The Wrong Principles of International Justice

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Summary

This paper offers a liberal critique of John Rawls’s theory of international justice. It claims that the theory exposed in *The Law of the Peoples* is multicultural rather than liberal. The claim is supported by way of analysis of the two key concepts from Rawls’s theory—namely, basic human rights and equality in the original position. The discussion demonstrates how the meaning of these concepts has been significantly modified, and how it enabled Rawls to end up with a curious version of liberal theory of international justice that tolerates illiberal societies that do not ensure the protection of human rights.

The paper is divided up into five sections. After a short introduction of major principles of Rawls’s international justice, section 2 explains double meaning of the idea of human rights. Section 3 discusses multicultural character of Rawls’s theory. Section 4 focuses on the concept of equality in the second original position. Section 5 concludes.
1. Introduction

Suppose you endorse the view that the liberal government is justified in interfering with whatever practices of its citizens if such practices are against basic human rights. The proposition I shall defend in this article is that a liberal will want an identical logic to operate at the international level. However, I shall not endorse the view that international justice necessarily entails military intervention in cases of violation of human rights. The claim of this article is that a liberal philosopher is committed to the view that the practices of sovereign but illiberal states are morally wrong if they preclude individuals from making free choices in their lives.

The discussion is presupposed on the fact that the international society is a multicultural society *par excellence*. It appears to be logical that we should formulate the principles for international community by extending the principles formulated by the politics of multiculturalism. Rawls’s *The Law of Peoples* is a good example for testing this claim. *The Law* is an extension of the 1993 article with the same title wherein Rawls sketched how his theory of justice applies to international relations. However, it hardly can be regarded as an extension of his theory formulated in *A Theory of Justice* and *Political Liberalism*. Instead, Rawls’s international theory of justice is multicultural not only at the level of principles but also at the level of premises. The focus of this article will be on the latter. I show that Rawls started off from illiberal premises and, accordingly, could not derive anything but illiberal principles of international justice.

2. The Principles of International Justice

Rawls’s theory of international justice offers the principles for arranging relations among sovereign and diverse peoples (nations or societies). Rawls divides the world’s societies into five distinct types: reasonable liberal peoples; illiberal but decent people; outlaw peoples; societies burdened by unfavorable conditions; and benevolent absolutisms (Rawls 1999: 4). He thinks that only first two types of peoples live in well-ordered societies. Although his theory is supposed to be universal in scope, it seems that the key intention of the Law of peoples is to arrange the relations between liberal democracies (the US, Canada, the EU countries etc.) on the one hand and non-liberal democracies and societies (Japan, China, India, Far East countries such as Iran, etc.) on the other hand. (Russia would, I guess, most probably fall within the category of societies burdened by unfavorable conditions.)

These are Rawls’s principles of international justice:

1) peoples are free and independent;
2) they observe treaties;
3) they are equal in agreements that bind them;
4) they observe duties of non-intervention;
5) they have the right to self-defense;
6) they honor human rights;
7) they observe certain restriction in the conduct of war;
8) they have duty to assist other peoples living under unfavorable circumstances (Ibid. 37).

The list looks like a list of liberal principles, but this is where its liberalism comes to an end. Although the principles are supposed to be universal in the scope of their application, these are the principles agreed on by only liberal peoples (Ibid. 63). Whereas the main task of the Law of peoples consists in securing peaceful life among diverse societies, the main task of the international theory of justice consists in extending “the Law of peoples to decent societies and [in showing] that they accept the same Law of peoples that liberal societies do” (Ibid.). The question that a theory of international justice is supposed to answer is not how to find principles that would be agreed on by all peoples, but how to specify the conditions under which decent peoples may accept the liberal principles picked for them by liberal peoples (Ibid. 59). Seeing that Rawls claims that illiberal peoples do have reasons to accept the liberal principles, it is motivating to see what these reasons are.

