The Law of Peoples

*The Law of Peoples* is John Rawls’s work on international relations. By the law of peoples, he means a political conception of right and justice that applies to the principles and norms of international law and practice. According to John Rawls it is an attempt to show “how the content of a law of peoples might be developed out of a liberal idea of justice similar to, but more general than, the idea I call justice as fairness.”¹

The two main ideas motivating his law of peoples are: one is that the great evils of human history, that is, unjust war and oppression, religious persecution and the denial of liberty of conscience, starvation and poverty and political injustice. The other main idea is also connected with the first, that is, once the gravest forms of political injustice are eliminated by following just or at least decent social policies and establishing just or at least decent basic institutions, these great evils will eventually disappear.²

The law of peoples is the political conception of justice which arrived at through the device of the ‘original position’ – a hypothetical arrangement whereby representatives of each of the peoples get together with the aim of determining


²Ibid, PP.6-7.
principles that will govern the terms of their association. The principles yielded by this process make up the content of the law of peoples. The eight principles are:

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. People are to observe the duty of nonintervention (except to address grave violation of human rights).
5. Peoples have a right of self-defense, but no right to instigate war for reasons other than self defense.
6. Peoples are honor human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.
8. Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime.³

By ‘Peoples’, Rawls means “the actors in the society of peoples, just as citizens are the actors in domestic society”.⁴ A people is a group of individuals ruled by a common government, bound together by common sympathies, and firmly attached to a common conception of right and justice. The government of a people takes responsibility for maintaining environmental and population policies so that the territory can support the citizenry over time. “People” is a moralized concept, and not

⁴Ibid, P. 23.
all countries currently on the world map qualify as such.\(^5\)

Rawls’s conception of peoples in the law of peoples is parallel to his conception of citizens within justice as fairness. Peoples are free in the sense of being rightfully politically independent and as equal in regarding themselves as equally deserving of recognition and respect. Peoples are reasonable in that they will honor fair terms of cooperation with other peoples, even in cases where they might advance their rational interests by violating those terms, given that other peoples will also do so. Reasonable peoples are thus unwilling to try to impose their political or social ideals on other reasonable peoples. They satisfy the criterion of reciprocity with respect to one another.\(^6\)

According to Rawls there are certain fundamental interests of a people, which are, protecting its political independence, its territory, and the security of its citizens. Maintaining its political and social institutions and its civic culture. And securing its proper self-respect as a people, which rests on its citizens’ awareness of its history and cultural accomplishments.

Rawls make a difference between peoples and states. Rawls says, a state is moved by the desires to enlarge its territory, or to convert other societies to its religion, or to enjoy the power of ruling over others, or to increase its relative economic strength. But peoples are not states, and as we will see peoples may regard


URL= < (http://plato.stanford.edu/archieves/win2012/rawls//). 

\(^6\)Ibid.
societies that act on such desires as outlaws.

Peoples are of two types, which depend on the nature of their domestic political institutions. They are Liberal peoples and Decent peoples, liberal peoples satisfy the requirements of political liberalism, they have legitimate liberal constitutions, with government that are under popular control and not driven by large concentration of private economic power. Again decent peoples are not internally just from a liberal perspective, since their basic institutions do not recognize reasonable pluralism or realize the liberal ideas of free and equal citizens cooperating fairly. The institutions of a decent society may be organized around a single comprehensive doctrine, such as a dominant religion. The political system may not be democratic and women or members of minority religions may be excluded from public office. Nevertheless decent peoples are well-ordered enough, Rawls says, to merit equal membership in international society.

Decent peoples do not have aggressive foreign policies, beyond this Rawls describes one type of decent society that is, a decent hierarchical society, to illustrate what decency requires. A decent hierarchical society’s basic structure specifies a decent system of social cooperation. Firstly, it secures a core list of human rights and secondly, its political system takes the fundamental interests of all persons into account through a decent consultation hierarchy. This means that the government genuinely consults with the representatives of all groups, which together represent all

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URL= < (http://plato.stanford.edu/archieves/win2012/rawls//).
persons in the society and that the government justifies its laws and policies to these groups. The government does not close down protests, and responds to any protests with conscientious replies. The government also supports the right of citizens to emigrate.

As there are two kinds of well-ordered domestic societies: liberal societies and decent hierarchical societies. The first leads to the idea of a well-ordered political society of societies of democratic peoples. And the second is the societies that are well ordered and just, often religious in nature, and not characterized by the separation of Church and State. Liberal peoples tolerate decent peoples, and indeed treat them as equals. Not to do so, Rawls says, would be to fail to express sufficient respect for acceptable ways of ordering a society. Liberal peoples should recognize the good of national self-determination, and let decent societies decide their futures for themselves. The government of a liberal people should not criticize decent peoples for failing to be liberal, or set up incentives for them to become more so.

