John Rawls's Duty of Assistance: An Evaluation of its Robustness and Sufficiency
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Section I: Introduction

In his work *The Law of Peoples*, John Rawls is commonly criticized for his work in by his cosmopolitan opponents for leaving out an international difference principle. Much concern has been voiced in regards to Rawls's rejection of a global principle of distributive justice despite his argumentation for a distributive principle in his domestic theory. Instead, the only principle that bears any resemblance to an international difference principle, and relates directly to economic redistribution between peoples, is what Rawls calls a duty of assistance.

In this paper I will argue that many critiques of Rawls are not sufficiently charitable toward Rawls's international duty of assistance. Rather, I argue that once one evaluates the demands that the duty of assistance places upon members in Rawls's society of peoples, and given Rawls's larger theoretical framework, one can reasonably conclude that the duty of assistance is robust and furthermore, perhaps reasonably sufficient. Given that the target and cut-off point of the duty of assistance demands that members in the society of peoples must aid a burdened people until a) the basic needs of the individuals within the burdened society are met and b) the once burden people can be considered a reasonably well-ordered and equal standing member in the Society of Peoples that is politically autonomous, self-sufficient, and self-determining, I will argue that the duty of assistance is a demand that is not to be underestimated and for Rawls's Society of Peoples, it has the potential to be both robust and sufficient.

Much of the earlier parts of this work will focus on defining Rawls's duty of assistance and other key aspects to his political theory. The section following this will seek to provide a justification for the broad concept of basic needs used by Rawls in refutation of his cosmopolitan critics, namely Kok-Chor Tan. My last section will seek to defend Rawls's controversial assumption that it is possible for a once burdened, but now well-ordered people to exercise political autonomy, be economically self-sufficient, and not be subject to manipulation by external forces under his ideal conditions that govern the Society of Peoples.

In the end I will conclude that when one comes to appreciate that the duty of assistance's target is to ensure that the basic needs of a people's citizens are met within the given burdened society coupled with the insistence by Rawls that political autonomy and independence must be achieved by the once burdened society in order for it to qualify as decent, one could reasonably accept the duty of
assistance as a robust, and potentially sufficient, demand to be executed if need be within the Society of Peoples. However, despite the possible robustness of the duty of assistance and given that it is contingent upon both a people's capacity for political autonomy, and having the basic needs of its citizens met so that they are capable to take advantage of the opportunities within their given society. I recognize that there is much need for clarification as to what these contingencies entail on both my part, and on Rawls behalf if my argument is to be convincing and this will be the focus on my later sections.

**Section II: Rawl's Duty of Assistance**

The first critical aspect that must be identified is that Rawls derives his eight principles of justice in the *Law of Peoples* from the ideal case. Emphasis needs to be placed upon what Rawls conceives and defines as a 'realistic utopia'. A realistically utopian society for Rawls, “depicts an achievable social world that combines political right and justice for all liberal and decent peoples in a Society of Peoples”. The Law of Peoples is realistic in that it could and may exist. It is also utopian and highly desirable because it joins reasonableness and justice with conditions enabling citizens to realize their fundamental interests. For Rawls the ideal case allows for a particular type of clarity in reasoning, where the salient features that should be embodied when defining principles of justice are best revealed. In *A Theory of Justice*, Rawls explains that ideal theory, or strict compliance theory, deals with cases in which all agents fully comply with the principles of justice that would regulate a well-ordered society. Conversely, non-ideal theory applies to cases of partial compliance. Non-ideal theory is concerned with, “the principles that govern how we are to deal with injustice”, and Rawls insists that ideal theory provides “the only basis for the systematic grasp of these more pressing problems”. Ideal theory, as he iterates in *Political Liberalism*, “is a necessary complement to non-ideal theory without which the desire for change lacks aim”.

The Law of Peoples is formulated to apply to ideal conditions among well-ordered liberal democratic societies or those that are reasonably decent. The Law of Peoples is not designed to address the vast number of issues and difficulties encountered in our contemporary world, but rather aims to set fourth principles of foreign policy as part of political liberalism that decent liberal societies could reasonably agree to endorse. Within Rawls's realistic utopia, the society of peoples is composed of reasonable and rational members who generally accept the governing principles of justice and fair terms of cooperation. Members generally adhere to public reasoning about justice and aim to endorse what Rawls identifies as a conception of the common good in their discourse. As Samuel Freeman
asserts: “The Law of Peoples, then, is designed to apply in the first instance to hypothetical conditions, among well-ordered liberal and decent societies each of which has concern for the well-being of its own people and seeks their common good, and respects others as free and equal peoples”.

The Two Original Positions

To attain principles of justice both domestically and globally, that contracting parties can reasonably agree to, Rawls utilizes a two step thought experiment he terms the original position to develop his ideal theory of justice. The first step of the original position is to determine the fair conditions from which the parties of the contractual agreement are to decide upon their political conception. The second step, then, is to stipulate, based on these conditions, what principles of justice and fair cooperation would be adopted by the contractual parties. It is regarded by Rawls as the appropriate initial situation for social contract.

The first use of the original position appears in Rawls's earlier work and is used to identify the principles of justice as fairness for the domestic case. The second original position is used to extend a liberal conception to the Law of Peoples. Similarly to the first use of the original position, the international original position is used as a model of representation. However, there are two main differences: The first central difference is the subject matter of the first use of the original position is the basic structure of society, whereas in the second use of the original position, the parties are concerned with establishing principles that govern relations between peoples. Second, the parties to the first use of the original position are representatives of individual citizens who are part of the liberal society in question, whereas in second use of the original position, the parties are representatives of a) liberal peoples or b) decent peoples, rather than individual citizens.