Part II of The Law of Peoples begins with the section titled “Toleration of Illiberal Peoples” (Rawls 1999: 59). Rawls claims that liberal societies must honor the principle of toleration that ensures equal status for illiberal societies (Ibid.). But why does Rawls insist on the principle of toleration apart from the principles he listed 22 pages ago? Once the list of principles is endorsed, already principles 1, 3 and 4 mandate mutual toleration and recognition of equal status among peoples. Toleration implies difference but it also implies a shared value that all human beings and their conceptions of the good are of equal worth. Without this value, it would not be possible to get at the principle of toleration. The understanding of tolerance based on the shared value of equal worth gave birth to the concept of human rights that granted everyone the right to be different. To negate human rights comes down to negating the basis upon which toleration is possible. Conceptually, non-tolerance of illiberal people can arise only if illiberal peoples start encroaching on human rights, which is blocked by principle 6 in Rawls’s list. But, of course, any advocate of toleration would wonder why anyone would call for toleration of illiberal people (or any other people) if this people’s practices involve the breaching of human rights. On the other hand, suppose that even illiberal societies protect human rights (among them right to dissent) in the same way liberal peoples do, which Rawls, curiously enough, establishes as a fact (Ibid. 61). But then again: why do we need to stress that toleration must hold separately of the principles of justice that involve the idea of toleration?

Rawls regards nonliberal societies as decent societies. Then he goes on to say that these societies respect human rights. But whoever read the 1948 UN Declaration on human rights would need a lot of mental gymnastics to apprehend the way Rawls defines human rights in The Law of Peoples. Whereas the Declaration’s article 1 postulates that “all human beings are born free and equal in dignity and rights,” article 2 postulates that “everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or status.” Rawls apparently does not take seriously the postulate that rights belong to human beings qua human beings and that rights and liberties cannot be derived from someone’s status. Drawing on his criteria for defining decent hierarchical
societies, he finds that a society can be said to respect human rights if it sees individuals as co-operative members of various associations and social groups. Rawls thinks this makes sense, for decent hierarchical societies do not have to accept “liberal idea that persons are citizens first and have equal basic rights and liberties as citizens” (Ibid. 66). On this view, human rights are derived from associative or corporative status, meaning that individuals can have rights, but only by being members of various social groups, associations, casts, estates etc. (Ibid. 68). Rawls here explicitly and essentially relies on Hegel’s anti-liberal concept of rights by which rights arise from a certain status (be it ethnic or class) and not from the fact that someone is a human being. Hegel writes:

“The second section of the Estates comprises the fluctuating element in civil society. This element can enter politics only through its deputies; the multiplicity of its members is an external reason for this, but the essential reason is the specific character of this element and its activity. Since these deputies are the deputies of civil society, it follows as a direct consequence that their appointment is made by the society as the society. That is to say, in making the appointment, society is not dispersed into atomic units, collected to perform only a single and temporary act [...] On the contrary, it makes the appointment as a society, articulated into associations, communities, and Corporations” (Hegel §308).

Accepting this is tantamount to redefining human rights by definitional fiat. The liberal concept of human rights is predicated on the assumption that every citizen is entitled to the basic set of human rights on the grounds of being a human being, not a member of any association. John Locke can be taken to be the father of the idea. The tacit premise of the Lockean state of nature, wherein people “are equal one amongst other, without subordination or subjection” (Locke II: §§4), is that there were no social constructions. This amounts to stating implicitly that rights belong to individuals qua individuals. Seeing that this idea set the stage for the conceptualization of contemporary understanding of human rights, it comes as no surprise that similar views could be found in the political philosophy of the early Rawls. It does come as a surprise, however, that Rawls dropped the idea 28 years after the publication of A Theory of Justice.

Rawls’s international principles of justice are preceded by modifications of theoretical premises followed by the conceptual doublings of some of the key elements of his theory of justice. Methodologically, every type of liberalism takes the individual for its analytical unit. Everything else is derived from this proposition. A coherent liberal does not disallow the possibility of creating associations, groups, or ethnic communities, but it is critical to emphasize that such associations must be created voluntarily by individuals. Although it starts from the individual, liberalism does not insist on an acultural or anational identity of any individual, but it is impossible to construct a liberal theory if one starts off, say, from national identity as the overriding identity of the individuals. As Kukathas put it, “[w]hat has to be denied [...] is the proposition that fundamental moral claims are to be attached to [ethnic or cultural] groups and that the terms of political associations must be established with these particular claims in mind” (Kukathas 1995: 232). The primary goal of Rawls’s veil of ignorance was to eliminate knowledge on national and
cultural identities because a liberal does not consider it essential for the selection of the fair principles of justice. A liberal point of view allows the protection of cultural, ethnic, or any other kind of group identity, not because these identities *per se* have the right to be protected but because individuals should be free to associate (Ibid. 239).