According to Rawls there is one major reason why liberal people tolerate decent peoples. Decent peoples secure for all persons within their territory a core list of human rights. These core human rights include rights to subsistence, security, personal property, and formal equality before the law, as well as freedoms from slavery, protections of ethnic groups against genocide, and some measure of liberty of conscience. These core human rights are the minimal conditions required for persons to be able to engage in social cooperation in any real sense, so any well-ordered society must protect them.

For Rawls, human rights are a special class of rights designed to play a special role in a reasonable law of peoples for the present age. Human rights are distinct from
constitutional rights or the rights of democratic citizenship, or from other kinds of rights that belong to certain kinds of political institutions, both individualist and associationist. They are of a special class of rights of universal application and hardly controversial in their general intention. They are part of a reasonable law of peoples and specify limits on the domestic institutions required of all peoples by that law. In this sense they specify the outer boundary of admissible domestic law of societies in good standing in a just society of peoples.⁸

There are three important role of human right, they are: ⁹

1) Their being fulfilled is a necessary condition of a regime’s legitimacy and of the decency of its legal order.

2) Their fulfillment is also sufficient to exclude justified and forceful intervention by other peoples, say by economic sanctions or, in grave cases, by military force.

3) “They set a moral limit to pluralism” among peoples.

There are certain questions which Rawls addresses in The Law of Peoples, like, suppose the world contains one or more reasonably just constitutional liberal democracies. How ought they interact with one another? How ought they interact with non-liberal or non-democratic politics? What moral principles ought to guide their


foreign policies, their treaty-making, and their conventional international practices? Justice as fairness remains incomplete until this question is satisfactorily addressed. A well-ordered constitutional liberal democracy must prove capable of sustaining its well-ordered ness without betraying its own fundamental commitments in its foreign policy. Rawls addresses this question, at least in the first instance, as a matter of ideal theory, that is, under the assumption of favorable, but not impossible, background conditions. The most important of these assumptions is that there are on the global stage only well-ordered polities.

The international original position, Rawls says, is parallel to the domestic original position of justice as fairness. This original position answers the question; “What terms of cooperation would free and equal peoples both liberal and decent agree to under fair conditions?” The strategy is to build the conception of peoples into the set-up of this original position, along with restrictions on reasons for favoring basic principles of international law: to describe reasonable conditions under which a rational agreement on principles can be made.

In the international original position representatives of each people agree on principles for the international basic structure. Each party is behind a veil of ignorance, deprived of information about the people it represents such as the size of its territory and population, and its relative political and economic strength. Each party tries to do the best it can for the people it represents, in terms of the fundamental interests that all peoples have Rawls claims that the parties in the international original position would favor the eight principles listed above. Starting from a baseline of equality and independence, the parties would see no reason to introduce inequalities into the relationships among peoples beyond certain functional
inequalities in the design of cooperative organizations, such as richer countries contributing more to an idealized united nation. The parties would reject international utilitarian principles, as no people is prepared to accept that it should sacrifice its fundamental interests for the sake of greater total global utility.

After selecting the eight principles of the law of peoples, the parties next check that these principles can stably order international relations over time. Analogously to the domestic case, the parties will see that principles of the law of peoples affirm the good of peoples, and that peoples will develop trust and confidence in one another as all willingly abide by these principles over time. The stability of the international political order will thus be stability for the right reason and not a mere modus vivendi, since each people will affirm the principles as its first-best option whatever the international balance of power might become. These principles do not exhaust the law of peoples. They simply constitute its core. The law of peoples also includes principles to govern the forming and regulating of various international associations, setting out standards of free and fair trade, and so on. But Rawls accept that there is a global basic structure and that it is to be governed by the law of peoples.

Rawls also attempts to draw empirical support for his stability argument from the literature on the democratic peace. Social scientists have found that historically democracies have tended not to go to war with one another. Rawls explains this by saying that liberal societies are, because of their internal political structures, satisfied, liberal peoples have no desires for imperial glory, territorial expansion, or to convert others to their religion, and whatever they need from other countries they can gain through trade. Liberal peoples, Rawls says, have no reasons to fight aggressive wars,
so as genuine peace can endure among them. And since decent peoples are defined as non-aggressive, any decent people can join this liberal peace as well.