It is significant to understand the reasoning as to why Rawls chooses peoples as opposed to states as the appropriate contractual parties in the international case. Rawls uses the language of 'peoples' because, whereas states are rational, anxiously concerned with power, and guided by their basic interests, peoples are reasonable and additionally concerned with insuring reasonable justice for all of their citizens as well as for all other peoples. More specifically, the use of the terms peoples, according to Rawls, enables us to attribute moral motives to the contracting parties in the second use of the original position. Rawls specifies that: “The term 'peoples', then, is meant to emphasize these singular features of peoples as distinct from states as traditionally conceived, and to highlight their moral character and the reasonably just, or decent, nature of their regimes.”

The ‘fundamental interests of peoples’ is another important distinction that Rawls makes. A
state's basic interests, according to Rawls, can be typically described as the struggles for power, prestige, wealth, security, territory, and such\textsuperscript{xvii}. Conversely, peoples participating in the Society of Peoples will regard themselves as free and equal. Rawls says, that liberal peoples are concerned with striving to protect their political independence, free culture with its civil liberties, territory, and the wellbeing of its citizens. However, and importantly, in addition to this, Rawls insists that what distinguishes peoples from states, “is that just peoples are fully prepared to grant the very same proper respect and recognition to other peoples as equals”\textsuperscript{xviii}. This notion of equal respect compliments Rawls's notion of \textit{reciprocity}\textsuperscript{xxv} that is deeply entrenched within his theory of both domestic and international justice. Furthermore, Rawls asserts that the rationality and reasonableness that peoples exhibit enables them to offer to other peoples fair terms of political and social cooperation. The fair terms offered are those that a people sincerely believe other equal peoples would reasonably agree to. Additionally, out of mutual respect and recognition of equality, peoples will seek to honour the proposed terms of agreement even if it would be advantageous for a particular people to violate those terms. Thus, peoples can be distinguished from states given their moral nature, their ability to attribute equal status and respect to other peoples, and their commitment to seek ongoing cooperation for the right reasons between peoples over time\textsuperscript{xx}.

Despite differences in subject matter and parties represented, both the first and second uses of the original position share several common features. Both model the parties as (1) representing citizens/peoples fairly and equally; (2) instrumentally rational; (3) selecting from among available principles of justice those that apply to the appropriate subject (either the basic structure of society, or relations between peoples); (4) making these decisions for appropriate reasons; and (5) selecting for reasons related to the fundamental interests of citizens/peoples as reasonable and rational\textsuperscript{xxi}.

The fourth featured mentioned above is secured by the condition that the parties to both uses of the original position are under a “thick veil of ignorance”\textsuperscript{xxii}. To clarify, this means that they are ignorant of any knowledge that would cause them to be biased in their selection of principles, thereby guaranteeing that principles are not selected for self-serving purposes that could be detrimental to the wellbeing of others. Similarly to the domestic case where the parties do not know such things as their economic status, religion, race, or gender, parties to the second use of the original position are ignorant of, for example, the size of their territory, their population, their level of economic development, and their natural resources. Just as in the domestic case Rawls insists that this “thick” veil of ignorance is necessary in the international case to insure fairness given the fact of \textit{reasonable pluralism}. 
By use of the international original position, Rawls derives eight principles of justice that can be reasonably agreed upon between free, equal, independent and well-ordered peoples. The principles of the Law of Peoples 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) Peoples are to observe a duty of non-intervention;
5) Peoples have the right to self-defence but no right to instigate war for reasons other than self-defence;
6) Peoples are to honour human rights
7) Peoples are to observe certain specified restrictions for the conduct of war;
8) Peoples have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political and social regime.\textsuperscript{xxiii}

For Rawls these principles constitute the basic charter of the Law of Peoples. Principle eight reveals the Society of Peoples' commitment to transform a world containing non-well-ordered peoples to a world in which all societies come to accept and follow the Law of Peoples\textsuperscript{xxiv}. Given this, Rawls considers the non-ideal case of unfavourable conditions where societies “whose historical, social, and economic circumstances make their achieving a well-ordered regime difficult if not impossible”\textsuperscript{xxv}. These societies are called \textit{burdened societies}, and the conditions that Rawls refers to include, but may not be limited to historical, social, and economic circumstances\textsuperscript{xxvi}. Burdened societies for Rawls are: “not expansive or aggressive, [but rather] lack the political and cultural traditions, the human capital and know-how, and often the material and technological resources needed to be well-ordered”\textsuperscript{xxvii}.

As we have already established well-ordered peoples have a duty to assist burdened societies toward the goal of becoming well-ordered. Rawls specifies three guidelines for duty of assistance which include: 1) The recognition that a well-ordered society need not be a wealthy society; 2) The acknowledgement that the political culture of a society is all-important and that there is no particular recipe for changing the social order and political culture of a society; and 3) The definition of both a \textit{target} and \textit{cutoff} of assistance, which entails aid up to a point where the once burdened society is
positioned in such a way as to be able to meet the basic needs of its citizens, reasonably and rationally manage their own affairs, and eventually become members of the Society of well-ordered Peoples. From here we will move on to expand upon the details that each guideline of the duty of assistance demands.

The first guideline for Rawls's duty of assistance has us consider that a well-ordered society need not be a wealthy society. Partly, it is in this instance that Rawls comes to controversially reject, much to the dismay of the cosmopolitans, as we shall see, a principle of global distributive justice and instead replaces the possibility of such a principle with something closer to the just savings principle discussed in *A Theory of Justice*. He points out three significant features of just savings in domestic theory that relate to the duty of assistance for the international case. The three aspects of importance are: 1) The purpose of the principle is to establish (reasonably) just basic institutions and to secure a social world that makes possible a worthwhile life for all of its citizens; 2) Once just or decent basic institutions have been established than savings may stop; and 3) Great wealth is not necessary to establish just or decent institutions. The amount needed will depend on the particular society's history and its conception of justice. Rawls notes here that the wealth between peoples will not necessarily be the same. From these three aspects of the just savings principle Rawls argues that the duty of assistance expresses the same underlying idea, and that is, “in each instance, the aim is to realize and preserve just (or decent) institutions, and not simply increase, much less maximize indefinitely, the average level of wealth, or the wealth of any society or particular class in society.”