In his first articles published in the 1950s, Rawls saw individuals as negotiating the principles of justice. In *The Law of Peoples* we read that principles are negotiated by peoples. What is the rationale for this methodological shift? I could find none in Rawls’s works. Although Rawls did not bother to define the notion of “people”, it is possible to imagine legitimate cases in which people should negotiate instead of individuals. Suppose that, for some reason, individuals are able to negotiate the principles of local and national justice but are unable to negotiate and select the principles of international justice. Due to this inability of the individuals, it appears more efficient to give this right to peoples. But in *The Law of Peoples* nothing that supports this logic can be detected. Rawls, nevertheless, keeps talking about people, not about individuals. The negligence of individuals bears on the principles. Towards the end of *The Law*Rawls is explicit in saying that his view on international justice differs from the cosmopolitan view on justice by which welfare of the individual matters (Rawls 1999: 119ff). This should mean that, at the international level, where material and economic differences are more striking and graver than at the national level, a theory of justice has nothing to say on distributive matters. Rawls, however, ignores the fact that the welfare of individuals is a theme espoused not only by cosmopolitans, but also by liberals. If he thinks this theme irrelevant, or irrelevant for the international context, then this should be clearly stated. But, of course, Rawls cannot state this, for such a statement would turn the assertion that the Law of peoples is derived from liberal ideas that can be found in *A Theory* and *Political Liberalism* into a mere smokescreen.

It is easy to assert the suitability of principles of justice to both liberal and illiberal societies. It is also easy to allege that both types of societies respect human rights. But I argued in this section that such a move is possible only by introducing two different meanings of human rights. That is what we find in *The Law of Peoples*. The first meaning is liberal, while the second is corporativist. It is not clear how Rawls arrives at this double meaning, but it is clear that the double meaning helps Rawls establish an alternative version of “liberalism” that advocates the priority of corporativist rights over liberal human rights.

3. Another Multiculturalist Theory of International Justice

Rawls’s methodological shift from individuals to peoples can mean only one thing: giving in to the communitarian and multiculturalist demands to accept that community and culture matter more than the individual. Rawls explicitly accepts this demand by referring to Walzer (Rawls 1999: 76), but he accepts it implicitly even more because the whole Law of peoples is a result of a multiculturalist approach to justice. Let me labor on that point.
The changes that occurred in the original position come down to two conceptual doublings. The first is the doubling of the original position itself. This is Rawls’s first radical departure from the basic premises of egalitarian liberalism. The principles of international justice that Rawls set out in *The Law of Peoples* are the result of a choice from the original position. But recall that liberal people, who are the sole parties to it, are in fact situated in two different original positions. The two original positions allegedly do not differ in that they have different outcomes, but in that they are arranged differently. The first original position is designed for liberal peoples to select the principles of international justice that will apply exclusively to liberal societies. In the second original position, the very same liberal peoples attempt to extend the very same principles on decent peoples. The two original positions are introduced because the former is suitable for liberal societies, while the latter is suitable for illiberal. The original position that is suitable for liberal peoples is more or less a replica of the original position from *A Theory*, within which we find all the irrelevant knowledge eliminated, including divergent and irreconcilable conceptions of the good. In “the first use of the original position” people find themselves under constraints that they, as reasonable, rational, free and equal citizens, endorse as “appropriate restrictions for adopting a political conception of justice” (Ibid. 30).