Before we think that the law of peoples is at all complete, we must take note of, even though we cannot properly discuss, the questions arising from the highly non-ideal conditions of our world with its great injustice and widespread social evils. Non-ideal theory asks how the ideal conception of the society of well-ordered peoples might be achieved, or at least worked toward, generally in gradual steps, it looks for policies and courses of action that are likely to be effective and politically possible as well as morally permissible for that purpose. So conceived, non-ideal theory presupposes that ideal theory is already on hand. For until the ideal is identified, at least in outline, non-ideal theory lacks an objective – a goal – by reference to which its questions can be answered.¹⁰

The principles selected in the international original position contain provisions for non-ideal situations: Situations in which nations are unwilling to comply with the ideal principles, or are unable to cooperate on their terms. These provisions are embedded in principles 4 through 8 of the law of peoples.

We may distinguish two kinds of non-ideal theory. One kind deals with conditions of non-compliance, that is, with conditions in which certain regimes refuse to acknowledge a reasonable law of peoples. These we may call outlaw regimes. The other kind of non-ideal theory deals with unfavorable conditions, that is, with the conditions of peoples whose historical, social, and economic circumstance make their

achieving a well-ordered regime, whether liberal or hierarchical, difficult if not impossible.¹¹

As we have said, a reasonable law of peoples guides the well-ordered regimes in facing outlaw regimes by specifying the goal they should always have in mind and indicating the means they may use or must avoid in doing so. Outlaw states are non-compliant: they threaten the peace by attempting to expand their power and influence, or by violating the human rights of those within their territory. The principles of the law of peoples allow peoples to fight these outlaw states in self-defense, and to take coercive actions against them to stop the violation of human rights. In any military confrontations with outlaws, peoples must obey the principles of the just prosecution of war such as avoiding direct attacks on enemy civilians in all but the most desperate circumstances. The aim of war, Rawls says, is to bring all societies to honor the law of peoples, and eventually to become fully participating members of international society.

Burdened societies of our country always faces social and economic struggles. These struggles make it very difficult for them to maintain the decent institutions. There is no sufficient material and resources for them and thus they are unable to develop social co-operation, perhaps having allowed a large growth in population which is beyond their territory’s current means. Thus, an eight principles needs to be introduced in the law of peoples that state that, burden peoples of the society are assisted until they can handle their own affirms and become well-ordered. The structure of the society and its political culture are the most important factors that are

essential to maintain its self-sufficiency; however there are situations in which the international community must help the burdened societies to develop and rise above that threshold. Rawls’s duty of assistance is greatly divergent from the current rules of international law. Therefore significant changes in how nations now respond to global poverty and failed states is required in order to accept this duty of assistance proposed by Rawls.

Rawls aim is a perpetually peaceful cooperative international order, where liberal and decent peoples stand ready to pacify aggressive states, and to secure core human rights, and to help struggling countries so long as they need assistance. But to some degree this aim is of limited ambition. The officials of democratic societies can do little more then just hoping that merely decent societies will become internally more tolerant and democratic.\(^{12}\) Once the duty to assist burdened peoples is fulfilled then there are no further requirements on economic distribution within Rawls’s Law of Peoples and inequalities across national borders are of no political concern for him. Peoples around the world may suffer greatly from bad luck, and may be haunted by spiritual emptiness but for Rawls the practical goal of his law of peoples is the elimination of the great evils of human history like unjust war and oppression, religious persecution and the denial of liberty of conscience, starvation and poverty, genocide and mass murder. The limits of this ambition mean that there will be much more in the world to which Rawls’s political philosophy gives no reconciliation.


Though Rawls’s aim is realistic it is also utopian. If we think that Rawls aim is possible then it means we believe that individuals are not merely selfish and that international relations can be more than a contest for power, wealth, and glory, affirming the possibility of a just and peaceful future can inoculate against resignation or cynicism that might otherwise seem inevitable. “By showing how the social world may realize the features of a realistic utopia, political philosophy provides a long-term goal of political endeavor and in working toward it gives meaning to what we can do today.”¹³

To be more clear, by international toleration Rawls means that liberal democracies ought to tolerate decent peoples, both liberal and democratic. It is a toleration of respect, and not a begrudging toleration justified only by reference to instrumental or pragmatic considerations. Thus, Rawls holds that liberal democracies ought not use any coercive means, such as financial incentives, to advance the cause of liberalizing or democratizing decent peoples because it express disrespect to attempts to liberalize on democratize decent peoples.

According to Rawls there are three instances of political regimes which is mentioned above, that fail to achieve well-orderedness. These polities are to be denied the respect and recognition afforded well-ordered polities in the international order. Extending the law of peoples to govern these three cases is a matter of non-ideal theory. These regimes are outlaw states, burdened societies and benevolent absolutisms.