As captured by guideline number two it is important to understand that Rawls makes the critical assumption that what contributes greatly to the unfavourable circumstances of a burdened society is its political culture, religious and philosophical doctrines, and moral traditions that support and sustain the basic structure of its political and social institutions. That said, political culture for Rawls is more critical in establishing a well-ordered society in comparison to endowments of wealth or resources:

> There is no society anywhere in the world – except for marginal cases – with resources so scarce that it could not, were it reasonably and rationally organized and governed, become well-ordered [...]
> The crucial element in how a country fares is its political culture – its members' political and civic virtues – and not the level of its resources”.

In recognizing that the political culture of a burdened society is all-important simply dispensing aid in terms of monetary funds, will not suffice for Rawls. Instead he emphasizes that human rights have an important role to play in working to change ineffective and poorly ordered regimes.

Samuel Freeman points out that “since members of the Society of Peoples have reason to care
about just institutions and practices, including human rights, for their own sake, and not simply because they are themselves benefited, we can see why Rawls argues for a duty of assistance for burdened peoples”. First and foremost, it is the primary responsibility of a government to provide the means of subsistence for its own citizens, and Rawls goes as far to say that, “for a government to allow its people to starve when starvation is preventable reflects a lack of concern for human rights”. However, when a government is incapable or refuses to provide economic means sufficient to meet its citizens subsistence needs, Rawls argues that it is the Society of Peoples' responsibility to fulfil this duty. This aspect of the duty of assistance will be taken up more depth in section three of this work where the broad concept of basic needs will be discussed.

The third and final guideline that Rawls distinguishes for his duty of assistance is that well-ordered peoples must recognize that the aim of the duty of assistance has a target and cut-off point. The goal of the duty of assistance is to aid burdened societies so that they can come to “manage their own affairs reasonably and rationally and eventually become members of the Society of well-ordered Peoples” as previously mentioned. The final aim of assistance is “freedom and equality for the formerly burdened societies”, and their established respect and membership within the Society of Peoples. Similarly to the just savings principle, once this goal has been attained, the duty to assist that particular people is diminished, even if the society in question is still relatively poor. This guideline argues for respecting and seeking to preserve a people's right to self-determination where the emphasis is not on economic equality as such, but on the equality and mutual respect between peoples under the Law of Peoples. This last feature of the duty of assistance will be considered more carefully in section four of this work.

Section III: Basic Needs

Some cosmopolitans, distinguishably Kok-Chor Tan, argue that: “cosmopolitanism, as a normative idea, takes the individual to be the ultimate unit of moral concern and to be entitled to equal consideration regardless of nationality and citizenship”. For Tan and other cosmopolitans principles of justice ought to transcend nationality and citizenship, and ought to apply equally to all individuals of the world as a whole. Such claims prove problematic for Rawls as he chooses his scope of international justice to be between peoples and not individuals.

Tan criticizes Rawls for obscuring the difference between duties of humanity and those of justice, and accuses Rawls of wrongly creating the impression that we do not need principles of global distributive justice, but only principles of humanitarian assistance to tackle the problem of global
poverty". For Tan, “focusing on humanitarian duties as opposed to justice does not fully locate the source of global poverty, and hence falls short of offering a complete solution to it”.

In chapter three of *Justice Without Boarders*, Tan argues that an account of global justice directed only at the fulfilment of individual basic needs, and one that ignores the distributive aspects of the global order against certain principles of justice creates an impoverished account of global justice theory. The important question that remains for Tan is: “in spite of Rawls’s endorsement of basic subsistence rights in his theory, as to whether the global moral objective should be just that of meeting basic needs, or whether it should be also promote equality between persons”.

Samuel Freeman highlights that the duty of assistance is keyed to the broader concept of basic needs. He argues that it is suggestive in Rawls's *The Law of Peoples* that the duty of assistance extends beyond meeting a burdened peoples' subsistence needs where subsistence needs are understood to be simply access to food, water, shelter, clothing. However, it is not very clear as to what the broader concept of basic needs entails precisely. Freeman acknowledges that Rawls says too little here and that this area in *The Law of Peoples* is perhaps underdeveloped, and I would argue that despite this, the duty of assistance should not be undervalued as the demand of meeting basic needs has the potential to again be quite robust and perhaps even sufficient.

When I say that Rawls understands basic rights to include subsistence and economic security I mean that a people must be able to provide the minimal necessities such as food and shelter, but also economic security that according to Rawls allows citizens the ability to exercise all of their liberties, and make intelligent use of property. Under Rawls's conception of basic needs not only are necessary essentials that support human functioning required, but also citizens must be able to take advantage of the rights, liberties, and opportunities of their society. For Rawls these needs include economic means as well as institutional rights and freedoms.

To further my argument I look to the work of David Miller. Miller assumes that only certain rights-violations are urgent enough to trigger remedial responsibilities in outsiders, such as being denied means of subsistence. Other claims, such as, the equal right to participation in politics do not. Rawls's list of basic needs develops quite similarly to this. The human rights that Rawls mentions are:

- the right to life (to the means of subsistence and security);
- to liberty (to freedom from slavery, serfdom and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought);
- to property (personal property); and to formal equality as expressed by the rules of natural justice (that is, that similar cases be treated similarly).

It is important to take careful note that Rawls only requires a *sufficient measure of liberty of*
conscience. The Law of Peoples requires that decent peoples make room for or permit liberty of conscience, though it need not necessarily be an equal liberty. As a qualification Rawls stipulates that, “liberty of conscience may not be as extensive nor as equal for all members of society: for instance, one religion may legally predominate in the state government, while other religions, though tolerated, may be denied the right to hold certain positions.” Thus, these human rights, and basic needs that allow for their realization are not peculiarly liberal, and therefore not politically parochial.

