

RAWLS' DUTY OF ASSISTANCE: A DEFENCE AND RE-ELABORATION

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ABSTRACT

This paper examines Rawls' duty of assistance (DOA). It argues that some of the major criticisms that have been levelled against the DOA are based on a mischaracterisation of Rawls' position in *LP*. The paper also argues that what many of Rawls' critics have failed to appreciate is not how little Rawls' DOA asks well-ordered peoples to do, but rather how much. The paper suggest that, taken at face value, the latter is in fact is too much to ask and much more than we can realistically achieve or allow ourselves to attempt. Finally, the paper provides a sketch of how to reconceptualise the DOA in a way that both addresses the aforementioned objection and, at the same time, is compatible with *LP*'s general framework.

KEYWORD

Rawls, *The Law of Peoples*, global economic justice, duty of assistance

It is fair to say that Rawls' treatment of international distributive obligations in *The Law of Peoples* (1999 – hereafter *LP*) did not receive a warm welcome by the liberal philosophical community. Many were baffled by Rawls' dubious empirical generalizations concerning the wealth of nations and the sources of their prosperity (Beitz, 2000). Others were disappointed by the idea that distributive justice at the international level was to be reconceptualised as a duty of assistance (hereafter DOA) to burdened societies (Pogge, 2004). Others still argued that if justice is the first virtue of social, political and economic institutions, and since there are many such institutions

at the international level, then surely we should apply our ideas concerning distributive justice beyond the state (Buchanan, 2000).¹

A general feature of the aforementioned reactions is the idea that *LP* provides an undemanding and underwhelming characterisation of our international obligations. It does not provide a rich enough sense of the international or global obligations of justice that peoples have toward each other; the DOA is not a duty of justice but should be one;² the DOA attributes to the poor responsibility for their own fate, not, as it should, the world order; the DOA does not cater to the many unjust inequalities of wealth and power that plague the global economy. The default option, if one wishes to criticize Rawls, seems to be that he is not asking his theory to do as much as it should. More than finding these allegations unconvincing, I find them strikingly off the mark: the real weakness of Rawls' account of our international duties is that it asks those who have to perform them to do too much not too little.

The nature of this problem can be grasped if we look at *LP* from a slightly 'higher' vantage point. Rawls' critics basically complain that he often depicts a world in which all peoples are responsible for their choices and the outcomes of such choices. Rawls also maintains that some societies, given their social and political culture, are unable to become responsible for their fates. This might suggest a relatively dubious picture, one in which the poor are poor because of their ill-judgment, and the rich are only there to assist them, not to give them what they are owed. But this is simply a mistaken interpretation of Rawls' international theory. Perhaps the most fatal problem with this type of view is that it fails to make a simple connection. If the sources of how a society fares are domestic social and political institutions, and if we have a duty to

¹ While the latter has been the predominant critical reaction for a long time, it is also fair to say that more sympathetic responses have appeared in the literature. Some have argued that Rawls' ideas have to be interpreted at the appropriate level of abstraction: they concern ideal theory, not the world as we see it (Reidy, 2004; idem., 2007; Freeman, 2007). Others have insisted that, if we understand how peoples and their interests are constructed by Rawls in *LP*, then, it becomes clear why wealth is not a priority for them (Wenar, 2006; 2004).

² This issue in particular is less conceptually clear than some have assumed. In general there is a tendency to believe that the main difference between justice and assistance is the degree to which a principle is binding. Given that the DOA is part of the eight principles of *LP* and that all principles are equally binding, the application of the 'degree of bindingness' distinction is not particularly helpful. It could also be argued that since the eight principles themselves are a conception of justice for the Society of Peoples, then as the DOA is one of these principles it must, ipso facto, be a principle of justice. That is true but it does not clarify the distinction between a principle of justice and a principle of assistance. Perhaps the best conceptual distinction is the one provided by Valentini (2011a) claiming that principles of assistance, among other things, already presuppose a system of just entitlements. That is probably true for *LP*, as it is based on the prior legitimacy of well-ordered peoples and their control over the territories and natural resources that they occupy.

help all societies to become well-ordered and responsible for their choices (as Rawls thinks we have), then, surely, what we have a duty to do is quite extraordinary: we have a duty to change, or vigorously shape, the social and political institutions of all societies burdened by unfavourable conditions. Very few cosmopolitan proposals ask so much of those who are lucky enough to live in a well-ordered society, and there are good reasons to believe that it would mean, in fact, asking too much.

This is, in my view, the most important problem the DOA has to face. However, the fact that such problem exists does not mean that no sympathetic solution is available within the Rawlsian framework. In fact, I believe there is such a solution, although it requires a partial reframing of the way in which we conceive of the DOA. It calls for greater concentration on human rights and a more incentive-based solution to the problem of developing well-ordered institutions. The aim of this essay is thus threefold: a) to show that the traditional critiques of Rawls' DOA are unsound; b) to expose the real weaknesses of Rawls' approach; and finally, c) to provide a sympathetic reconstruction that addresses those weaknesses in a way that is broadly compatible with the constraints of the overall framework provided by Rawls' international theory. The structure of the essay is as follows. I rehearse Rawls' understanding of the DOA, its meaning, context and purpose, in section I. This will serve as a background to the rest of paper. In section II I examine some of the main critical arguments against Rawls' DOA, and find them wanting. In section III I explain what is in my view the real and relatively unexplored challenge posed by the DOA, and in section IV, I sketch what I take to be a reasonable solution.³

I. DISTRIBUTIVE JUSTICE (OR LACK THEREOF) IN *LP*

In *LP*, just as in *A Theory of Justice* (1971), there is a crucial distinction between what Rawls calls ideal and nonideal theory. For Rawls, ideal theory