Outlaw states are not well-ordered because they either violate basic human rights or they are unreasonably aggressive towards other peoples, on both. The international laws under non-ideal conditions must include principles to govern just war, humanitarian interventions, and other forms of coercive international sanction. Again burdened societies are not well-ordered because they are unable to overcome the obstacles on their path to well-orderedness. The international law under non-ideal conditions must also include principles to govern humanitarian assistance and political and economic development.

Benevolent absolutisms are not well-ordered because they are ruled not by constitutional officials sincerely acting pursuant to and in accord with a public conception of justice, and thus within the rule of law, but rather by self-appointed rulers acting pursuant to their own private judgments regarding the interests of their subjects or their polity. Regardless of their benevolence, their rule is not part of a well-ordered polity. Benevolent absolutisms have a right to self-defense so long as they honor the most basic of human rights (to subsistence and security, to personal property, to freedom of thought and conscience, including basic religious liberty, and to formal equality, under the law) and their members are more or less willing voluntarily to do their part to defend their ruler. They may not coerce their members into defending their ruler (such coercion would be necessary no more than brute force and thus illegitimate). And they are not entitled to recognition and respect in the international order. Instead, well-ordered peoples afford them only a kind of begrudging toleration.¹

One of the features of Rawls Law of Peoples is that it includes a commitment to free and fair trade between well-ordered peoples and a duty binding already well-ordered peoples to assist other societies to become themselves well-ordered. But most strikingly he includes no commitment to anything like a global difference principles as regulative of a just global economy. Again Law of Peoples imposes on further limits on economic inequalities between peoples and in support of this he offers two arguments, firstly he says that any further limits on economic inequalities between peoples would threaten the self-determination of peoples. People have no necessary fundamental interest in wealth accumulation or economic growth beyond that is necessary to sustain their just institutions. Thus, for him all peoples should be free to opt for whatever level of wealth and economic growth they like once they secure just institutions. A global difference principle or similarly egalitarian principle of global distributive justice would undermine this freedom. Secondly, none of the considerations tells in favor of the difference principle or similarly egalitarian principles in the context of distributive justice within a single liberal democracy apply to the international or global context. Peoples do not have same relationship to one another or have the same basic interests, as citizens in a liberal democracy. Though it is true that, the law of peoples permits any member of states to voluntarily associate on terms that include something like a difference principle as regulative of economic inequalities between them. Here the point is that the law of peoples does not require as much. To these two reasons one more reason can be added. The aim of global difference principle is at maximizing the lowest expected ‘lifetime’ share of wealth and income to any representative people presupposes something like a global state capable of establishing and regulating a global currency, legislating for the global
economy, enforcing a global tax on all polities, and so on. If there are good reasons to reject the idea of such a state, then there are good reasons to reject a global difference principle. Of course, none of this constitutes a defense of the status quo. There is no excuse or justification for the failure of presently well-ordered peoples to take more effective steps toward eliminating the great poverty and suffering that plagues so many failed states.¹

According to Rawls both well-ordered liberal and hierarchical societies accept human rights as a special class of rights to be explained by their role in a liberal conception of the law of peoples. This is one of the reasons how such a law of peoples might be worked out on the basis of a liberal conception of justice. It is now indicated how respect for human rights is one of the conditions imposed on any political regime to be admissible as a member in good standing into a just political society of peoples. To make it perfectly clear why human rights hold across cultural and economic boundaries, as well as the boundaries between nation – states or others political units, we have to understand how a reasonable law of peoples is developed out of the liberal conception of justice and how this conception can be universal in its reach.

But these rights determine the limits of toleration in a reasonable society of peoples, suppose we start with a well-ordered liberal society that is aware of an egalitarian conception of justice, like justice as fairness, then the members of that society will nevertheless accept other liberal societies into the society of peoples whose institutions are considerably less egalitarian. But citizens in a well-ordered


egalitarian society will still think that the domestic regimes of those societies as less pleasing to them than the regime of their own society.