It follows then that a compelling feature of Rawls's list of human rights is that they are not distinctly liberal, and that all liberal and decent people can agree to them on the basis of their liberal and decent comprehensive views. So, although his list of human rights may not be as demanding or exhaustive as others require, they embody a minimal acceptability that a reasonable people could uphold, in that they do not impose parochial, nor liberal paternalistic conceptions. On this standard of acceptability, then Rawls's list appears short, but is consistent with his aim of providing a Law of Peoples that all well-ordered and liberal peoples could agree to. Thus, it could be said that in addition to providing a target for aid, and despite valuing human rights for their own sake, the minimum standard of meeting basic needs also identifies conditions that peoples must meet if they are to enjoy standards of sovereignty and self-determination. The identification of basic needs, thus upholds Rawls’s liberal values of reasonable pluralism, toleration, and mutual respect. Additionally, assigning basic needs so that they can be accepted cross-culturally, and that their meaning can be sustained over time, further adds to my argument that they duty of assistance is a robust and sufficient demand within Rawls's Society of Peoples.

Even though cosmopolitans such as Tan, argue that it is inconsistent for Rawls's to make such minimal demands, and not push for a principle of global distribution, similar to the difference principle, to achieve equality for individuals. I argue that to remain consistent with his commitments to pluralism, respect of self-governance, and self-determination, Rawls is justified to define basic needs as such. So although at a first glance it appears that Rawls's has given very little justification, for what his critics claim to be a truncated list of human rights, when we look toward the larger theoretical commitments threaded throughout Rawls's work it is possible to string together a tighter web of justification in regards to basic needs.

In summation, basic needs reflect having sufficient all-purpose means for individuals to make intelligent and effective use of their freedoms and to lead reasonable and worthwhile lives. Basic needs push the threshold beyond what is needed so that people do not starve or perish from disease.
Instead basic needs identify the provisions required to enable citizens to enjoy their liberties. Freeman explains that the duty of assistance suggests, “a duty to provide in some way for the educational needs of a burdened people, so that they can find employment and be economically self-sufficient, and can actively participate in the life of their culture”\textsuperscript{lx}. However, Rawls says too little in respect to clearly defining these sorts of demands. Human rights and basic needs serve an additional purpose in Rawls's Law of Peoples: they express a class of urgent rights that, when violated, are equally condemned by both reasonable liberal and decent hierarchical peoples. Rights are used to demarcate toleration in the Society of Peoples. They restrict the justifying reasons for war and its conduct and specify limits to a regime's internal political autonomy. Rawls holds that “human rights set a necessary, though not sufficient standard for the decency of domestic and political social institutions”\textsuperscript{li}.

Beitz explains that, “the relative austerity of Rawls's list reflects the role that human rights are to play in the political life of the Society of Peoples. Respective for human rights is, so to speak, part of the price of admission to international society and defines the threshold of toleration by liberal and decent peoples”\textsuperscript{lix}. Basic needs and this special class of urgent rights demarcate the boundaries of acceptable pluralism within the Society of Peoples. They help to inform the foreign policies of liberal peoples and explain why a violation would warrant intervention to bring about reform. Recall that the Law of Peoples seeks to create international stability for the right reasons. When peoples fail to provide basic needs and when human rights are violated, reform and intervention are not merely justified by the individual good they bring about, but also by considerations of international stability. Rawls holds that outlaw states that violate human rights deeply affect the international climate of power and violence, and need not be tolerated\textsuperscript{lii}. With that said however, Rawls cosmopolitan critics will continue to push and ask: should we not demand more from a list of basic needs and human rights than simply having human rights serve a role for warranting intervention and distinguishing the tolerable from the intolerable? Those, like Tan, will hold that Rawls has wrongfully over-committed himself to the liberal value of toleration while undervaluing the liberal commitment to individual liberty in his Law of Peoples when constructing his list of human rights. Let us not lose sight of the view that liberal cosmopolitans hold broadly: “that a just global arrangement is one in which the basic liberties and democratic rights of all individuals are protected”\textsuperscript{lixii}. It follows, from this view, that the cosmopolitans argue that non-liberal decent societies fail to merit liberal toleration, given their failure to exhibit individual equality between all members of their society. The cosmopolitans hold that so long as there are inequalities so too will there be exploitation and oppression.
For now I am prepared to admit that this justification may leave us wanting. I recognize that two points must be distinguished and made clearer. The first point being the clarification of *basic needs,* and second the entailment of this distinction: being that a duty of assistance that secures basic needs is robust and reasonably sufficient, and that we need not push much further, as suggested by Tan.

To further contribute to the clarification of basic needs and the meaning of human rights on Rawls's account a discussion of the role that both basic needs and human rights play is necessary to ground our understanding. Normatively speaking, general meaning is enriched when a functional role of association can be assigned to the subject in question. Here, if we can better identify the role Rawls intends for the assignment of basic needs and his provisions of human rights under the Law of Peoples, on some relational level, the meaning Rawls assigns to such conceptions should appear much clearer. I hold that basic needs and human rights on Rawls's account express three main roles in the Law of Peoples; 1) measures for toleration, 2) assignment of a duty to aid, and 3) provision of what is necessary for social cooperation (already discussed). The first two of these roles and will be discussed in more detail below.

*Distinguishing Which Needs are Basic Needs*

To help better distinguish what is to be considered a basic need in justifying a list of human rights, the humanitarian approach discussed by David Miller should provide us with some much needed considerations lacking in the Law of Peoples. Miller explains that, “according to the needs approach, we prove that something is a human right by showing that having that right fulfils the needs of the right-holder”⁷⁵⁴. Basic needs when used to justify human rights must express a person's 'intrinsic' needs, identifying those items (food and shelter) of conditions (various freedoms) necessary for a person to avoid harm and to lead a minimally decent life. Such claims as to what counts as a basic need when used to justify human rights are to be acceptable universally, and in Rawls's case must appear reasonable to liberal and decent peoples.

