

Downloaded from UvA-DARE, the institutional repository of the University of Amsterdam (UvA)
<http://hdl.handle.net/11245/2.96833>

File ID uvapub:96833
Filename SSRN-id1719981_1_.pdf
Version preprint

SOURCE (OR PART OF THE FOLLOWING SOURCE):

Type book chapter
Title Liberal political philosophy: the role of non-state actors and considerations of global justice
Author(s) G. Gordon, R. Pierik
Faculty FdR
Year 2011

FULL BIBLIOGRAPHIC DETAILS:

<http://hdl.handle.net/11245/1.336238>

Copyright

It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content licence (like Creative Commons).

**Liberal Political Philosophy:
The Role of Non-State Actors and Considerations of Global Justice**

Geoff Gordon & Roland Pierik

Forthcoming in Bob Reinalda (Ed.) *The Ashgate Research Companion to Non-State Actors* (2011: Farnham: Ashgate, pp. 133-146).

Penultimate version, May 2010.

1 Introduction

Liberal theories of political philosophy inform the practice and tradition of non-state actors and non-governmental organizations (together, ‘non-governmental actors’). Aspirations for global justice or a democratic peace, among other things, arise out of liberal thought from John Locke and Immanuel Kant to Jürgen Habermas and John Rawls. Their work underscores an enduring role for private actors in the public sphere as a necessary element for progressive political development.

2 Liberal Tenets and Contemporary Relevance

Philosophical underpinnings for the roles of non-governmental actors can be found in modern and early modern liberal philosophy. Non-governmental actors, for the purposes of this chapter, represent figures engaging the public sphere in their private capacity, whether individually or as part of a collective. These figures make up international civil society: roughly put, they are participants in its public culture, but not part of its juridical structure. Philosophical underpinnings for international civil society broadly include varying distinctions drawn by thinkers such as Locke and Kant between spheres of public and private concern. Moreover, in Kant – and, to a lesser degree, the later work of Alexis de Tocqueville – the role of persons in the private sphere is joined with early exposition of what has come to be known as democratic peace theory. Correlation of international civil society with a democratic peace traces its intellectual heritage through these formative thinkers.

Philosophers around the period of the Enlightenment famously placed great faith in reason and scientific process to improve the shared conditions of the public sphere, and particularly to overcome or ameliorate war. That optimism existed among liberal political philosophers alongside an endorsement of private rights and responsibilities to counter the powers and interests of élite actors entrenched in governments of the time. While these thinkers wrote principally with respect to states or nations as a matter of political theory, they also nurtured clear cosmopolitan ambitions. In the various works of Locke, David Hume, Kant, and Tocqueville, among others, a picture emerges of private actors controlling the ethical development of a public sphere, constitutionally organized according to egalitarian and democratic principles, and perhaps capable of maintaining a stable peace among nations.

With respect to their meaning for the non-governmental actor, Locke, Hume and Kant can be understood by comparison with the separate thought of philosophers like Rousseau, G.W.F. Hegel and Karl Marx. In Hegel and Marx we find the denial of the private or non-governmental actor capable of effecting the public sphere at the international and national levels. These thinkers, rather, subordinate private activity to a higher-order and all-encompassing political commitment; the political body redeems the private actor. Cynicism aimed at the exercise of government, typical of liberal thinkers such as Hume and Tom Paine, is turned by Rousseau and Marx instead against the individual, and the concern for tyranny becomes concern for avarice or alienation. The situation for Rousseau and Marx is such that government needs to check the prerogatives of individuals as they have come to exist. By these schools of thought, call them radical, a role for the non-governmental actor does not exist, each person being by design so invested in the sovereign communal entity that private enterprise in the public sphere becomes a contradiction at best.

For Locke and Hume, on the other hand, the individual must check the exercise and prerogatives of government. The classically liberal enlightenment thinkers can be seen to defend private political initiative and organization, particularly as against a constant threat of tyranny, and in favor of humanist purposes such as international peace, not likely to be achieved by public offices alone. Locke and Hume propose to protect individual freedom with limited government, principally in keeping with natural truth and practical realities, respectively. Kant carries their thought forward with a more theoretically elaborate system, constructed to accommodate everyone separately in the interest of individual autonomy. With all three, different as they are, the non-governmental actor has a real role in the political life of the community.