This illustrates what happens whenever the scope of toleration is extended: the criteria of being reasonable are relaxed.¹⁶ Now in the case we have considered we seek to include other than liberal societies as members in good standing in a reasonable society of peoples. Hence when we move to these societies, their domestic regimes are even less, often much less, congenial to us. This poses the problem of the limits of toleration: Where are these limits to be drawn? Clearly, tyrannical and dictatorial regimes must be outlawed, and also, for basic liberal reasons, expansionist states conducting wars of religion. The three necessary conditions for a well-ordered regime—that is respect the principles of peace and not be expansionist, that its system of law meet the essentials of legitimacy in the eyes of its own people, and that it honor basic human rights—are proposed as an answer as to where those limits lie. These conditions indicate the region of bedrock beyond which we cannot go.¹⁷

Many societies of the world have always been meeting these three conditions for being a member in good standing in a reasonable society of peoples. The law of peoples provides the basis for judging the conduct of any existing regime, both liberal as well as non-liberal societies. Since our account of the law of peoples was developed out of a liberal conception of justice, we must address the question


whether the liberal law of peoples is ethnocentric and merely western. In the law of peoples the liberal societies were assumed to look at how they are to conduct themselves towards other societies from the point of view of their own liberal political conception. This conception is sound and is meeting all the criteria and they are now able to apply and to proceed, thus is not then necessary ethnocentric on merely western. Whether it is so turns on the content of the political conception that liberal societies embrace once it is worked up to provide at least an outline of the law of peoples. The difference between that outline of that law and the law of peoples as it might be understood by religious and expansionist states that reject the liberal conception. The liberal conception asks of other societies only what they can reasonably grant without submitting to a position of inferiority, much less to domination. Here it is important that a liberal conception of the law of peoples does not ask well-ordered hierarchical societies to abandon their religious institutions, and adopt liberal ones. The traditional societies would affirm the law of peoples that would hold among just liberal societies. This is the reason why, that law is universal in its reach. And it is so because it asks of other societies only what they can accept once they are prepared to stand in a relation of equality with all other societies and once their regimes accept the criterion of legitimacy in the eyes of their own people. And in what other relations can a society and its regime reasonably expect to stand? ¹⁸

Besides this, the liberal law of peoples does not justify economic sanctions or military pressure on well-ordered hierarchical societies to change their ways, provided

that they respect the rules of peace and their political institutions satisfy the essential conditions we have reviewed. But if these conditions are violated, then the external pressure of one kind or another may be justified depending on the severity and the circumstances of the case. At this point a concern for human rights should be a fixed part of the foreign policy of liberal and hierarchical societies.

The law of people also aim to set the bearing of political liberalism for a wider world society once a liberal political conception of justice is extended to it. Here it can be asked, what form does the toleration of non-liberal societies take in this case? In spite of the fact that tyrannical and dictatorial regimes cannot be accepted as members in good standing in a reasonable society of peoples, not all regimes can be reasonably required to be liberal. But if it is so then the law of peoples itself would not express liberalism’s own principle of toleration for other reasonable ways of ordering society. A liberal society is to respect other societies organized by comprehensive doctrines, provided their political and social institutions meet certain conditions that lead the society to follow a reasonable law of peoples.

There are certain questions which could be asked regarding toleration, like, what conception of toleration of other societies does the law of peoples express? And how is it connected with political liberalism? If it is asked whether liberal societies are, morally speaking, better than hierarchical societies and so whether the world would be a better place if all societies were liberal, and those holding a comprehensive liberal view could think it would be. But a claim to rid the world of non-liberal regimes is not supported by that opinion. It could not have operative force in what, as a matter of right, they could do politically. The situation same as the toleration of other conceptions of the good in the domestic case. Someone may say
that their society would be a better place if everyone hold a comprehensive liberal
view. They might be wrong in this judgment because given the larger background of
belief and conviction, other doctrines may play a moderating and balancing role and it
give society’s culture a certain depth and richness. Here the point is to affirm the
superiority of a particular comprehensive view is fully compatible with affirming a
political conception of justice that does not impose it, and so with political liberalism
itself.

According to political liberalism holds that comprehensive doctrines have but
a restricted place in liberal democratic politics in this sense, the public political
conception of justice settled the fundamental constitutional questions and matters
concerning basic rights and liberties, exemplified by the liberal political conceptions,
and not by these wider doctrines. For given the pluralism of democratic societies, a
pluralism that is best seen as the outcome of the exercise of human reason under free
institutions and that can only be undone by the oppressive use of state power,
affirming such a public conception and the basic political institutions is supports is the
most reasonable basis of social unity available to us.

At the end of this discussion we can say that the law of peoples is simply the
extension of these same ideas to the political society of well-ordered peoples. The law
of people settles fundamental constitutional questions and matter of basic justice as
they arise for that society, must also be based on a public political conception of
justice and not on a comprehensive religious, philosophical, or moral doctrine. The
content of such a political conception and tried to explain how it could be endorsed by
well-ordered societies, both liberal and hierarchical. Except as a basis of a modus
vivendi, expansionist religious societies could not endorse it; but in principle there is
no peaceful solution in this case except the domination of one side or the peace of exhaustion.¹⁹