With that said, in determining basic needs by the avoidance of harm, and the promotion of meeting the threshold of a minimally decent life, it is important to determine what is to count as harm and set the minimum for decency. Quite easily we can identify harms derived from not having our physical or biological needs met. Typically, a person suffers harm when he or she is deprived adequate amounts of food, clean water, shelter, clothing, bears uncontrollable pain, contracts preventable and curable diseases that go untreated, and who's life is lost to a premature death. However, in addition to our biological needs, it is recognizable, and much a part of Rawls's Law of Peoples to give due weight
and consideration to human beings as biological and social creatures.

Additional harms that humans may suffer may arise when individuals are denied the conditions of social existence. Miller explains that, “a person is harmed when she is unable to live a minimally decent life in the society to which she belongs”\textsuperscript{iv}. As highlighted by Rawls's Law of Peoples an individual's identity, social existence and self worth is largely tied to the groups they belong to, the culture and history they share, and common traditions and language(s). Rawls stipulates that political culture is all-important. Given this, the idea of a minimally decent life illuminates needs that address individuals both as biological and social entities. Where an individual's well-being is concerned then, fostering a sense of belonging within a community, having a sense of community support, and attaining community acceptance, identifies a basic need that would enable an individual to be able to use the liberties and freedoms granted within a lived community. With the recognition that persons tend to view their lives through the lens of a community, having an account of basic needs and human rights that adequately addresses issues of exclusion, persecution, and public shaming, in addition to relief for harms such as malnutrition, provides a list that is cross-culturally acceptable, robust and most likely reasonably sufficient.

If we are to define basic needs by reference to what is necessary to lead a decent human life, and to enable citizens to make effective use of their rights and liberties of their society, then it is imperative to determine what is actually necessary to achieve such thresholds in different cultural contexts. Miller appeals to the commonly shared activities that humans engage in cross-culturally to ground claims of what a minimally decent life would require. He refers to these common activities as core human activities\textsuperscript{v}. Such core activities shared cross-culturally include examples of work, play, leisure, learning, child-rearing/engaging in family relations, and an appreciation for and engagement in the arts (from storytelling/folklore, to music, carving/sculpture, dance). On this account of what constitutes a minimal decent life, one's life expectations will include engaging in each of the core activities so chosen. Miller explains given the conditions of one's society, an individual should be able to work and play without having to bear unreasonable costs or forgo some other core activity\textsuperscript{vi}. Basic needs, by reference to minimal decency express the baseline conditions that everyone should reach irrespective of attaining higher forms of flourishing or privilege. Those living just at this threshold would lead a fairly standard life, and Miller conjectures that such a life would be quite dull. However having just enough, nonetheless, is invaluable in that those just at the baseline would no longer suffer from degradation, social exclusion, worthlessness, and any innumerable insecurities compared to those
who fall below. This attachment to minimal decency, having enough to enjoy one's rights and liberties, and engage in the social and cultural life of one's society is a robust conception of basic needs that offers a sufficient grounding for human rights contrary to what the cosmopolitans may demand. There are other groundings for Rawls's list of human rights however, besides toleration that must be explored to fully capture the potential demands of his duty of assistance. Unfortunately within the confines of this paper discussing Rawls's groundings of human rights as commitments that express measures for toleration, the necessary requirements for social cooperation, and the signification of a duty to aid cannot be fully flushed out. As at this juncture I feel it is more worthwhile to discuss some of Rawls's omissions on his list of human rights to provide a stronger retort to his cosmopolitan critics.

**Rawls's Omissions: Can We be Justified to Require More?**

It is notable that Rawls purposefully omits several rights identified by the 1948 Universal Declaration of Human Rights (UDHR). Among the omitted are significantly freedom of expression and association, and the rights of democratic political participation. For Rawls these are distinctly liberal rights and presuppose specific institutions. However, I am willing to argue that although not explicitly stated within Rawls's short list of urgent human rights, there is room for sufficient inclusion of these additional rights under the Law of Peoples. Using Rawls's own reasoning for the inclusion of a sufficient measure of liberty of conscience that ensures freedom of religion and thought, I assert that we too could reasonably include measures of freedom of expression and association as well as certain means for political participation while still managing to avoid Rawls's worry of parochialism.

It appears somewhat arbitrary for Rawls to omit completely the right to freedom of expression and association. He does include some necessary, although relatively undefined, measures for political representation and participation among decent hierarchical peoples. We will set this matter aside for the time being and focus on why it may be possible and necessary to include some minimal threshold for freedom of expression and association analogous to a sufficient measure of freedom of conscience. As discussed above, Rawls, as a basic need requires that basic institutions be structured so as to reflect a common good conception of justice. In addition to this citizens are to be governed by the rule of law that best reflects this common good conception of justice within the given society. This common good idea of justice is publicly accepted, and provides the acceptable and fair means for social cooperation. Given that we accept such demands for basic needs I would further argue that the inclusion of some sufficient measure of liberty of expression and association would follow from the identification of said need. For if decent well-ordered hierarchical peoples are required by the Law of Peoples to grant
recognition and toleration toward other minority groups, Rawls uses the example of predominate versus minority religious groups, thus, “permitting liberty of conscience, though not an equal liberty” could it possibly be permissible to also grant liberty of expression and association, though not an equal liberty? In my opinion this is not only possible on Rawls's account, but may actually be necessary thus further supporting my overall argument that Rawls's basic needs and human rights are more robust then they initially appear.