Interestingly, in the French Revolution, both of these lines of thought converge, radical and liberal as we call them here, whereas the preceding English and American Revolutions show more pronounced liberal pedigrees favoring a position more squarely consonant with that of Locke and Hume. Significantly, Tocqueville served as an observer of the effects of the American Revolution for the purposes of understanding the French. In his roughly sociological analysis, we have inquiry into the potential lines of division among private and public spheres in a young enterprise of egalitarian democracy.

The formative liberal thought that precedes Tocqueville can be understood, by cosmopolitan extension, to endorse the role of non-governmental actors in the development of peaceful, roughly democratic conditions internationally. Its radical counterparts, as posited, suggest the opposite, and appear basically mistrustful of the workings of private actors and organizations alongside national or state apparatus, except perhaps insofar as private enterprise might function as an advance party for coming consolidation within a unified governing scheme. This tension remains instructive with respect to the relevance of formative liberal philosophy to the contemporary practice and controversial legitimacy of non-governmental actors in the international arena. It underscores the contest in 20th century international relations among Cold War ideologies, and

remains relevant by virtue of post-Cold War ideological schools, including realism and certain post-historical political notions roughly derived from Hegel.

Habermas has brought to light the importance of a viable public sphere as a matter of modern political process, with his work *Structural Transformations of the Public Sphere*. Civil society, as we use the term here, constitutes his public sphere: roughly, the sum of private engagement with the political and cultural life of the community. In *Structural Transformations* and subsequent work, Habermas traces the ascendance and decline of bourgeois civil society as a critical element in the normative enterprise of political community. Similar to the Enlightenment figures whom he discusses, Habermas is in the first instance concerned with the condition and rehabilitation of national political organization. He is, however, no stranger to international law and politics, and his take on civil society in any event holds meaning for global non-governmental actors. For one thing, his work roughly identifies the high point of modern civil society with the still-exclusive public sphere coincident with the bourgeois revolutions in England, America and France. The high point, to summarize very briefly, is followed by apparent decline, observed in the institutions of the media, triggered by rising exploitation moving in lockstep with increasing inclusion among the parties eligible to participate in civil society (Habermas 1989: passim).

International society today somewhat resembles the exclusive civil society Habermas describes in the active time of the bourgeois revolutions, insofar as international non-governmental actors today also are élite in nature, far smaller than the total number of persons they purport to represent. Those pursuing a program of global justice, for example, remain select actors engaged on behalf of a much greater number of persons, not involved in any international public sphere. While this may give rise to certain critical concerns, it also suggests, following historical and sociological aspects of Habermas's work, the potency of the role for non-governmental actors in pursuit of international normative goals. Habermas's work draws heavily on Enlightenment thinkers, among others, touched on above. We turn now in somewhat greater detail their work.

3 Locke's Social Contract

The social contract, for Locke, represents the overcoming of subjective limitations. There exists a meaningful natural law in the state of nature, and with it a property right vested in all persons, but the natural law is compromised by the limitations of knowledge and objectivity attendant on persons in their individual capacities (Barker 1960: 17-18). The social contract establishes a public function, or magistracy, capable of overcoming personal limitations in case of controversies among two or more parties pretending to exclusive claims of right under the natural law. For Locke, then, government assumes the fiduciary role of a trust. By this analogy of government to the hired office of director for a private estate, private citizens retain a primary oversight right and responsibility, as owners of the asset conditionally entrusted to caretakers. Government exists under and according to a prior law guaranteeing certain rights and freedoms, and presuming a certain morality, against which government, as trust, cannot encroach. To acquit its task, government draws from and encroaches on the powers and prerogatives of all individuals as they

would otherwise exist in the state of nature, but government nonetheless remains responsible to each citizen for the exercise of its fiduciary function as magistrate.

