideal world, the target of assistance proposed by Rawls seems to be very relevant. Even if we are far from being able to attain such an objective right now, it can still be considered an eventual reachable goal. In that sense, and from a pragmatic point of view, I find it egalitarian enough, and relevant to guide international aid.

My third and final comment on the critical notices addressed to Rawls concern the dilemma between a cosmopolitan understanding based on moral individualism like the position defended by Beitz and Pogge, and a more collectivist vision, like the one defended in *The Law of Peoples*, and giving importance to the notion of state rather than the one of individuals. As we have seen, it seems that *The Law of Peoples* guided by the idea of toleration protects the various communities against a global understanding of the same moral code. We previously looked at the position saying that Rawls was not necessarily committed to the respect of particular moralities. Rather, he made the choice to respect these moralities in accordance to the idea of the toleration of pluralism. It is also possible to see that choice as a compromise to make *The Law of Peoples* more acceptable for the hierarchical communities. Was Rawls right to make that choice? Must the individual always have the priority, either concerning questions of morality or distributional justice? Can we at the same time favour a local understanding of morality,

⁶¹ The economist. Foreign aid, March 1st 2001

and also distributional justice? I believe that it is possible to defend the idea that accepting local moralities is good, when understood in a certain way. I will try to show that universal and abstract understanding of morality as presented by Beitz and Pogge does not seem to be the better way to understand morality in international relations. Rather, a Rawlsian form of statism, with minimum modification, appears to be better to guide a global form of morality, and eventually of distributional justice.

I want to criticize first what I consider to be the overly rationalistic approaches such as the ones taken by Beitz and Pogge. It seems to me to be a mistake to understand an individual in a purely abstract way, independently of his society. Fundamentally, liberalism believes that there is a common nucleus to all these understandings of morality, namely the individual. By removing by abstraction all the common determinations, they arrive to a conception of the moral life, based on the individual. It seems to be wrong to try to make abstraction of all the particular elements that compose what we are as an individual living in a community. It appears that the social life is very important in the formation of our persons. The fact that we are so importantly oriented in our action by the society where we belong is an example. I believe that the traditional communitarian claim that the society is part of the individual is very accurate. These particular determinations, resulting from a determinate custom and tradition, even a culture, are what make us who we are. Making an abstraction of them can be understood as making abstraction of human nature. Making abstraction of what is so importantly constitutive of our community seems to be a fundamental error. It appears to me that the rationalist approach makes this mistake of being too abstract and forgetting the concrete aspect of the existence.

It seems that for a philosophical conception to adopt a concrete approach cannot be completely wrong. Indeed, it appears to me that there are a lot more of positive aspects of adopting this kind of approach rather than the opposite one. Allow me to explain. Every form of research must have a basis. Kant for instance chooses to take as foundation an ideal individual, making moral choices using an ideal method, and in a second step experiencing these choices in reality. By opposition, a more

concrete approach, like the one used by Michael Walzer, posits an individual included in a daily life, and morally choosing in a concrete environment. His choices will influence his actions directly. We can associate Rawls' idea of toleration of local moralities such as the concrete vision, and this for whatever reason he choose to do so. It seems that the difference between the two visions can be presented as a difference between, on one side of what should be, and, on the other side, of what is. Obviously, there is great advantage of taking about what should be. This idealist image gives us an ideal point to reach, or a potential target where our actions must lead. However, this idealist position does not appear to be useful in the world as we know it. It seems like the ideal visions are unable to reach real life experiences or concrete events. This approach appears to be too abstract to grasp the reality involved. Its distance from the world is too pronounced to bring concrete solutions to the daily problems; too far to seize humanity in its reality. The debate between on one side Beitz and Pogge, and on the other Rawls seems to exemplify this fact. As I note earlier, Rawls and its concrete understanding of the global relation appear to be closer to a possible applicability.