Much of my reasoning for supporting such a claim stems from Rawls's publicity condition spelled out in *Political Liberalism*. When we attach the appropriate significance to Rawls's notion of public reason, how this is to guide a well-ordered society's common understanding of justice and right, and that citizens hold a basic right to have their institutions and laws shaped by such reasoning, it follows that at least some minimal amount of freedom of expression and association would be both acceptable and required. In order to honour human rights, Rawls asserts that decent hierarchical peoples' basic structures must give a substantial role to its members in political decisions. This relays a basic need to have the political means and forum to have one or one's group concerns expressed. So although the right to hold higher political or judicial offices, in a decent hierarchical society such as in Rawls's Kazanistan may be restricted, “other religions and associations are encouraged to have a flourishing cultural life of their own and to take part in the civic culture of the wider society.” This signifies some minimal requirement to make room for a plurality of voices and opinions, which at times may be voices of dissent. If we can accept that there is to be toleration for other religious and minority groups, and that they are to be afforded a substantial role in political decision making and civic culture, then it must be the case that they are to be permitted some sufficient level of reasonable liberty of expression and association. Expression in this instance need not be completely unbridled, so as to disrupt social cooperation justly attained, and undermine the prevailing political and social values inherent in the given society. For example a people such as Kazanistan may permit a free press, but at the same time, hold that images portraying the Prophet Muhammad are impermissible to print as this type of expression would greatly offend and challenge deeply rooted values within the given society.

To further determine what types of expression and association that may be permissible, if not necessary it is important to determine the types of expression that I have in mind. Mostly, I would like to make space for types of expression that would allow for, or create, the appropriate channels of social progress within a given society. If a people's laws and basic structure of public institutions are to be guided by public reason and a common conception of justice, it seems necessary that individuals and
the groups they represent should be afforded the appropriate means of public discussion to actualize their substantive role in political decision-making. Such channels could include and need not be limited to policy making based on deliberative democratic decision making\textsuperscript{iii}, holding forums for public debate, allowing for peaceful demonstrations and protests and other instances of acceptable dissent to be staged. The types of reasonable expression that may be permissible should reflect avenues required to maintain a just society and a healthy civic life. Furthermore, such expressions and associations are to act as a reference point for what is embodied by a people's common conception of justice.

Further, I conjecture that permitting certain sufficient types of expression, and association better contributes to social cooperation and social progress, rather than causing mere disruption. Making room for social movements and social progress derived from public debate, peaceful protest, awareness campaigns, and discursive decision-making would perhaps ensure smoother transitions of change. I think it is fair to argue that providing space for a quiet revolution rather than a violent coup d'état coincides and supports Rawls's idea of stability for the right reasons among peoples and within an individual society.

In addition to this, recall that the final hope of the Law of Peoples is that it will provide adequate means and motivation for decent peoples to move toward becoming liberal should they so decide on their own. If a people are to make an autonomous decision to become liberal in addition to having the political will to do so they must have the proper instrumental procedures in place as well. Having the ability to express such a political will, to move toward becoming liberal one could say is an instrumental need in this instance. If we want to earnestly accept that it is the desire of the Law of Peoples to provide the necessary means that would enable a society to progress to becoming a liberal people, it would follow that they must have some minimal liberty of expression and association to do so. Hence, my argumentation for the inclusion of such rights, however, minimal to the Law of Peoples.

Much criticism has been voiced regarding Rawls's truncated list of human rights. Concerns that he does not adequately account for future generations, the plight of women, and the world's worst off have been raised. Egalitarians complain that factors such as birthplace, whether one is born into an industrial or resource rich society with sound population policies versus being born into a society with little population control that relies on traditional agrarian practises, has not been mitigated in the Society of Peoples. However, I assert that with the inclusion of a sufficient amount of freedom of expression and association, combined with avenues of education and advancement provided by the duty of assistance both the political will and ability to make change and strive for social progress
Within one's society seems very possible without needing to push for full liberal universal human rights as Rawls's critics claim.

Section IV: On Political Culture, Sovereignty, and Self-Determination

To begin this section I will reiterate that: the target and cut-off point of the duty of assistance requires that a burdened people must come to be regarded as an equal and self-sustaining member of the Society of Peoples. Thomas Pogge, amongst other critics, is unconvinced of the sufficiency and robustness of the duty of assistance in this regard. In his work, “Do Rawls's Two Theories of Justice Fit Together?”, Pogge accuses Rawls of committing what he characterizes as potentially the “most harmful dogma ever conceived: explanatory nationalism.” Pogge defines explanatory nationalism as, “the idea that causes of severe poverty and of other human deprivations are domestic to the societies in which they occur.” Pogge poses the question: “If the suffering of the poor abroad is due to local causes, then our only moral question is the one Rawls asks: whether and how much we ought to ‘assist’ them.” For Pogge this question fails to accurately capture external global factors that contribute to the impoverished conditions of many nations. Explanatory nationalism fails to ask about whether and how rich countries, especially through the global institutional order we design and impose may contribute to and sustain their deprivations. Pogge argues that, “explanatory nationalism preempts the need for a principle of global distributive justice, which would guide the design of the rules of the world economy in light of their distributive effects, by assuring us that these rules do not have significant distributive effects.”

For Pogge explanatory nationalism falls prey to two illusions: 1) they are overly impressed by the great diversity of national development trajectories, and 2) they see the relevant nation-specific factors as homegrown. The second illusion is much more directed at Rawls and so we will focus our attention here. Pogge appears to challenge Rawls's initial assumption that stipulates that much of a peoples' success and ability to be well-ordered originates from their political culture that underlies their basic institutions. He appears sceptical of Rawls's assertion that much of the suffering in poorer societies are likely results of ineffective regimes, poorly ordered institutions, oppressive governments, and corrupt elites. Pogge is willing to concede that corruption and oppression are evils that contribute to the miseries of many societies, but he asks: how a political culture of corruption or oppression is initially fostered and sustained? Rather, there is a distinct possibility that the domestic factors that Rawls cites are themselves shaped and sustained by external factors argues Pogge. From Pogge's critique we can see that a potential deficiency in Rawls's account is that he only considers local factors.
in determining the conditions that result in a burdened society.

In response to Pogge's concern that the Law of Peoples does nothing to alleviate current global injustices that arise much more from explanatory globalism than the explanatory nationalism that Rawls focuses on, Samuel Freeman argues that Pogge ignores the fact that the Law of Peoples is drawn up for the ideal case of well-ordered peoples. As we have already discussed, and as Freeman so persuasively points out:

The Law of Peoples includes a duty of peoples to provide for material and other conditions that enable all peoples to be politically autonomous and independent. These and other requirements should protect less-advantaged peoples from being corrupted by powerful political and economic interests abroad.