³ I will not take up in any detail the issue of what justifies the DOA, i.e. its presence among the eight principles of *LP*. The debate concerning this issue has been recently developed by, Reidy (2007), Armstrong (2009) and Williams (2011). In general the literature seems to recognize that the DOA is the result of an assurance problem based on the possibility that a well-ordered people might become a burdened society through no fault of its own (for example, as the result of a natural catastrophe). Of course, as Williams rightly notes, this would be a less than satisfactory explanation for those societies that have always been burdened. In contrast, Reidy's reply to this worry seems to consist in denying that we can empirically attribute full responsibility to a people for being burdened given the complexity of historical circumstances in the nonideal world that would pre-exist the establishment of a just law of peoples (for example, colonialism and wars of conquest shift responsibilities, but how much, and for how long? And so on).

assumes that there is: a) full compliance with the normative principles that regulate the domain under consideration; and b) favourable conditions for the fulfilment of the obligations that are given by the relevant normative principles. In *LP*, the DOA is ‘triggered’ when the second assumption that characterises ideal theory breaks down.⁴ On the other hand, in Justice as Fairness, principles of distributive justice operate in ideal theory, that is, when both favourable conditions and full compliance obtain. These definitional differences underscore something more substantive: distributive principles should not be conceived of as forms of redress for existing circumstances in the world as we see it, but operate in the world as it should be.

As I have just mentioned, in *LP* Rawls suggest that the DOA is triggered when we cannot assume favourable conditions for the development of well-ordered institutions (*LP*: 101). In order to fully capture the DOA’s meaning, the parallel with the first case of nonideal theory, non-compliance, is instructive. According to Rawls, ‘certain regimes refuse to comply with a reasonable Law of Peoples; these regimes think a sufficient reason to engage in war is that war advances, or might advance, the regime’s rational (not reasonable) interests’ (*LP*: 90). Rawls calls these regimes ‘outlaw states’. Two issues are of importance: why such regimes are unwilling to respect the principles of *LP*, and what the goal of *LP* is in sanctioning their behaviour. For Rawls, the origin of the foreign policy behaviour of a people is strictly domestic. Rawls’ *LP* goes ‘from the inside out’, so to speak. Thus, in Rawls’ eyes the best way of understanding and explaining the problem posed by outlaw states is to examine their internal political life and see that ‘their fault [lies] in their political traditions and institutions of law, property and class structure, with their sustaining religious and moral beliefs and underlying culture. It is these things that shape a society’s political will; and they are the elements that must change before a society can support a reasonable Law of Peoples’ (*LP*: 106). On the other hand, the goal of *LP*, when dealing with non-compliance, is simply to make the world a place in which ‘all peoples accept and follow the (ideal of the) law of Peoples’ (*LP*: 89).

These two elements of nonideal theory – its sources, and what we should do about it – are accordingly shifted in the case of unfavourable conditions.

⁴ Note that there is a distinction to be made between what we can call ‘general’ and ‘local’ nonideal circumstances. The idea of ‘unfavourable conditions’ can be applied, in other words, to the Society of Peoples at large, or to burdened societies individually. The first case would be a case of general nonideal theory while the second is a case of local nonideal theory. Rawls directly takes up the issue of local nonideal theory since if the Society of Peoples had to deal with unfavourable conditions for all its members it would be harder to imagine any principle of assistance towards burdened societies: the DOA presupposes some form of Society of Peoples is already functioning. Of course this does not mean that in the real world we are not in fact facing some form of general nonideal scenario.

According to Rawls, '[b]urdened societies, while they are not expansive or aggressive, lack the political cultural traditions, the human capital and know-how, and often, the material and technological resources to be well-ordered' (*LP*: 106). Just as in the first case of nonideal theory, '[t]he long-term goal of (relatively) well-ordered societies should be to bring burdened societies, like outlaw states, into the Society of Peoples' (*LP*: 106). But as Rawls tells us, the fact that well-ordered peoples have a duty of assistance does not entail that the best way to carry out such duty is to establish principles of distributive justice. Such principles, in Rawls' view, do not have a definite cut-off point (*LP*: 106). The DOA, instead, is expressly thought of as a response to a concrete problem, namely to allow burdened societies to comply with a reasonable law of peoples. Hence, once such objective is achieved, the DOA is fulfilled.

A further feature of the DOA (one that is often overlooked) that should be highlighted is that there is no reason to believe that 'burdened societies = poor societies'. Rawls' classification of peoples is always political in nature and depends on their internal structure and their foreign policy, not on their level of affluence. The same holds for well-ordered peoples: liberal and decent peoples are not defined or understood by their aggregate or per-capita income and wealth, but by the nature of their institutions. The DOA is not a duty to assist the poor (although it might contingently do so); it is a duty to assist those societies that are incapable of being well-ordered, either as a liberal or decent people, and which consequently might be unable (given unfavourable conditions) to follow the precepts of a reasonable Law of Peoples.

The aim or goal of the DOA is even more clearly stated by Rawls when he contrasts his view with what he calls cosmopolitan views. According to Rawls the "final political end of society is to become fully just and stable for the right reasons. Once that end is reached, the Law of Peoples prescribes no further target such as, for example, to raise the standard of living beyond what is necessary to sustain those institutions" (*LP*: 119). *LP* is not primarily concerned with the material well-being of individuals but with the justice of the societies of which they are members.⁵ Conceptually, the DOA is not a principle to improve the lot of those who fare worst at the global level (although, contingently, it might achieve that end); it is a principle that aims at guaranteeing to all persons that they will live in a well-ordered political community, and to all political communities that the world in which they interact will be one where all adopt a reasonable Law of Peoples.