On the other side, the concrete vision avoids the problems that may face the rationalist approach. Indeed, this vision tries to grasp what the individual is in a concrete sense. As an example, it can see the person as a member of a group, recognizing the particular context of this group, and how it affects the individual in his daily life. Rawls does that by refusing to impose a universal form of morality on individuals. Moreover, this concrete vision is open to the contingencies characterizing human existence; it allows particular determinations to be present in the philosophical understanding of the individual, unlike the positions defended by Beitz and Pogge. Among the advantages of Rawls' vision, it seems that the most important one is its usefulness. Concrete models touching the individual seem to be in a better position to bring concrete solutions to actual problems. By its nature, concrete approaches are close to individuals. It then seems obvious that they will be in a better position when it is time to propose concrete way to deal with problems. This pragmatic aspect appears to bring more to the society than an abstract and idealist vision; concrete is useful.

However, this concrete understanding may not be sufficient to reach a just political order. It seems that in some cases, an appeal to a larger notion of human nature is required, an idea well understood by Beitz and Pogge, and neglected by Rawls. Starting from the beginning, I have to mention that I generally approve local morality as the result of tradition and customs. Such practices exist in every community, and are an important part of the life of individuals. However, some cultures are very harsh with what is known to us as human rights. Strong examples would be the imposition of the death penalty for homosexuals, or stoning for pre-marital sexual relations. Another powerful example would be the female circumcision. These cases are examples of a lack of considerations for the individual, and I believe that we must oppose to it in all circumstances. Actually, Rawls silence on the subject in *The Law of Peoples* is surprising.

I want principally to argue that these traditions are not the legitimate result of a community agreeing on principles ruling the society, but rather on the coercion, or imposition, at least in a few cases, of values by a dominant group over a less powerful one. An example can be found in the way that Muslim communities have traditionally impose the male domination over woman. I believe that local moralities must be in accordance with at least a minimum respect the individuals living in that community⁶². However, in the absence of such basic respect for the individual at the basis of the common life, persons can be harmed or killed. I do not believe that practice like female circumcision or death penalty for homosexuality took their origin in a vision where individuals had to choose of a common way of living free of coercion or in an enlightened way. As I just mentioned, these attitudes seems to be the result of the will of a powerful group imposing their values to the rest of the population. With time, these rules and customs became part of their daily lives, but that does not make them internal morality or particular customs. They are still the result of coercion.

⁶² Obviously, different communities have different notions about what respect is. However this fact does not exclude the possibility of developing guidelines helping to reach a basic respect of the human condition.

So far, I have argued that practices like female circumcision or the interdiction of homosexuality are reprehensible practices, and therefore are wrong. I believe that there are two distinct ways to argue that such actions are wrong. The first one would be to defend a form of moral realism. I will not follow this path, mainly because I do not believe that it is useful to stipulate about universal concepts in the field of morals. I do not pronounce myself about the existence or not of such values, but if they exist they seem to be so obscure that it is useless to argue for them. The second way to argue for my position consists in a defence of individuals, in a concrete sense⁶³, unlike Beitz and Pogge abstract justifications. Indeed, I believe that it is possible to grant every person with some minimalist form of rights. As individuals, we experience a concrete reality like living in a community, having personal projects, and trying to meet our basic needs⁶⁴. These basic experiences seem common to a majority of individuals. Then stipulating that such experiences exist for a wide majority of individuals is not a stipulation about an abstract and universal concept, it is the simple recognition that we are individuals, possess needs that are common to other persons. For instance, I can easily imagine someone from Uganda who suffers from hunger. Not admitting the fact that, as individuals, we are hungry if we do not eat appears to be done only in bad faith. I think that we have basic needs, and related to our common condition of human beings⁶⁵.

I have to mention that this conception of common human needs does not need to be an extensive one. Indeed, it is limiting itself to a minimalist understanding of the rights of the individual, the demarcation being the interdiction of aggression toward the body. It is not justifiable to harm someone else's body. I admit that this line is not very precise, and that there are grey areas, but it can still give us a good approximation of a limit of respect. Of course, there are other important needs, like education and health care, but this view respects two important considerations. The first one is that such

⁶³ I'm well aware that a defence of such a position would need to be exhaustively discussed, certainly in a more complete way than what I will present. The position presented will then limit itself to a modest overview of the idea.