The second original position (Ibid. 32ff) is a completely different cup of tea. In it, the liberal people deliberate on how fairly to situate illiberal peoples so that the illiberal people accept the principles from the first original position. But note that the process of situating illiberal peoples into the second original position does not take place even hypothetically. Although the second original position is designed for illiberal peoples, they are not parties to it. This is so because Rawls holds that the original position is a liberal device for representation that is not quite suitable for illiberal people. Nonetheless, he still believes illiberal people would endorse the principles of the law of people (Ibid. 70). This is a curious syllogism. Why would illiberal people allow that someone on their behalf selects the liberal principles of justice? If the outcome of the original position is the principle of equal protection of human rights, it is unclear why a state like China would agree to stick to it. The answer to this question can be obtained if we recall what I said when analyzing the double meaning of human rights in the previous section. The fact that the principle of equal human rights looks attractive to both liberal and illiberal people is facilitated by the fact that the concept of human rights can be understood in two different ways. On one understanding, human rights are universal and people enjoy them as individuals. On the other understanding, which Rawls adapted to illiberal people by relying on Hegel, human rights are derived from caste status. If the champion of the “liberal” Law of peoples does not see anything wrong with so conceptualized human rights, then there is really no reason to wonder why any caste state would reject the Law of Peoples along with the principle mandating the inviolability of human rights, and be quite reasonable in doing so.

4. **Equality in the Second Original Position**

If we dig deeper into the unnecessarily convoluted structure of the second original position, we find the violation of the probably most fundamental postulate of liberal justice. Liberalism is a philosophy based on the proposition that people are equal in a fundamental sense. Equality was particularly critical for constructing an original
position wherein people are put on the equal footing, accepting certain constraints of moral nature. Liberalism is distinctive in that it starts off from the ground-floor equality secured by various devices. The early Rawls wanted to achieve equality with the veil of ignorance, Scanlon and Barry with the test of reasonable rejection, Dworkin with equality of resources, Arneson with equality of welfare, Nozick with rights as side-constraints, Larmore with equal respect, and Habermas with the rules of rational discourse. The constraints were of various kinds but all identical in being universal, namely in applying to all without exemption. To postulate that the veil of ignorance apply to some and to some not, as Rawls now does, amounts to postulating inequality as a key proposition in the original position.

Rawls calls for ground-floor equality among liberal and nonliberal peoples, but the way he conceptualizes equality gives away a wish to maintain the status quo of inequalities among these two types of peoples. To illustrate this, I reproduce the paragraph in full:

“Clearly, I have supposed that the representatives of the peoples are to be situated equally, even though the ideas of justice of the decent nonliberal societies they represent allow basic inequalities among their members. (For example, some members may not be granted what I call ‘equal liberty of conscience.’) There is, however, no inconsistency: a people sincerely affirming a nonliberal idea of justice may still reasonably think its society should be treated equally in a reasonably just Law of Peoples. Although full equality may be lacking within society, equality may be reasonably put forward in making claims against other societies” (Ibid. 70).

There is a lot of inconsistency in this I say. It is to be expected that people that lacks basic equality “may reasonably think its society should be treated equally.” All this because equality can be conceptualized in various ways. According to Hobbes, people were equal in strength, ability to cheat, and kill their enemy. The result was a state whose legitimacy was derived from raw force. On the Nazi account of equality, all Jews, Gypsies, communists, and homosexuals were equal in being qualified for gas chambers. The result was gas chambers full of such people. On the conception of equality we find in Rawls’s second original position, liberal societies are equal in being obliged to honor the fundamental equality of human beings, but illiberal societies are equal in having a chance to take a free ride. There is nothing in the second original position that requires illiberal peoples to give every human being equal concern. In the end, they will settle for the principles, but these principles will permit violations of human rights that liberal societies protect. The question that has to be asked then is this: why would liberal people enter the original position wherein they would tolerate illiberal people’s violation of human rights, thus making senseless the basis of toleration? Toleration of illiberal practices is possible only if one comes to believe that the violation of human rights does not exist wherever it actually does.

As I said, The Law of Peoples irresistibly drives to the conclusion that the 20 years of merciless communitarian and multicultural critique of Rawls’s liberalism have brought about some results. One of the multiculturalists’s theses is that in organizing political communities we must uphold an idea of toleration that is derived
from moral relativism. Moral relativism is the doctrine to the effect that there exists no apriori ground upon which it is possible to say what justice entails in a society with established meanings. Walzer pushes this claim to the extreme by implying that society with a culturally-based caste system cannot be criticized by people who are not part of this system. So long as people in the caste system share certain meanings, they will know better what justice entails, for the caste system

“is constituted by an extraordinary integration of meanings. [...] And the system as a whole rests upon a religious doctrine that promises equality of opportunity, not in this life but across the lives of the soul. The individual’s status here and now is the result of his conduct in his last incarnation [...] and if unsatisfactory can be remedied by acquiring merit in his present life which will raise his status in the next’” (Walzer 1983: 27).