Due to the fact that principles that govern the Society of Peoples are decided from behind a thick veil of ignorance, and that the duty of assistance's target is to bring up burdened societies to the point of at least reasonably decent well-orderliness, it follows that the current conditions of our global circumstance appear to be neutralized for Rawls and Freeman.

The prospect of being able to assist a burdened people, so that they may become full members in the society of peoples who can provide for the basic needs of their citizens and assert political independence on the global stage has undeniable appeal. However, whether this possibility, has the attractiveness to sway Rawls's critics who hold that corruption is inevitable so long as inequalities persist is questionable. Freeman responds to those, like Pogge and Tan, who conjecture that corruption and injustice will persist so long as there is relative inequalities by stating that arguments of this sort: “largely involve empirical conjectures about the capacity for political autonomy, and the workings of an economy, both domestically, and worldwide, under conditions of a well-ordered Society of Peoples”. Given, then that Rawls has constructed membership of the society of people for the ideal case, where members uphold values of mutual respect and reciprocity, it follows that many of these power-struggle type worries have been safeguarded against, thus making the duty of assistance appear as a potentially robust and sufficient demand.

As an additional complement to Freeman's argument I assert that once one comes to appreciate Rawls's insistence on making respect for political culture of a burdened society all important one can, with good reason, recognize that this demand is no small feat as it speaks of preserving significant space for respect of a peoples self-determination making the worry of corruption and manipulation lessconcerting. This idea is reinforced by the construction of the society of peoples derived from the international original position that Rawls proposes. Part of the challenge of this section is to assess
whether Rawls has a convincing argument for asserting that the members in his society of peoples manage to attain political autonomy, independence, and self-determination given his global original position.

As previously discussed, Rawls's global original position takes place behind 'a thick veil of ignorance'. Behind the veil of ignorance a representative does not know whether a neighbouring people is liberal, decent, or an outlaw regime. The size of a territory, abundance of capital and resources, or strength in relation with other peoples is also concealed. The actors, peoples, in Rawls's global original position enter the contractual agreement from a symmetrical position. They regard one another as free and equal, and are prepared to grant the same proper respect and recognition to other peoples as equals.

Embedded in this framework, as Rawls sets it up is that part of a people's being reasonable and rational entails that they are ready to offer other peoples fair terms of political and social cooperation. Constantly operating in the background and predominantly so in this case is Rawls's notion of reciprocity that we have already discussed in section I. To add to it, Rawls asserts that: “this reasonable sense of due respect, willingly accorded to other reasonable peoples, is an essential element of the idea of peoples who are satisfied with the status quo for the right reasons”\textsuperscript{\textsuperscript{4}}. By definition, as discussed, peoples exhibit a moral nature and are willing to comply with their duties under the Law of Peoples and seek stability, then for the right reasons, and not just as a \textit{modus vivendi}. They do not take advantage of other peoples, even if it would be favourable to do so. These ideal conditions described: the veil of ignorance, moral capacities of peoples, and their shared respect. All together make a strong case for accepting Rawls's assumption that political culture is all-important in determining how well a people will fare and, therefore; adds to the acceptability of the duty of assistance as a sufficient and robust demand.

\textbf{Section V: Conclusion}

Pre-emptively, I intend that my addition of some minimal and sufficient conditions of liberty of expression and association would combat some of the worries expressed by Rawls's cosmopolitan critics. Much of their concerns, and I would agree, correctly so relates to the plight of future generations, the position of women, and the world's worst off. Their concern expresses that despite Rawls's insistence on securing basic needs and urgent human rights there remains too much room for inequality and that exploitation and oppression will persist on Rawls's account. It has been my intention to show that this need not be the case. That once we consider that basic needs express both provisions to prevent death from hunger and disease, in addition to the means to make meaningful use of rights
and liberties of the inhabited society, it is possible to view these basic needs as robust and sufficient. When we add the demands of basic needs to the significance placed on taking human rights seriously the duty of assistance continues to look much more like a duty of justice and not a meagre stipulation of foreign aid. The duty of assistance is perhaps a demand that is narrow is focus, in that it has a defined target and cut-off, but is wide and deep in scope as it seeks to secure what is necessary for individuals to lead what they individually define as a dignified life of their choosing.

It is important to recall then, that the Law of Peoples is designed for the ideal case of well-ordered societies joined into a well-ordered Society of Peoples. As we have explored, the Law of Peoples imposes a duty of peoples to meet the basic substantial and economic conditions that enable all peoples to be politically autonomous and independent. When we attach this duty to the commitment to honour human rights for their own sake, these and other requirements mentioned should protect less-advantaged peoples from being corrupted by powerful political and economic interests abroad. In conclusion, I have sought to demonstrate that it is important to recognize and appreciate Rawl's initial intentions for constructing The Law of Peoples as such. Additionally, it is crucial to acknowledge Rawl's framework that constrains his intent. For, the end of the Law of Peoples is equal political autonomy, or “the equal freedom and equality of a people as members of the Society of well-ordered Peoples”[lxxv]. Perhaps it is the 'ideal' language used of a 'realistic utopia' that intuitively pushes us to demand more from Rawls. Additionally I admit that we can also feel dissatisfied with his account in that it does not do enough to meet the immediacy of the issue of poverty eradication and global injustice. Despite these concerns, I have sought to show that when we allow ourselves to be situated within Rawls's ideal society of peoples, we can reasonably accept the duty of assistance as a robust, and more than likely, a sufficient demand.

References


Pogge, Thomas (2002). World Poverty and Human Rights (Polity Press, Maldon, MA).