⁶⁴ Obviously, this vision presents a form of universalism, but a very thin one that can be united with particular determinations related to social circumstances.

⁶⁵ I can contrast my vision with the one defended in Brian Berry in Culture and Equality. He represents the example of a universalism vision that I do not wish to defend.

norms should be minimalist to respect the various ways that communities desire to live. Indeed, a strong emphasis must be made toward limiting itself to respecting of local modes of life. The second important consideration is that I do not wish to extend these minimalist rights so far that they become inapplicable. With that, I believe Rawls would agree. A minimalist conception seems more plausible to implement, and it avoids moral imperialism.

I now want to argue that practices like female circumcision and death penalty for homosexuality are in the category of such actions, wrong generally and wrong in a concrete sense. In fact, the case seems quite easy if we look at what these actions really are. Female circumcision consists in cutting and removing a young girl's clitoris to restrict her from experiencing sexual pleasure. Death penalty following homosexuality is the fact of killing principally men because they choose to entertain sexual relations with other men. The interdictions of such practices does not seem to be the imposition of universal and moral values, they are rather a protection against the aggression perpetrated against woman and gays. Going back to the previous paragraph, it seems that these acts must be banished according to the notion of basic needs. There are obvious examples of clear cases where basic needs are violated. I have to reinstate that I do not believe that interdictions of such acts are an imposition of an occidental morality on other cultures. Obviously occidental cultures traditionally respect more of these characteristics of the individual, but choosing these values is not a form of moral imperialism. It is rather a defence of minimalist human rights.

I can rightly be asked if the enforcement of such basic rights must be applied even in the case where persons are victims of aggression agree with the practice. Once again the case seem clear, and the answer affirmative. Taking the example of woman victim of circumcision, I do not believe that they are in a position to make an enlightened choice. Victims of pressure from their surrounding, and under the strong influence of a cultural tradition, they can 'voluntarily' agree with such a practice. But it does not appear that there in a position to choose. Such position would minimally ask for the absence of coercion and for information allowing enlightened choice. The

situation is similar to the one of an individual member of a cult that is asked to commit important sacrifices. This person would not be in a position to choose what is good for him. A concrete understanding of a minimalist form of rights asks that we help these individuals victims of corporal aggression, even if they would not agree. Here, I believe that Beitz and Pogge would approve the idea so far.

This way of protecting the person could be very well be conciliated with a strong understanding the importance of the community, a point that I am not so sure if Beitz and Pogge would follow. Indeed, when we appeal to rights to protect the individual, it seems easy to make the association with a liberal understanding of the social life. I prefer to take the other side, and talk about a minimalist understanding of rights of the individual in a strong community⁶⁶. I see communities as a fundamental good, creating a sentiment of solidarity among peoples composing it. This social entity must be present in individuals composing this whole; community must appeal to individuals and must be present in their self-understanding. Granted with these minimalist rights, the individual will be in a better position to participate in the common life, free of coercion. Obviously, and to be able to defend the right of a community to live according to its own custom and tradition, I would have to reject a larger understanding of the rights of the individual. An extensive notion of individual rights, similar to the one defended by Beitz and Pogge does seem to be a form of cultural imperialism. Indeed, theirs moral conceptions organized around the idea of individual appear to be a phenomenon almost exclusive to occidental societies. The vision based on human rights is only the occidental understanding of the rights, and is quite new in the history of ideas. I do not believe that this position must be defended at all costs, particularly considering the way that local communities live. According to me, morality is a local phenomenon.

To sum up, this position seems to me to be located between the positions, on from one side, of Beitz and Pogge who believe in the rights of the individuals, or a form of universal morality, and on the other side, the Rawlsian conception of granting

⁶⁶ Once again, the purpose is not to elaborate on the importance of the community, but to mention that this minimalist understanding of individual's rights is compatible with a communitarian vision of the political life.

importance to the state and local moralities⁶⁷. The vision appears to unite the good sides of liberalism, namely basic respect for the individual wherever and whoever he is, and the respect of the particularity of cultures, an aspect defended by communitarian visions. My position on global distributive justice should respect these ideas of defending a concrete vision and respecting a strong understanding of the community.