Suppose we replace the “equal opportunities” with “human rights” in this quotation. Walzer would immediately have to endorse the doctrine by which human rights may be ignored provided they are granted in the afterlife. Since this understanding of human rights is context-relative, this is how multiculturalists square moral relativism with liberalism.

The multicultural champion of moral relativism is Chandran Kukathas who claims that the central concept of liberal theory is the concept of toleration that warrants cultural differences and gives full sovereignty to cultural and ethnical communities and nation states. It is worth pausing for a moment to examine more closely Kukathas’s views on international toleration because I believe this is the concept of toleration that informs Rawls’s international theory of justice. Kukathas rejects the liberal concept of toleration. Liberal toleration is possible, holds Kukathas, only if we already have a “common moral point” accepted by all. When such a standpoint does not exist, the minority cultures (or individuals) “will be restructured to be brought into accord with majority practice.” But this can be done “at the risk of intolerance and moral dogmatism” (Kukathas 1997: 78). Since such toleration puts nonliberal minorities at a disadvantage, Kukathas is set to expound a concept that will give “sufficient toleration to minority communities.” This must be done by giving independent weight to toleration, says Kukathas, and gives a two-pronged argument for this. First, he believes that there are no common moral standpoints; everything can be challenged. Even the role of reason, that lies at the heart of modern liberalism, is subject to dispute (Ibid. 80). Reason cannot be the guide in settling issues in the public realm because even conceptions of the good that are not based on reason must be part of public realm.

“The Amish or (better still) the Hutterites, for example, are interested not so much in participation in as in withdrawing from modern society. My contention is that they are still a part of the realm of public reason. [...] The fact that [some conceptions of the good] are not articulated does not alter the fact that some alternative views are in the public realm” (Ibid. 81).

The consequence of this is that everybody deserves their place in the public realm and no one can be excluded in advance.
So far, so good, but this does not differ much from a liberal outlook. Where Kukathas unambiguously does part company with liberal position is in his doubts about the existence of common moral standards on the grounds of which toleration is possible. The public realm is, in Kukathas’s view, “an area of convergence of different moral practices” (Ibid. 84). Since these practices do not share identical moral views, we have to see that toleration amounts to letting ethnic groups live the life they chose. Interference of the government is impermissible since “there is little assurance that the power will not be abused” (Ibid. 88). The thrust of Kukathas’s argument is thus the following: it would be possible to impose liberal standards on nonliberal groups or sub-societies if liberal societies could be regarded as one unified society sharing one common moral point of view from which everything can be derived. But this cannot be true, he holds. “The state is not a community in the same way that Pueblo or the Amish societies are. It is much more of an association of associations. More importantly still, it is not an association of like associations but of diverse associations” (Ibid. 94). Toleration at domestic level entails non-interference with non-liberal practice. At the international level, the same thing is required if we follow the doctrine of sovereignty, which, in Walzer’s view, is the “doctrine of toleration” (Ibid. 97; Walzer 1997b: 106).

As may be seen, in Kukathas’s case everything depends on the alleged fact that states are diversified melting pots, while cultural groups are homogenous wholes. That the second part of this proposition is not true was argued by Kukathas himself in an article only two years older than the one in which he lays out his ideas on toleration. In “Are There Any Cultural Rights?”, Kukathas rejects multiculturalists’s claim that cultural groups can have group rights on the grounds of forming homogenous cultural communities. He writes that

> “it is important to note not only that group compositions changes over time but that most groups are not homogenous at any given moment. Within communities there may be important differences and conflict of interest. Internal divisions can take two forms: divisions between subgroups within larger community and divisions between elites and masses, which may have quite different interest. [...] Cultural groups are not undifferentiated wholes but associations of individuals with interests that differ to varying degrees” (Kukathas 1995: 234-5, 236).