Fair terms of cooperation specify an idea of reciprocity where: “our exercise of political power is proper only when we experience global justice. It stems from Rawls’s conception of what is required to attain fair terms of social cooperation. For Rawls, the principles and norms of international law and practice must be fair agreements between free and equal citizens that can be reached. In their views of the moral and aesthetic values to be sought in religious and philosophical conceptions of the world, and in their views of the moral and aesthetic values to be sought in religious and philosophical conceptions of the world, and in their views of the moral and aesthetic values to be sought in religious and philosophical conceptions of the world. These requirements are not to fall below some critical threshold of advantage. Typically an account of sufficiency endorses both: a) positive thesis—that highlights the importance of people living above a certain threshold, and b) negative thesis—that denies the importance of certain additional requirements. Frankfurt argues that, “What is important from the view of morality is not that everyone should have the same, but that each should have enough” (“Equality as a Moral Ideal”, 21).


John Rawls, The Law of Peoples, 4. Also refer to 4-12, 29-30, 44-45, 124-127

John Rawls, A Theory of Justice, 8.


Rawls asserts that the original position is the appropriate instrument for specifying the fair terms of social cooperation, given his initial assumption that reasonable pluralism is an inherent characteristic of well-ordered liberal democracies. Reasonable pluralism identifies “the fact of profound and irreconcilable differences in citizens’ reasonable comprehensive religious and philosophical conceptions of the world, in their views of the moral and aesthetic values to be sought in human life”. Reasonable pluralism characterizes a society with free institutions and limits what is practically possible in terms of political philosophy. The original position orientates free and equal citizens fairly, where a point of view of fair agreement can be determined by terms of political justice. The thick veil of ignorance that the original position requires conceals traditional bargaining advantages and particular features of circumstance, thus establishing a point of view from which fair agreement between free and equal citizens can be reached. For a fuller explanation please refer to John Rawls, Justice as Fairness: A Restatement, 3-4.

See the discussion of the original position and the veil of ignorance in Political Liberalism, I: §4, and A Theory of Justice, III.

A Law of Peoples, according to Rawls, is “a particular political conception of right and justice that applies to the principles and norms of international law and practise (The Law of Peoples, 3).


John Rawls, Justice as Fairness, 64. This notion of reciprocity is quite essential to both Rawls’s theory of domestic and global justice. It stems from Rawls’s conception of what is required to attain fair terms of social cooperation. For Rawls the fair terms of cooperation specify an idea of reciprocity where: “our exercise of political power is proper only when we
sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as a justification for those actions” (Rawls, Political Liberalism, xliv). Additionally, Rawls asserts that: “reciprocity is a relation between citizens expressed by principles of justice that regulate a social world in which all who are engaged in cooperation and do their part as the rules and procedures require are to benefit in an appropriate way as assessed by a suitable benchmark of comparison” (Rawls, Justice as Fairness, 49n14.) For a fuller account of Rawls's idea of reciprocity, see Political Liberalism, pp.16-17 and “The Idea of Public Reason Revisited”, 132, 136-138: reprinted in The Law of Peoples.


xxvThe veil of ignorance is considered “thick” according to Rawls because contracting parties have no prior knowledge of the comprehensive doctrines they uphold. For a fuller explanation refer to Rawls, Political Liberalism, 24.


xxviiiFor a fuller explanation of Rawls's conception of a just savings principle please refer to A Theory of Justice, §44:251-258. To clarify, in A Theory of Justice Rawls's argues for a principle of distributive justice, the difference principle, that is to be applied within different societies domestically, but not among them. In A Theory of Justice, Rawls argues that inequalities are permitted on the condition that there is fair equality of opportunity and that each society fulfills a duty to structure its economic and legal institutions in such a way that the worst-off persons benefit most under this arrangement.


Also see John Rawls, The Law of Peoples, 37.


Also see John Rawls, The Law of Peoples, 37.


xlKok-Chor Tan, Justice Without Borders, 66.

xhKok-Chor Tan, Justice Without Borders, ch.3 and ch.4.

xiiKok-Chor Tan, Justice Without Borders, 49.


xvMiller identifies remedial responsibilities as: “the responsibility we may have to come to the aid of those who are deprived or suffering in some way”. Miller, David. National Responsibility and Global Justice, 63.


On some prima facie level, I acknowledge that minimal amount, or sufficient amount, or constrained amount, if you will, of freedom of expression and association seems like a contradiction in terms. However, I think that this need not be the case. Historically speaking in terms of the development of human rights and liberties it is not uncommon to restrict or constrain some rights and liberties when they conflict so as to make room for the realization of other more pressing types of liberties. We can see such reasoning in operation with Rawls's difference principle in his domestic theory where some level of the attainment of economic wealth may be restricted to as to make more space for the freedom of opportunity. At other times we may see the limitation put on freedom of speech, when instances of hate speech further contribute to ignorance, oppression, and the silencing of a plurality of reasonable voices.

Briefly, deliberative democracy reveals a process where legitimate lawmaking arises through public deliberation by the people.


Pogge argues for a principle of distributive justice, what he calls a General Resource Dividend (GDR) similar to that of Tan. For Pogge due to the harms that wealthy nations inflict on the global poor, wealthy nations possess a negative duty not to harm and must seek to mitigate these harms through a re-distribution of their wealth. They are obligated to re-distribute their wealth, according to Pogge because such nations have unjustly and harmfully acquired their power, resources, and capital from poorer nations through oppression, enslavement, colonialism, imperialism, corruption, manipulation, and the like. For more also refer to: Pogge, Thomas (2002). World Poverty and Human Rights (Polity Press, Maldon, MA).


Recall Tan's criticism. Also, refer to Pogge, “An Egalitarian Law of Peoples”, 213. Pogge further argues against the inequality of wealth allowed by Rawls's account, saying that “relative poverty breed corruptibility and corruption”, and that “it is entirely unrealistic to expect that such foreign sponsored corruption can be eradicated without reducing the enormous differentials in per capita GNP. (ibid., 213, 214)


John Rawls. The Law of Peoples,118.