10.2 A communitarian defence of global distributive justice

I must now explain the general principles guiding my vision of international justice. The first question that may be raised is the one about the necessity of international measures of distributive justice, and if it is necessary, when it is justifiable. I first have to consider the hypothetical situation of a global situation of autarkic states. I will be brief on that question because I do not think that it is an adequate portrayal of reality. Nonetheless, we can once again use Rawls' original position. Without arguing on that subject, Beitz and Pogge accepted that, we can at least believe that the value of equality is a reasonable choice to guide relations between states. Then, the autarkic situation would have to be rearranged giving each society a decent chance for welfare. Each society must have enough wealth to assure the conditions of a decent life for the individuals⁶⁸ composing this community. Even in autarky, a form of equality should be pursued.

But obviously, the actual international situation is not one of autarky. As mentioned previously, globalization makes all the states work in inter-connection with one another. There is a mutual coordination and cooperation in the international community. In that context, the action of one state influences directly members of another state. To give a clearer account of the phenomenon called *globalization*, we can present David Held's characterization. In *Democracy and Globalization*, he writes:

Globalization today implies at least two distinct phenomena. First, it suggest that many chains of political, economic and social activity are

⁶⁷ I'm not supposing that Rawls is truly committed to a communitarian vision. I am only arguing from the starting point that he posited.

⁶⁸ In a general understanding, a decent life could mean basic conditions allowing health and education for everyone.

becoming interregional or intercontinental in scope and, secondly, it suggest that there has been an intensification of levels of interaction and interconnectedness within and between states and societies⁶⁹.

As we shall see, following Held's comment, questions of equality seem to be even more relevant if we consider this interconnectedness. Indeed, the global context influences directly the welfare of particular societies composing the *global village* in ways that Beitz presented previously. The first relevant fact is then the one of inter-connection between states. From this point, I return to Rawlsian principles of social justice. Indeed, at the domestic level, Rawls mentions that cooperation should bring a distribution of the benefits and the burdens, if the social life can be considered as just. If we transpose this necessary criterion of justice to the global level, it seems that a just global order requires a distribution between communities of the benefits and burdens that come with the cooperation. If we look at the facts, some countries use their political power to assure them more than sufficient wealth while other suffer the consequences of this unequal distribution. Justice then requires a better sharing of the benefits and burdens of this international cooperation.

Then, interaction between states leads to a sharing of advantages and burdens coming from this interaction. Here, the value of equality is taken to be a good in itself. Indeed, in a possible choice of values guiding the international order, I choose the one of equality to be the most important one, and therefore I will base the following argumentation on it. But why choose equality over other possible values? My choice is guided by the Rawlsian idea of choosing a set of values without any predetermined idea of how the personal situation will be in a context guided by this choice. Selecting behind this *veil of ignorance* seems to me the better way to make an impartial choice of desirable values⁷⁰. It guides us directly toward our basic intuitions concerning justice; in this case, it rather directly raises the intuitive claim for equality. This choice seems to be the better way to assure our basic needs. Indeed, I simply believe that individual or peoples having to base justice on choices made in such situations would choose equality to try to

⁶⁹ David Held. *Democracy and Globalization*, p.13

⁷⁰ In this case, the original position must be modified to allow a wider conception of the community. Indeed, the individual in the original position must recognize the importance of the community before choosing basic principles guiding the society.

maximize their chance of happiness by assuring themselves of a minimum of resources. In other words, relative equality of wealth seems to assure the best chance for the general welfare. Following this choice behind the *veil of ignorance*, it appears that equality is a desirable good in every form of political life, socially and internationally⁷¹.