Kukathas aside, my point is not only to show that Rawls buys into a so formulated concept of toleration but that he also adopts moral relativism that presents the groundwork for Kukathas’s theory of toleration. Kukathas, namely, does not only claim that states are composed of many different groups that cannot be said to share a common moral standpoint but that such a standpoint cannot be found at all. He argues for “taking a more skeptical attitude towards established political authority, regarding it (at best) not much more than the outcome of compromise among different peoples” (Kukathas 1997: 98). Of course, my concern here is not to fault Rawls for accepting the relative worth of liberalism based on the uncontested fact that some peoples do not accept a liberal outlook. What I rather want to argue is that whoever accepts moral relativism parts from liberalism. Both Kukathas and Rawls believe that moral relativism is compatible with liberalism. Kukathas says that his concept of toleration plays “a central place in liberal theory” (Ibid. 99),
whereas Rawls cannot stop calling his international theory of justice liberal throughout *The Law of Peoples*.

Liberalism, however, cannot be based on moral relativism. The case for liberalism can be put by referring to some general and broad intuitions about justice. Such intuitions, however, are far from being relative or instrumental. But what any liberal has to accept is that liberal principles are true statements about all human beings. If we conclude that there cannot be common standpoints and that everything is relative because everything is culture-, race-, gender-, or context-dependant, and if “the aims of political philosophy depends on the society it addresses” (Rawls 1987: [421]), then liberal political philosophy would not make any sense. A liberal, as opposed to other various types of post-modernist thinkers and philosophers, is distinctive in that he or she does not see everything as relative. So,

“if a liberal is not somebody who believes that liberalism is true, what is a liberal? The defining feature of a liberal is [...] that it is someone who holds that there are certain rights against oppression, exploitation and injury to which every single human being is entitled to lay claim, and that appeals to ‘cultural diversity’ and pluralism under no circumstances trump the value of basic liberal rights” (Barry 2001: 132-3).

What could be possible reasons for Rawls’s embrace of moral relativism and the multicultural understanding of toleration? It seems to me that the biggest fear that plagues Rawls is the fear of international militarily intervention. In *The Law of Peoples*, Rawls maintains that liberal governments do not have the right to military intervene with illiberal governments’s business, even if these governments violate human rights. But why would the whole thing be about sanctioning and punishing illiberal governments? The purpose of liberal political philosophy is, I suggest, examining whether it is theoretically possible to derive liberal principles of justice and give them justification acceptable to everyone. That is all. The purpose of liberal political theory is to say something on how institutions that arise from such principles can be designed. But the attempt to design them is a far cry from saying that it cannot possibly face some practical obstacles. When the liberal goal is quite clear (as in the case of the Kosovo war, for instance), a liberal philosopher will stop short of supporting military intervention that involves additional violations of basic human rights, which was the part of the NATO military intervention in 1999. Rawls indeed shares the view that justification for liberal institutions may lead to illiberal actions. In his article “Fifty Years After Hiroshima” he criticizes the US’s dropping the atom bombs on Japan, saying it was contrary to one of six principles of just war. One of the principles postulates that

“a decent democratic society must respect the human rights of the members of the other side, both civilians and soldiers, for two reasons. One is because they simply have these rights by the law of peoples. The other reason is to teach enemy soldiers and civilians the content of those rights by the example of how they hold in their own case” (Rawls 1995: [566]).
The dropping of the nuclear bomb was an impermissible move, despite the fact that the Western alliance was pursuing a morally right goal. Quite so. But my point here is that no liberal will endorse such a move, although he should approve of morally right goals such as the struggle against Nazism.

Rawls is afraid that liberal peoples will easily agree “that nonliberal societies [that] fail to treat persons who possess all the powers of reason, intellect, and moral feeling as truly free and equal,” and will attempt to subject them to sanctions (Rawls 1999: 60). Sanctioning nonliberal peoples is not permitted, says Rawls, for we cannot be sure, “before trying to work out a reasonable Law of Peoples, that nonliberal societies [may always be] the proper object of political sanctions” (Ibid.). A quick answer to this would be that a liberal position takes equality as *prima facie* just, and that any departure from the baseline of equality without benefiting the worse-off (and this is precisely what makes nonliberal societies not liberal and some liberal societies not just) is automatically suspect. In order to arrive at this position we do not have to wait for any type of Law of Peoples.