Rawls also discusses some of the cosmopolitan alternatives to his view in paragraphs 16.2 and 16.3 (*LP*: 115–20). Rawls contrasts his *LP* with Beitz's two

⁵ Needless to say, the justice of society deeply affects how individual 'fare'. However, there is no reason to believe that how individuals fare can be reduced to their material well-being.

principles of global justice – a global principle concerning the redistribution of natural resources, and a global distributive principle modelled on the difference principle (*LP*: 116–17) – and with Pogge’s General Resource Dividend (GRD, see *LP*: 119). As a reply to Beitz’s principle concerning the distribution of the benefits derived from natural resources Rawls reiterates his general idea of the sources of development (both political and economic) by stating that ‘the crucial element in how a country fares is its political culture and ... not the level of its resources’ (*LP*: 119). According to Rawls, then, the unequal distribution of natural resources has no clear bearing on his discussion of mutual obligations between peoples. As a reply to Pogge’s principle Rawls basically maintains that if it has a target – that is, if it is linked with the satisfaction of persons’ basic needs and human rights – then the difference between the GRD and the DOA is marginal. There might be disagreement on how to set the target but, as Rawls states, ‘surely there is a point at which a people’s basic needs (estimated in primary goods) are fulfilled and a people can stand on its own’ (*LP*: 119).

Rawls’ reply to Beitz’s second principle of global distributive justice (something akin to a globalised version of the difference principle) is much more controversial. Rawls states that Beitz’s principle might seem an attractive solution provided we take as a reference the world as we see it, plagued as it is by injustice, destitution, and conflict. However, as was made clear early on, principles of distributive justice, for Rawls, are meant to apply in ideal theory. Therefore for Rawls the real question is whether, in *LP*, once all peoples are well-ordered and there are no more burdened societies, we can still look favourably on the consequences of applying a principle of global distributive justice between peoples. In Rawls’ eyes, this situation ‘gives what we would...regard as unacceptable results’ (*LP*: 117).

Why so? As we have seen, Rawls seems to take for granted that the sources of economic and political development are domestic. In stating his reply to Beitz’s second global distributive principle Rawls also lays out what in his view follows from that. Rawls proposes two comparisons. The first is between a society that decides to industrialize and increase its real rate of savings, while the second decides to opt for a more leisurely and pastoral way of life. In the second comparison, two societies with equal (and adequate) protection for women’s rights decide to opt for different population growth policies. In both cases, Rawls assumes that the societies he mentions are either liberal or well-ordered, and that the relevant starting positions are equal. In both cases, *ex hypothesi*, levels of wealth will vary between the two societies compared. However, according to Rawls it would be unfair not to hold peoples with liberal or decent basic structures responsible for their collective choices. And yet, this is exactly what would be implied by a global distributive principle

without a target. In Rawls' view, Beitz's second principle is unacceptable because it fails to make room for peoples' responsibility for their level of well-being once we can grant that their institutions are either liberal or decent.

II. DEBATING THE DOA

In what follows I examine two of the most prominent arguments put forward by Rawls' critics. My provisional conclusion is that they do not really address the core of *LP*'s structure. The critics assume that Rawls is imagining a 'vanished Westphalian order' (Buchanan, 2000), but Rawls' argument should be placed at the level of ideal theory, not the world as we see it (see also Reidy, 2004; idem., 2007; Freeman, 2007). Rawls' critics assume that he entertains the implausible empirical thesis that the sources of economic growth and domestic are wholly domestic. Yet Rawls is ambivalent about such argument, and furthermore, given the purpose of the DOA, he simply does not need to claim as much: what is crucial is the more modest conviction that initial endowments of economic resources are not important to become well-ordered.

II.1 Two (Alleged) Empirical Assumptions

Perhaps the most common form of critical response to Rawls' treatment of distributive justice is that the empirical assumptions needed to support his account in *LP* are far from solid (see Buchanan, 2000). Two (alleged) empirical assumptions seem to stand out in Rawls' account. The first concerns the way in which we explain a people's aggregate wealth and level of development. As we have seen above, Rawls seems to rely on the idea that the latter can be almost entirely explained by domestic institutional factors. The second empirical assumption upon which Rawls' theory is (allegedly) based, and one that seems to be in line with the first, is that peoples are relatively in control of their economic fate and can thus be considered responsible for how they fare. According to Allen Buchanan, this amounts to stating that Rawls considers peoples to be both "economically self-sufficient and distributionally autonomous" (2000: 701). Rawls thus seems to project a vision of the world in which all peoples are responsible for their present condition and are fully in control of their futures. Taken at face value these are quite extraordinary claims. Firstly, there is still no consensus among economists and social

scientists on which are the real causes of economic growth and development (see Rodrik, 2008; Acemoglu and Robinson, 2012: 45ff). Secondly, as many have pointed out, the relative autonomy of peoples in the world as we see it sounds more like a cruel joke than a plausible reconstruction of existing international economic integration (see Pogge, 2006).

II.2 The Relevance of Ideal Theory

These arguments are not persuasive. First, they seem not to appreciate the shift between different domains of enquiry in Rawls' theory. Rawls' views concerning the appropriateness of distributive justice in *LP* are not premised on an empirical argument. In order to see why, we need to place the argument in its correct context. Rawls is arguing against principles of distributive justice between peoples. One of the main problems he identifies is that these principles of justice work in ideal theory and thus have no clear target or cut-off point. Within the bounds of ideal theory, we imagine all relevant subjects to be compliant with *LP* and we assume that favourable conditions obtain; therefore, empirical matters will not settle the question in hand. Why so? Because the world as we see it is emphatically not the one that the ideal theory of *LP* imagines, and there is no real conclusion we can draw from analyzing existing practices of international economic integration (see Freeman, 2007: 261ff). For example, when Rawls mentions the idea that peoples can be considered responsible for some of the collective choices they make, he is not maintaining that existing political communities will be able to fully control their fate. Rather, he is simply conjecturing that in the ideal theory of *LP*, where all peoples are by definition either liberal or decent, and where all peoples follow the precepts of *LP*, they *could* be considered as responsible for their choices (see Brown, 2002).

Some might wish to maintain that, even if we grant the fact that Rawls' account is working within the bounds of ideal theory, he still fails to provide any good reason for designing the ideal theory of *LP* the way he does (see the excellent discussion in Valentini, 2011: 85ff). By imagining an ideal theory in which (existing) international interdependence does not really have a role, Rawls is in fact assuming away the very nature of the problem that has generated the discussion, and is not providing a theory that is action-guiding in any relevant sense (Valentini, 2011: 86). But Rawls' theory, at least implicitly, does provide such type of guidance. The international order, Rawls maintains, could be just if it was populated by just and decent societies. So, when asked what to do in order to change the many injustices that plague the international arena, we do have a Rawlsian answer: we start at home, and hope that change can go from the inside outwards. As Rawls says, and it is hard not to agree,

'[a]ny hope we have of reaching a realistic utopia rests on there being reasonable liberal constitutional (and decent) regimes sufficiently established and effective to yield a viable Society of Peoples' (*LP*: 29–30).