Taking a pragmatic perspective, I will discuss international distribution of wealth. To do that, I have first to criticize the cosmopolitans' position. Indeed, from its basis, cosmopolitanism considers that the individual possesses moral worth and is the end of justice. I tend to agree that a certain respect for the individual is important. However, from an international point of view, and particularly when it comes to redistribution, that vision seems to be problematic. Indeed, taking the individual as a basis, international aid appears to become an impossible action from the perspective of someone wanting to help. Confronted with the enormous disparities in the world, the individual, from this individualistic perspective, feels overwhelmed by the situation. What can an individual do facing global human inequality? The result is often inactivity. Unable to change significantly the global situation, the individual does not act. The problem of the cosmopolitan perspective is that it considers individuals as separate from one another. In that sense, international cooperation is almost impossible. An atomized individual can not change the world. It is as a group that significant changes in the global situation become possible.

Another pragmatic criticism against cosmopolitanism is that, from a realist approach to international relations, the individual is not a relevant element globally. Indeed, at the global level, the individual is just not a relevant data; the state is. Obviously, from a moral point of view, the individual is important. But to try to really help the worst-off individual of the earth, cosmopolitanism would have to concentrate on a more meaningful notion. The international system is based on the state; it is the fundamental element. It then seems then that if international redistribution of wealth

⁷¹ It could be argue that the choice for equality would not be made by everyone. To defend the choice for equality, we can refer to the chapter 26 of *A Theory of Justice* where Rawls explains that, following the *maximin rule*, it is in the greatest interest of every individual to choose the value of equality. Then, a single individual targeting the possibility to live a good life would rationally choose equality.

must become more important, it would have to use the channel of the state. I believe that it is important to note that recognizing the importance of the state in the actual situation does not lead us to abandon the individual⁷². If we start from a realist point of view, we have first to consider the state. This seems to be the only way to bring help to the individual. Cosmopolitans should renounce their too idealistic and utopian idea for the sake of a position that brings better chance of applicability.

From a pragmatic point of view, we can say that what an individual is unable to do is possible for a community to do. Hence, it seems to me that an isolated individual cannot succeed in international scale projects, only a community or a cluster of communities can. From a collective point of view, global change is possible. A group's cooperation can reach objectives unattainable to the individual. International aid falls under this situation; it is only possible from a collective perspective. A community can really make a difference, if it has the intention to do so. Thus, international assistance has to start from a collective point of view. We can think of different project starting from the society aiming at international justice. From this collectivist point of view, I can see two main actors who can bring this assistance; the state and Non Governmental Organizations (NGO). The case of the NGO seems to be the less complicated one. If an organization decides to promote international help, it is free to do so. It can collect funds, or any other source of help and try to redistribute it at the global scale. NGOs appear to be important actors, principally considering the weight that such organizations possess compare to what a single individual can do. Obviously, action of NGOs will come down to individual help. but the organization seems important to unite individuals around a common idea, a common project that seems at least to possess more strength resulting from the union of a group. The way that people can unite around an idea seem to create a strength impossible to find in a singular individual, and I believe that international assistance must use that power only generated by a group⁷³.

⁷² From this realist point of view, the state is instrumental; the acknowledgment of its importance serves to bring benefits to the individual. However, the fact that the notion of state here is only instrumental does not exclude that it also possess an proper value as a fundamental political element.

⁷³ Obviously, the state is loosing power following globalization. It does not have the strength that it uses to have to take political decisions. However, the state remains one of the most important tool to bring justice domestically and internationally.

The other tool to bring international assistance is by considering the notion of the state. Obviously, the state really possesses the tools to make international assistance effective⁷⁴. With the institutionalized power to collect money, it is the element in the better position to bring direct assistance to other countries. If the communities composing the state favour international help, then, the government must follow the demand of the popular will. But how will a community decide to prioritize international aid, and then follow the demands of justice? Starting from a collective point of view, we can say that the community has a positive image of itself as a group; it considers its own value as an undeniable good. The community is an undeniable element in the formation of the individual. Then, recognizing its own value, it can grant other communities the same importance. Aware of their importance, some community would be inclined to give the same value to other communities. They could recognize the intrinsic significance of each group inhabiting the earth. With this mutual recognition of the worth of the community, international aid would be the logical consequence. Indeed, considering the value of the other group, a community will favour help that can enhance the welfare of this group. It therefore seems that international cooperation can be justified from a collective point of view, a more efficient way to act than cosmopolitanism. To sum up, the demand of justice following the sharing of benefits and burden is always there, but to make it really effective, the community must realize that others communities, similar to us, are trying to live in a decent way⁷⁵.