But Rawls’s position is additionally problematic since it regards political philosophy as if its purpose consists exclusively in condemning all those who think differently. Rawls contends that sanctioning is morally wrong since it violates equality among the parties to the original position. “As we have seen in discussing the arguments in the second original position […], the parties are the representatives of equal peoples, and equal peoples will want to maintain this equality with each other” (Ibid.). But it may immediately be seen that the original position, wherein liberal peoples are situated in one way and illiberal people in another way, will be violated by absolutely every principle that is universal in its application. The principle of sanction is only one among them. The meaning of the original position is to situate everyone similarly with respect to their negotiating capabilities and irrelevant information that can impair the fair outcome of negotiation. If we have to conclude that someone from the original position will not settle on the principle of equal human rights, this can be done only if we define equality by saying that it grants everyone equal right to pursue their conceptions of the good no matter how inconsistent with the similar wishes of others. The purpose of the veil of ignorance was supposed to impose certain limits concerning how conceptions of the good may be pursued. By excluding the veil of ignorance from the original position, Rawls violated the ground-floor equality and did away with egalitarian liberalism in his theory of justice.

The second original position is seemingly based on the concepts of toleration and equality. But in Rawls’s rendition toleration and equality are euphemisms for *modus vivendi* and *status quo*. Toleration is made possible by *modus vivendi* among peoples, whereas the only fair solution for international relations among peoples is the one that does not touch into *status quo*. Such *modus vivendi* signals an additional distortion of Rawls’s original position. If we ask why it is necessary to preserve *status quo* among people, the only possible answer is that this is required by everyone who knows what kind of the conception of the good they are committed to. Peoples in the second original position do know what conceptions of the good they pursue, they want it to stay that way, and eventually they want to pick the principles of international justice that will reflect this fact. They can do that
because the new original position does not exclude this information anymore. But the question to be asked now is what is left of morality in Rawls’s liberalism if the original position became permeable to morally irrelevant facts?

5. Conclusion

In *Law of Peoples* Rawls decided to follow Walzer in saying that the greatest harm for the existing world order is to disturb the existing *status quo*. According to this view, the political philosopher should abstain from constructing and defending universal principles of justice and keep things as they are. It is true that preserving the *status quo* at the international level may in some aspects secure greater freedom and equality among sovereign peoples. But it is also true that the *status quo* permits the continuation of negation of freedom and equality within some of sovereign peoples of today’s world.

As opposed to *A Theory of Justice*, which was prevalently about distributive matters, Rawls thinks the matters of distributive justice are not proper subjects of international justice. Thus he fully neglects the fact that international inequalities are, on the whole, more dangerous than domestic injustices. Take Africa for example. Beside the fact that wars raged across half of the continent in the past 1-years, any egalitarian liberal would be astonished by the fact that in “half of sub-Saharan Africa 600 million people live on just 65 cents a day.” The continent is put in such an unfavorable condition that if only “North America, Europe and Japan were to eliminate all barriers to imports from sub-Saharan Africa, the region’s exports would rise by 14%, an annual increase worth about US $2.5 billion.” (*The Economist*, Feb. 24, 2001, p. 17). This is only one small example in the sea of examples that took place in the past two decades within the institutional arrangement in which the IMF, the World Bank, and the WTO dominated by the representatives coming from the affluent countries played the crucial role. The problem was invariably structural in nature: it is because of the “basic structure of the international society” accompanied by the accident in natural resources that such deep injustices exist at the global level.

Many countries in Africa and Latin America today do not have their vital interests protected (security, healthy food, water, clothing, shelter, medical care, basic education, etc.), while there are societies in which electricity is used for heating ficuses during winter. Yet, Rawls believes that a theory of international justice has nothing to say about such grave contrasts. Perhaps now that we have seen how Rawls imagines that nonliberal societies should be treated, it makes sense to suppose that his international theory of justice is based on a trade-off. Whereas rich societies are supposed not to touch the illiberal practices of poor societies, poor societies are in return not going to ask for the global redistribution of wealth that will give their citizens a chance to lead an autonomous and decent life.
CITED BIBLIOGRAPHY