As some have pointed out, Rawls' strategy could be undermined if we thought that the problems of domestic and international justice were inextricably intertwined (Valentini, 2011: 88). But the latter idea is only initially plausible. When we look at the world as it is, the two problems are clearly linked; but if we imagine a world in which all political communities were well-ordered in Rawls' sense, then it would be less than clear that achieving international justice with a 'from inside to outside' strategy would be impossible. To illustrate, think of the following examples. If in all major markets companies were prevented from buying goods tainted by child labour, child labour would greatly diminish at the global level. If all major market participants refrained from buying, again as a matter of public policy, natural resources from murderous regimes, then the incentives provided to those regimes to violently gain power would be undermined (see Wenar, 2008). If all major economies and all major international economic organizations refused to lend to oppressive dictators, then the incentives to create and accumulate 'odious debt' would clearly vanish. Yet, it seems clear that well-ordered societies would be the type of societies that could aspire to have these public policies, or perhaps even be required to have them – if not because of how Rawls explicitly designs them, then because of what we can infer given the account Rawls gives us of their basic structures and of the virtues of their citizens.

II.3 The Irrelevance of Initial Endowments

It is also (partially) misguided to identify Rawls' 'domestic factors' argument as an argument concerning economic growth (strictly speaking). I say 'partially' because Rawls is probably using two different theses concerning the relationship between domestic institutions and how a country 'fares'. What I shall call the strong thesis states that: economic growth and a country's level of development are fully determined by the shape of domestic institutions. What I shall call the weak thesis states that: the initial economic endowments are irrelevant to a society's prospects of becoming well-ordered. Compounding Rawls' ambiguity between these two theses there is also the distinction between ideal and nonideal theory; so we have:

TABLE 1: Different Interpretations of the DOA

	Strong Thesis (A1)	Weak Thesis (A2)
Ideal Theory (B1)	In a world where most societies followed <i>LP</i> , economic growth would be endogenously determined.	In a world where most societies followed <i>LP</i> , initial endowments would be irrelevant to prospects of becoming well-ordered.
Nonideal Theory (B2)	In the world as we see it, economic growth is fully explained endogenously.	In the world as we see it, initial economic endowments are irrelevant to becoming well-ordered.

In what follows I will go through the four different combinations offered by Table 1. I will claim that the most charitable interpretation of Rawls' account portrays him as committed to what I call the weak thesis in ideal theory (A2-B1).

Let me start with A1-B1 (strong thesis in nonideal theory) – what I take to be the least plausible interpretation of *LP*. When, for example, Pogge speaks of 'explanatory nationalism' (see Pogge, 2002) it is precisely that thesis that he is attacking. But, as we have seen, Rawls' enquiry is meant to take place in ideal theory, so it seems illegitimate to think that, according to Rawls, in the world as we see it, all societies are fully responsible for their economic fate. What about A2-B2 (weak thesis in nonideal theory)? From an empirical point of view, the question is hotly debated. Some claim that geography is a central explanatory feature of a people's level of economic development. Others point out that several countries with relatively low levels of initial economic and

natural endowments have managed to achieve spectacular levels of economic growth over extended periods of time (see Acemoglu and Robinson, 2012 for extensive discussions of different alternatives). What is relevant for the purposes of our argument, however, is that the debate is orthogonal to the concerns discussed by *LP*: what matters for the DOA is *institutional* development not per capita or aggregate wealth.

Rawls sometimes 'flirts' with A1-B1 (strong thesis in ideal theory). Discussing the second guideline of the DOA he states that 'the causes of the wealth of a people and the forms it takes lie in their political culture' (*LP*: 108), while when discussing equality among peoples he mentions that a peoples which develops feelings of inferiority given its lack of wealth can, '[i]f it is not satisfied', take further action and 'continue to increase savings, or, if that is not feasible, borrow from other members of the Society of Peoples' (*LP*: 114). In both cases Rawls seems to be genuinely committed to the idea that, at least in ideal theory, the origins of a people's wealth are purely domestic. But the latter idea seems irrelevant to the main point Rawls wants to make. The target or aim of *LP* is that all societies are well-ordered, not rich, so there is no purpose in insisting that the sources of economic wealth are purely domestic (even in an ideal theory scenario).

In the same way, when Rawls presents his two comparisons between peoples that make different choices and become differently well off, he might be seen to imply that it is enough for a people to get wealthier just to change a given element of its public institutions (either its economic policy or its population policy). Once again, we have to pay attention to what Rawls is arguing. Rawls' purpose in presenting the two comparisons is to show that a principle of global distributive justice would be unacceptable. To do this, he imagines what are, *ex hypothesi*, two cases in which levels of wealth can be traced back to changes in public institutions (see also Freeman, 2007: 291). The point is not that, whatever else might affect a people's circumstances, the only factor that would determine its level of wealth is, for instance, its real rate of savings. Rather, the point is that, all other things being equal, it is not unreasonable to believe that increasing one's real rate of savings will affect economic growth. In fact it is precisely in order to deny that this type of example is possible that one would have to be committed to the diametrically opposed thesis to the one (wrongly) attributed to Rawls. Or, in other words, one would have to commit to the thesis that it is impossible to even imagine a controlled scenario in which a domestic factor for which a people can be considered responsible is capable of producing changes in the level of its aggregate wealth.

Is there any support for the weak thesis in ideal theory (A2-B1), then? If the centrality of economic growth for *LP* can be partially challenged by attending to its aims, the weak thesis can be supported by the theorists Rawls addresses.