We may ask why should a community prioritize the needs of the other communities rather than merely its own? Indeed, this emphasis put on the community is often associated with patriotism when it comes to principles of redistribution. According to patriotism, redistribution of wealth should prioritize the members of the community rather than foreigners. But this narrow vision is not the necessary consequence of this

⁷⁴ Obviously each state can contribute differently. Iceland and Canada must not be expected to act in the same way. Each state can contribute according to its means.

⁷⁵ I obviously realize that the idea of basing international justice around the idea of community is utopian. However, I believe that cosmopolitan theories of justice are also utopian. What I try to do here is to put forward plausible, and hopefully original, ideas touching questions of justice that can reach a possible applicability one day.

collective understanding of the world. Indeed, as Charles Jones clearly sets out⁷⁶, individuals and communities can feel responsibility toward various spheres of their lives like nationality, religion or race. I agree with Jones that it seems impossible to justify the priority granted to patriots rather than to another sphere of belonging, especially in distributive justice questions. Following this view, we can affirm that a community has no necessary duty to favour its own citizens in priority. A society can rather choose to direct part of its wealth toward international help and then favour other communities similar to their own. There does not appear to be a logical contradiction in this action. Therefore, it seems to me that international redistribution between communities seems to be a good idea. Therefore, global redistribution is then possible, and it must take the community as being the central element. Indeed, the cooperation is made between communities; the redistribution will be the same. The idea of community must be central to the conception of the international order.

To conclude this section, it seems important to comment on the possible problems of defending a communitarian vision similar to the one that I propose. The most important problems appear to be the conservative, ethnocentric and oppressive effects related to communitarianism. I want to mention that even if these problems are possible, they are not necessarily related to the communitarian vision. In my own vision, I tend to believe that a community can be united around common ideas, while at the same time preserving freedom and openness toward a variety of beliefs. Indeed, it seems possible to imagine a community united by their strong belief in democratic values. A common idea of the good can be oriented toward the respect of the individual and his ideas. The emphasis is still put on the common social project, and still grants more importance to the society than to the coming together of single individuals. The common project has the priority. Obviously, this common project can be inclusive to all groups, independently of their origins or their beliefs. Every ethnic or religious group can join this social project. In that sense, I believe that my understanding of communitarian ideas can avoid problems such as ethnocentrism and oppressive ideas. A common vision of the good is possible while respecting a multiplicity of values.

⁷⁶ Charles Jones. 'Patriotism, Morality, and Global Justice', in Global Justice Nomos XLI

11- Conclusion

Rawls' position concerning global justice is a complex one. In the context of a determinate society, Rawls is an egalitarian. His principles of justice favour equality, especially with a principle rearranging inequalities between individuals. However, he does not extend this vision at the global level. A short and timid discussion on the subject, in *A Theory of Justice*, rejects the idea of an international principle favouring global equality. He does not explain his idea more precisely at the time. Charles Beitz has criticized this conception about international justice. According to him, Rawls should have developed an international theory of distributional justice giving importance to the idea of justice touching the individual, and then favour redistribution of wealth at the international level. As he does locally in *A Theory of Justice*, Beitz suggests that Rawls' difference principle should be extended across the borders. The individual must be the target of justice and redistribution of wealth. More precisely, Beitz argues that states are interdependent, and they should share the advantages and burdens coming from this relation. Beitz proposes the *resource redistribution principle* which favours such egalitarian measures. Thomas Pogge follows a similar path. Basing his argument around the notion of individual, he believes that international distributive measures must assure the well being of every person. He criticizes Rawls for not developing such a position.