For instance, when discussing Beitz's argument concerning the redistribution of natural resources in a theory of global distributive justice, Rawls states that, 'because, as I have said, the crucial element in how a country fares is its political culture ... and not the level of its resources, the arbitrariness of the distribution of natural resources causes no difficulty' (*LP*: 117). If we interpret 'how a country fares' to signify 'its prospect of becoming well-ordered' then Rawls seems to endorse precisely the weaker thesis. And given that Rawls' analysis is carried out mainly at the level of ideal theory, then Rawls is probably better portrayed as endorsing the ideal-theory version of the weak thesis. Whether or not this reflects Rawls' intentions is, in my view, beside the point. *LP* simply does not 'need' more than the ideal-theory version of the weak thesis.

Is the ideal-theory version of the weak thesis plausible? Of course, it is not uncontroversial, but it is far from unrealistic. As we have seen, when Rawls is outlining the idea that peoples will 'fare' according to their political cultures and the shape of their domestic institutions he is not simply concerned with their level of affluence. Rather, Rawls is suggesting that a society's political culture is crucial to understand whether it will manage to become well-ordered. This is unsurprising given that being well-ordered is mainly a political, not an economic, criterion. Being well-ordered is a feature of the basic structure of a society, and not of the per-capita incomes of persons. But, then, what else could be responsible for the shape of a society's basic structure than its social and political institutions and the political virtues of its citizenry? In a nonideal theory scenario we can imagine innumerable instances of wars of aggression and colonization that might shift this type of responsibility from 'inside' to 'outside'. But, Rawls' argument is carried out at the level of ideal theory. And, in ideal theory, a country's political culture and the virtues of its citizens (not its initial set of economic endowments) can be considered as strong predictors of a country's prospects to become well-ordered.

III. THE REAL PROBLEM WITH THE DOA

In the previous section I analysed two of the main criticisms that have been levelled towards the DOA, and found both unpersuasive. However this is not to say that the DOA (at least if interpreted in the ways I will survey in this

section) is in fact a plausible solution to the problem Rawls wants to address.⁶ In what follows, I will begin by outlining an important omission in the critical literature on the DOA. If Rawls is really committed to the idea that the determinants of how a country fares are domestic, then it is precisely those domestic factors that the DOA will have to address. This is not an abdication of responsibility but rather an extraordinary commitment on the part of well-ordered societies. Such commitment is so important that, in fact, it might be pictured as being problematic both from a practical and moral point of view. The section ends by discussing an objection to my critique of the DOA.

III.1 The (real) omission

In general, Rawls' critics come from the so-called (in the literature on global justice) cosmopolitan camp. The underlying assumption of their critical attention is that the DOA is simply 'not enough' to deal with the problems Rawls wants to address, or that it completely obliterates a great variety of real-world circumstances that should be normatively relevant for an account of international ethics. It is not surprising, then, that very few have considered the opposite problem. The DOA is not something less demanding that we settle for because we want to realistically address the world as we see it. The DOA is in fact exceedingly demanding as a form of international obligation (see Armstrong, 2009; Williams, 2011). What so many of Rawls' critics have failed to appreciate is how much Rawls seems to be asking decent and liberal societies to do for the sake of burdened societies, not how little.

To get a better grasp of the aforementioned problem it is useful to recall the kind of guidelines Rawls provides to implement the DOA. The first is that we should refrain from considering a well-ordered society as necessarily rich one. In turn, according to Rawls, this brings out the similarity between the DOA

⁶ Here there are two issues we should try, as far as possible, to disentangle. The first is a substantive problem: What is a plausible solution to the case of burdened societies? The second is an interpretive problem: What is Rawls' preferred solution to the problem of burdened societies? In this section I present what I take to be two implausible solutions to the problem of burdened societies: a) one based on the idea of full-blown institution-building abroad, and b) one based on the simple provision of advice. Is Rawls committed to either of the two (implausible) solutions? As I say in section IV below, Rawls' text is ambiguous, and it seems that both interpretations can rely on some textual support. I present an alternative view, based on human rights, and claim that my preferred substantive solution is compatible with Rawls' overall architecture in *LP*. If we were to apply the standard of interpretive charity, perhaps, one could claim that since the solution I propose is taken to be superior, and since it is compatible with the main elements of the overall text, then it should be taken to be Rawls' view. I want to leave this option open, but my main goal is to present, in section III, two understandings of the DOA that I see as implausible, and then in section IV one that I find more attractive. As I repeat in section IV, I take these to be substantive rather than interpretive claims.

and the principle of just savings in *TJ*: both stress how wealth is not something that is required to become well-ordered. If the final aim we set ourselves is to imagine a world in which all persons can live under liberal or decent institutions, the idea of permanently increasing or maximizing wealth is superfluous as wealth is not really what determines a society's prospect of becoming a full member of the Society of Peoples (*LP*: 106–7). The second guideline for thinking about the DOA is that, as we have seen above, the political culture of a burdened society is all-important. As Rawls says, 'the crucial elements that make the difference are the political culture, the political virtues, and civic society of the country, its members' probity and industriousness, their capacity for innovation, and much else' (*LP*: 108). The third guideline that Rawls provides is the target of the DOA. The DOA is not aimed at making burdened societies wealthier: rather, its ultimate aim is to allow them to become well-ordered. The target, in other words, is to imagine a world exclusively populated by well-ordered societies and in which all are able and willing to comply with a reasonable law of peoples.

What is striking about the discussion of Rawls' DOA is how little Rawls' critics have picked-up on how demanding its goals seem to be. This is even more striking because so many have criticized, as we have seen in section II, precisely the preconditions of Rawls' analysis that provide the basis for understanding the DOA's demandingness. According to his critics Rawls' analysis is fallaciously based on the rather precarious idea that, in the world as we see it, the sources of economic wealth and development are purely domestic. And, in general, Rawls' move was portrayed as a form of abdication from responsibility (see Pogge, 2002): it is not the world order that inflicts the scourge of poverty on some of its members, rather, it is the poor's fault if their condition does not improve. Now, I believe that that I have already provided (see section II) good reasons to question the idea that we can attribute the latter thesis to *LP*. *LP* works at the level of ideal theory, and its stance on economic development is plausibly depicted as the more modest idea that, in a society of well-ordered peoples, initial economic endowments are irrelevant to a society's prospects of becoming well-ordered. What is nonetheless interesting is that it is precisely by adopting the critical stance that many have expressed towards *LP* that its implications should give us pause.

In other words, and leaving aside the correctness of their arguments, Rawls' critics seem unaware of the type of criticisms they make signals about the nature of the DOA. If one really believes that the sources of economic development and growth are purely to be found in social and political institutions at the domestic level, and if one is also committed to the idea that there is a duty to help all societies to become well-ordered, then it is precisely those social and political institutions that one will have to change (or at least

strongly shape) in order to address the problem. This is far from an abdication of responsibility; in fact it requires an assumption of responsibility that is much greater than most cosmopolitans would be prepared to advocate (see Armstrong, 2009). It entails the idea that in a world where many of its inhabitants do not live within the bounds of a well-ordered society, the duty of those who are fortunate enough to live in one is to embark upon collective action for widespread institutional reform across continents. Surely, this is no small feat.

III.2 Resources, information and paternalism

The latter observations, in turn, expose three main problems with the DOA. First, the DOA might turn out to be too demanding from a material point of view. Second, the DOA seems to require a set of epistemic attributes and capacities that we presently lack. Third, even assuming that the first and second problems can be solved, the DOA seems to require what many would consider to be an unhealthy dose of intrusion in the institutional development of a political society.

Let's start with the first problem. Conceptually speaking, there seems to be no guarantee that putting the DOA into practice is even remotely possible. In the ideal theory of *LP* we have no information concerning how resources are distributed between well-ordered peoples and burdened societies. Furthermore, as we have stated on a number of occasions, there is no reason to believe that well-ordered societies will be rich. In the same way, in *LP*, Rawls explicitly argues that resources are not really what should matter for a political community. In fact, he even conjectures that a Millian steady state of zero growth would be an ideal solution to avoid the development of political cultures based on materialistic values and prey to capitalistic ideals. These remarks should alert us to the type of ideal scenario that Rawls is imagining: a world in which well-ordered peoples do not really care about wealth, and where its accumulation would not, as a result, be a primary policy objective. This picture might not be a realistic one (at least not looking at our current world), but what is important about it is that it reinforces the suspicion that we have no reason to believe that well-ordered societies could, in principle, be able to help the citizens of burdened ones (at least if, as I claim, helping them requires transforming their institutions). Of course, Rawls could comment that helping burdened societies is not, per se, about transferring resources; but while resources are not sufficient, they seem nonetheless necessary. We should not confuse: a) the resources that are necessary to a people to become well-ordered; and b) the resources that are necessary to change the political culture

of a burdened society. While we can conjecture, with Rawls, that (a) does not require a great amount of resources, there is no reason to believe that (b) will not be much more costly.

Consider, second, the informational requirements connected to the DOA. Not only is (b) likely to involve significant amounts of resources, it also might require the ability to master significant amounts of information: a capacity we might not really possess (see Fukuyama, 2006). In fact, as recent historical experience tells us, and as Rawls himself admits, ‘there is no recipe, certainly no easy recipe, for well-ordered peoples to help a burdened society to change its political and social culture’ (*LP*: 108; see also Acemoglu and Robinson, 2012; Fournoy, 2006). Note how we can relatively easily *observe* a certain connection between a society’s social and political culture and its ability to develop well-ordered institutions. On the other hand it is rather more difficult to *prescribe* how certain social and political traits of a burdened society would have to change in order for the latter to become well-ordered. For example, we can conjecture that relegating women to a position of subjection in society can lead to overpopulation and, in turn, underdevelopment and the inability to meet the basic needs of persons. But observing the connection between women’s rights and overpopulation will not be enough in order to know how to reform a social and political culture that attributes a subordinate role to women. Political cultures and social structures are not made-up of linear cause and effect mechanisms. Their transformation is not something that can be achieved by observing and then altering isolated elements.

Third, consider the morally problematic aspects of the DOA, namely, its long-term effects on the moral and political character of a people, and the extent to which we should be prepared to accept that the latter are deeply shaped by outsiders. The morally problematic aspects of the DOA can be grasped if we consider the kind of responsibilities that are clearly attached to the idea of, among other things, radically changing the ‘virtues’ of a society’s citizenry, its social and political institutions and much else in the process (see Williams, 2011: 66, 198). Rawls is fully aware of this problem, as when he states: ‘the well-ordered societies giving assistance must not act paternalistically, but in measured ways that do not conflict with the final aim of assistance: freedom and equality for the formerly burdened societies’ (*LP*: 111). Rawls also mentions the idea that well-ordered peoples should not tie assistance to the development of liberal institutions. Yet, the latter point can only partially defuse the worry that we have raised. Well-ordered peoples can say to a burdened society, ‘you do not need to become liberal to receive our help’. But they cannot really say ‘you will receive our help and you can choose how to develop your institutions the way you see fit’.

Burdened societies are burdened precisely because of the way in which their institutions have developed over time. If we believe that such institutions should change, then it seems clear that we cannot avoid deciding, at least in part, how such social and political institutions are to be designed. Well-ordered peoples may not suggest liberal solutions, but they will have to suggest some solution. This claim is confirmed by the fact that, in general, exercises of institution building abroad often rely on force and do not really cater to local ideas of legitimacy (see Pei, Amin and Garz, 2006).⁷ In the end, the impression is that if one undertakes profound institutional reform abroad (eventually changing some of the deepest elements of a foreign social and political culture), one cannot do so in a way that is purely morally neutral. And this is especially the case, given that some burdened societies might not necessarily welcome the proposed changes.