Rawls takes his general political reflection a step further with *Political Liberalism*. With this new publication, Rawls tries to modify his theory of justice to a more determined and realistic applicability. The first step that he takes is to develop a conception of justice that is political and not metaphysical or theological. In that sense, the conception of the society must be *freestanding*, or not demanding any justification other than the political one. But for him it is important to remember such a political conception is also a moral one, but a moral one of a distinctive sort. Indeed, he is very distant from the real politics; his vision then contains normative elements. The next step will be to respect the fact of pluralism. Indeed, social life is now characterized by a wide variety of incommensurable or conflicting conceptions of the good. Rawls will defend the

construction of a political organization with a political conception of justice able to unite these various conceptions of the good around a common idea: a political one. These two measures must assure a stable society, and articulate a framework possibly applicable in today's world. This respect granted to the various understandings of the good will be central to understand Rawls' position on global justice.

In his next major publication, Rawls focuses on the question on international justice. His *Law of Peoples* presents a more complete account than in any of his previous accounts of what international justice should look like. As he did in *A Theory of Justice*, Rawls established the principles of international justice around the idea of the original position. However, instead of giving the choice concerning the principles to the individuals, Rawls decides that representatives of peoples must make the choice. We have to mention this collectivist approach. Indeed, Rawls will be mainly preoccupied here with the interest of the peoples in priority. He will choose international principles of justice mainly based about the idea of respect for the independence of the countries. Obviously, the consequence will be that claims of international redistribution of wealth will be greatly weakened. Basing his idea around the peoples, the individual will have less importance in the global context.

However, Rawls still proposes a few international redistribution measures at the global scale. Principally, the redistribution will be organized around three guidelines, the duties of assistance. The first one mentions that wealth coming from a just political culture, and not from natural resources, burdened societies must prioritize this culture. It is an essential tool to bring wealth to a society. The second guideline suggests prioritizing the human capital present in the society. According to Rawls, this is the better way to bring a better society. The third guideline will insist on the fact that the former burdened societies must find a way to manage their own peoples. This is the final end of the duties of assistance. It is important to note that these duties are not supposed to bring complete equality of wealth; they are limited in helping poorer countries until they reach the point of good governance. Following this point, international help should stop. To clarify his position concerning global justice, Rawls will then compare social equality

to global equality. In his view, he adopts a similar position at the two levels. It is important to note that Rawls believes that justice will be attained if we follow a just procedure when we choose principles of global justice. He will continue his discussion presenting and answering previous criticism concerning equality made by Beitz. Then, *The Law of Peoples* presents a global vision of justice based around the idea of peoples. This vision still favours a form of equality, but not as developed as the one presented in *A Theory of Justice*, mainly because it is more collectivist.

But how can we explain his change of position from domestic to international justice? Many authors argued that Rawls' more collectivist approach at the international level serves to be more acceptable for hierarchical societies. Indeed, it would be hard to defend a global theory of justice based around the idea of individuals, particularly in hierarchical societies. This choice then seems to be a strategic move toward possible applicability. We must also note that following what he did in *Political Liberalism*, Rawls seems to wish to respect global pluralism. Guided by the liberal idea of toleration, Rawls defends a wide range of way of living. He wishes to respect this global pluralism.

This international position that Rawls presents in *The Law of Peoples* is unacceptable for Charles Beitz. He is clearly opposed to the duties of assistance, method which he does not find egalitarian enough. He is also against Rawls' idea of giving priority to the people over the individual. Thomas Pogge is similarly in opposition. He will insist on the fact that individuals must be represented at the international level, and also note the incoherence between Rawls' positions on domestic and global justice. He also argues that that Rawls does not seem to grasp the actual international situation. For my part, following a reflection on Rawls position and its critics, I give my opinion on Rawls' work. I will articulate a conception of morality located between Beitz and Pogge universalism, and Rawls' idea to give priority to the peoples. Indeed, it seems that both the liberal and communitarian vision are facing problems concerning questions of international justice. Liberalism appears to be too abstract while communitarianism is undermined by ideas like ethnocentrism or oppression. Rather than seeing these visions as opposite, it seems possible to view these conceptions as complementary. Indeed,

minimalist form human rights seem to be compatible with communitarian claims. I will also present the idea that communitarian models are not necessarily incompatible with the questions of international justice. Actually, they even seem in a better position, as I argue, to defend a closer approximation of what international justice should be.

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