III.3 The 'advice' interpretation

In this final part of section III I address an important objection to the critique of the DOA I have put forward in III.1 and III.2. The objection goes as follows: it might indeed be true that the DOA is too demanding, but only, and only if, we consider it *as a duty to directly alter* the political culture of a burdened society. Yet, the objection continues, the DOA is not that type of duty; it is instead a way of signalling that well-ordered societies are under *a duty to try to assist* those that are burdened to become well-ordered. They should not coerce them, nor pressurize them. What they are required to do is simply to provide advice and perhaps some form of financial assistance in order to put that advice into practice, but nothing more can plausibly be required of them. As one passage in *LP* suggests, Rawls believes that 'there is no easy recipe for helping a burdened society to change its political culture. Throwing funds at it is usually undesirable, and the use of force is ruled out by the Law of Peoples. But certain kinds of advice may be helpful' (*LP*: 110). In other words, the DOA does not prescribe anything along the lines of the institution-building duty I have examined in the previous few paragraphs, but is instead a duty of advice and support. This interpretation would also solve the moral problem tied to the deeply intrusive nature of the DOA. If the DOA

⁷ For example, Pei, Amin and Garz believe that two of the most important lessons to be drawn from the American experience with nation-building concern the use of force and the relative neglect of local political demands: 'First the United States must sustain its commitments of troops, time, and money despite domestic political opposition. Second, the United States should balance the demands for greater legitimacy by political opposition in the target country with reconstruction needs' (2006: 81).

is simply constructed as ‘advice’, the decision to follow the advice or not is one that burdened societies will be allowed to make for themselves.

A reply to this objection concedes that this reading of the DOA might make it more plausible in terms of what well-ordered societies are required to do; the content of the duty, given by ‘advice’ and the ‘possibility of assistance’, would indeed be more reasonable. But, crucially, it would also make the DOA unworkable. It would become what we can call a futile duty, because its results regarding the fate of burdened societies would probably be marginal. Burdened societies lack the political culture to become well-ordered: this is the crucial distinction between different types of nonideal theory in *LP*. Some societies are unwilling to comply with *LP* (i.e. outlaw states) but other societies are simply unable, and that is what justifies our different attitudes towards them. The fact that such societies (that is, burdened ones) are unable to comply cannot simply mean that they lack resources to do so. As we have seen above, resources might be necessary, but given Rawls’ take on the role of initial economic endowments that are required to become well-ordered, they are certainly not what is at issue. If we consider the DOA as simply a duty of providing advice, such duty would probably be ineffectual in all most relevant cases, as the weaker a society’s social and political culture and institutions, the less likely it is that simple advice and resources will make a difference.

Furthermore, perhaps the greatest shortcoming of the advice interpretation is that, by reducing the amount of commitment on the part of the Society of Peoples, it also leaves the fulfilment of the human rights of burdened societies’ citizens to a much greater dose of chance. Given Rawls’ discussion of the DOA we have no clear idea about whether human rights are respected in a burdened society. If we believe that the duty of the Society of Peoples is only one of advice, and if we don’t know if the human rights of a burdened society’s citizens are being fulfilled, then *LP* (in this interpretation) seems to require a simple commitment to providing advice in cases where human rights are not respected.⁸ This would have great human costs for *LP* because, among other things, it might imply that the human rights of many who are living in burdened societies would not be guaranteed. In fact it would seem to lead to the paradoxical conclusion that those who live in burdened societies have even less chance of seeing their basic human rights fulfilled compared to those who live in outlaw states. Against outlaw states *LP* prescribes intervention, yet for

⁸ It should be stressed that ‘not respecting human rights’ is not necessarily to be conceptualized as the violation of negative rights. In other words, the argument I am making does not presuppose that institutions of burdened societies are necessarily callous. The fulfillment of human rights requires substantive positive action and a great deal of institutional capacity – precisely the kind of elements that a burdened society may plausibly lack.

burdened societies it cannot – in *LP* the use of force is limited to self-defence and specific cases of non-compliance.

But perhaps I have radically misconstrued the problem. Perhaps burdened societies, precisely because they are not ‘unwilling’ but ‘unable’ to comply with *LP*, would gladly accept the help that they receive. I doubt that the latter can be a convincing option. Or, at least, it is at the very least not a scenario we can take for granted. Conceptually speaking, there is no reason, or at least none is provided by Rawls, to imagine that a burdened society would gladly accept the revisionist implications of the DOA. There is no reason to assume that burdened societies are conscious of their limits and are simply unsuccessfully striving to become well-ordered. This is a depiction one can accept only if one also assumes that agents who cannot take responsibility for their fate are also aware of their limits and try to overcome them. But why should we assume that a society lacking the social and political institutions required to become well-ordered should have this type of awareness?

IV. SKETCHING A POTENTIAL SOLUTION

In the previous section I criticized the DOA for being excessively demanding as an international principle of assistance. The DOA seems to be caught between two extreme scenarios. On the one hand, if it is interpreted at face value as a duty that requires stringent application of its goals, then its emphasis on the transformation of the political cultures of burdened societies is unsustainable. On the other hand, if the duty is interpreted as one that entails ‘advice’ and a modicum of financial support, it seems to be ineffectual as it would rely on the idea that burdened societies are unable to become well-ordered because they are somehow simply ignorant of the processes and ideas that could lead them to become so. In this section, I want to offer the initial sketch of a potential solution. Briefly stated, my solution is to imagine a two-speed scenario for the DOA based on the human rights record of a burdened society.

The DOA is often interpreted as a duty of ‘advice’ by its critics, and as an institution-building duty by its supporters (see Armstrong, 2009). My contention so far has been that neither understanding of the DOA is plausible or reasonable. I should stress that the latter is not an interpretive claim, it is a substantive one. The goal of this section, then, is not to provide the best interpretation of Rawls’ text, but rather, if I am correct, to provide a reframing

of the DOA that, while compatible with the overall structure of *LP*, provides a more sustainable solution to the problem of burdened societies.

The basis for my solution is to partially abandon, at least initially, Rawls' focus on the political culture of burdened societies. I want to maintain that the proper target of a stringent duty of assistance in *LP*, even when it comes to burdened societies, is the comparatively less ambitious goal of fulfilling the basic human rights of all citizens of burdened societies (see Jones, 2001). It is only once this comparatively less demanding duty of assistance is fulfilled that *LP* can concentrate on the idea that a burdened society should become well-ordered. Conceptualizing the DOA in this way, we can separate Rawls' view of international economic assistance into two different stages. If the human rights of the citizens of a burdened society are not fulfilled, the Society of Peoples should see its collective duty of assistance towards burdened societies as a more stringent one that does not, strictly speaking, require the assent or approval of burdened societies themselves. If, on the other hand, citizens of burdened societies have their basic human rights fulfilled, then the Society of Peoples should interpret the DOA as a less stringent duty of counsel and advice and resource availability, coupled with an appropriate system of incentives to lead burdened societies to become well-ordered.

In section III I have highlighted what we can call the problem of resources. There I argued that while resources might not be relevant when judging if a society is well-ordered (or to its prospects of becoming well-ordered) this does not imply that resources will not be necessary to help burdened societies in their path to developing well-ordered institutions. I also stated that, given that we have no real guarantee that well-ordered peoples would be rich in the ideal theory of *LP*, the material resources needed to fulfil the DOA might be lacking; however, concentrating on basic human rights would require fewer resources on the part of well-ordered peoples. More precisely, in *LP*, while respecting human rights is one of the necessary conditions that a regime should meet in order to be considered well-ordered, they are not sufficient. Thus it should be clear that ensuring human rights are protected within burdened societies is, at least *comparatively*, less demanding than ensuring burdened societies become well-ordered.

Furthermore, if well-ordered peoples decide to concentrate on the fulfilment of human rights in burdened societies, they would also be able to more effectively mobilize resources. The perceived legitimacy of their foreign aid would be augmented by the minimal moral goal of preventing severe and avoidable destitution and in the meantime would provide a clearer remedy to what Rawls calls the 'problem of affinity' (paragraph 15.5 is in fact called 'Duty of Assistance and Affinity'; *LP*: 112). According to Rawls, '[a] legitimate concern about the duty of assistance is whether the motivational support for

following it presupposes a degree of affinity among peoples, that is, a sense of social cohesion and closeness, that cannot be expected even in a society of liberal peoples' (*LP*:112), let alone in a society of liberal and decent peoples. A comparatively less ambitious DOA aimed (initially) at the protection of the human rights of the members of burdened societies would be more effective in lessening the social and cultural distance between different peoples given the urgency of the human interests it would protect, and it would thus (again, comparatively) reduce the problem of affinity highlighted by Rawls.

Concentrating on human rights would require less information too. The focus on human rights effectively side-lines the importance of the political culture of burdened societies and instead concentrates on its implications. If such implications include the violation of basic human rights, the judgments involved will be based on information that is more readily available. For instance, it seems more plausible to assess whether the basic needs of a population are met rather than if its institutions are freely upheld by the citizens, and it is easier to know if the physical integrity of persons is guaranteed than to know if all groups in society are properly represented, and so on. Not only do human rights violations seem easier to spot, but they also seem, at least *prima facie*, comparatively easier to remedy since they would require a smaller degree of institutional reform in order to be put in place.

Finally, the latter idea is in line with what Rawls himself would prescribe as a central component of his strategy to help burdened societies, namely to progressively increase the responsiveness of social and political institutions to citizens' requests. Rawls acknowledges that human rights are an important first step in that direction (see *LP*: 108–11). For instance, when explaining the DOA's second guideline, Rawls maintains that '[w]hat must be realized is that merely dispensing funds will not suffice to rectify basic political and social injustices (though money is often essential). But an emphasis on human rights may work to change ineffective regimes and the conduct of the rulers who have been callous about the well-being of their own people' (*LP*: 108–9). This would mean that concentrating on human rights could still have a knock-on effect for the institutions of burdened societies; insisting on their fulfilment could be seen as a milestone towards the more ambitious goal of building well-ordered institutions.

Once the protection of human rights is fulfilled in a burdened society, though, the task of the Society of Peoples is not over. How can we help burdened societies to become not only societies where human rights are fulfilled but well-ordered peoples? One of the main problems that the DOA faces, as I have argued in section III, is that imposing a system of institutions 'from the outside' is not the kind of task that decent and liberal peoples should undertake. At the same time, at least if we accept the framework provided by

LP, the goal that all political communities become well-ordered is not one we can easily let go of. A moral and conceptual middle ground can be found, or so I suggest, if we conceive of the relationship between burdened societies and the Society of Peoples as based the idea of positive incentives to become well-ordered. Incentives have several advantages. First, and granting that basic human rights are fulfilled, they need not be coercive. Second, they would allow greater input from the citizens of burdened societies when it comes to the specification of the relevant institutional goals. Third, they would make it easier to recognize that longer timespans might very well be necessary to reform the political culture of a burdened society. Fourth, they might generate less resentment from the members of burdened societies as opposed to coercion, while at the same time having higher chances of being effective if compared to mere advice.

CONCLUSION

I have examined Rawls' position on international economic justice. I have considered some of the major criticisms that have been levelled against *LP*. The main thrust of such criticisms is that the DOA and Rawls' understanding of international interdependence are unrealistic and that they entail a set of obligations that are not robust enough to fully capture the extent of our duties of global economic justice. I have rejected these criticisms because, in my view, they fail to fully take into consideration the nature of Rawls' position. Furthermore, what many of Rawls' critics have failed to appreciate is not how little Rawls' *LP* asks well-ordered peoples to do, but rather how much. The DOA can be pictured as a very demanding duty of assistance that asks well-ordered peoples to transform some of the deepest elements of a society's culture. As I have explained in section III, this is too much to ask and much more than we can realistically achieve or allow ourselves to attempt. However, this does not mean that the Rawlsian framework cannot contain an alternative understanding of the DOA which aims for the same goal, but treads a more plausible path to it. I have tried to imagine such a path in section IV.

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