By developing a theory of popular sovereignty in the form of a fiduciary magistracy, Locke's is a circumscribed public enterprise, responsible to and feasibly guarded by the interested supervision of citizens in their private capacity. The allowance for the non-governmental actor should be clear. Indeed, Locke's England exhibits a long history of private associations dedicated to any number of public purposes, including manifestly moral and political agendas (Clark 2000: *passim*). Private initiatives in England included humanitarian organizations as diverse as the Society for Effecting the Abolition of Slave Trade and the Society for the Recovery of Persons Apparently Drowned; political organizations such as the Corresponding Societies and County Associations; and initiatives for international peace such as the Society for Abolishing War and the Society for the Promotion of Permanent and Universal Peace (Charnovitz 1996: 192; Moniz 2009: 613).

Locke's natural law foundations, though consonant with the tenor of British political developments at the time, struggled to bear the pressure of scientific scepticism applied by succeeding Enlightenment thinkers, such as Hume. Hume does not exalt the government either as an authority in itself or as a solemn fiduciary. Rather, he writes that '[w]hen we assert, that all lawful government arises from the consent of the people, we certainly do them a great deal more honour than they deserve, or even expect and desire from us' (Barker 1960: 158). The acid wash of Hume's frank cynicism suggests a basic mistrust of actors responsible for the incorporated public enterprise. Adam Seligman, tracing the intellectual origins of civil society and the complex of private initiatives independent of public government, writes of the philosophers of the Scottish Enlightenment, including Hume, that their political conscience had more to do with 'individual mores rather than public commitments. It was rooted in the individual self rather than in a social being' (Seligman 1995: 206).

Hume's work drastically separates the juridical institution of the state from the condition of private mores. In doing so, however, he runs the risk of enfeebling the possibility for effective ethical normative restraints in the sphere of public commitments. This perhaps seemed inconsequential in keeping with the advance of reason against the perceived tyranny of aristocratic political culture, but was troubling in the context of revolutionary democratic politics subject to potential abuse. Kant, and Hegel after him, represent corrective efforts to close the divide between public and private opened by Hume.

4 Kant's Perpetual Peace and Private Concerns

Kant followed very much the social contract of Rousseau, with its emphasis on the simultaneous liberation and redemption of the citizen by total investment in the collective whole, but his theory responds to the pointedly less lofty take on social contract offered by Hume. In the course of two works, *The Metaphysics of Morals* and *Perpetual Peace: a Philosophical Sketch*, Kant first envisions a sophisticated common political unit founded on the autonomy of every member, then illustrates

in expressly practical terms the advantages that might flow from a properly-conceived political program, in the form of a stable international peace.

The bulk of the heavy theoretical lifting concerning moral axioms and ethical social conditions occurs in *The Metaphysics of Morals*, which takes a republican constitutional model for the basis of political harmony, and lays the groundwork for modern theories of social justice, such as Rawls's *Theory of Justice*. The basic tenets of his theory are more than familiar: individual will becomes universal legislative will, but retains its individual character, via the twin constitutive axioms that, first, one may act only according to maxims one would allow to be universal law, and, second, every rational creature is to be treated as an objective end in itself, never a means. Thus Kant maintains the source of ethical authority in the figure of the private individual, but according to a juridical vocabulary that privileges the collective enterprise.

Perpetual Peace, expressly international in scope, suggests that persons engaged in governing a society of equals will not, for pragmatic reasons, be interested to support the costs of war against other peoples similarly organized (and certain conditions must be in place to ensure that the costs of war cannot be put off beforehand on third parties or otherwise amortized). Moreover, with more interconnection and interdependence among such sovereign peoples, the greater will be the costs of war, thus rendering resort to war among republics still more unlikely. This, in turn, famously lays the groundwork for theories of the democratic peace. Two subjects of interest stand out for present purposes: the nature of a constitutional republican government as Kant sees it, and the nature of the interconnection among sovereign peoples. The former Kant describes according to a representative system in which the executive is divorced from the legislative. He disavows pure democracy for tyranny by the majority, instead limiting representative government to a minimally adequate number of representatives. In his combination of, first, a system of checks, and second, a limited representative government responsible for a society of equals joined in a kingdom of ends, Kant tacitly leaves considerable room, and perhaps obligation, for the responsible engagement of the public sphere by persons in their private capacity. In discussing the nature of contemporaneous interconnection among sovereign peoples, then, Kant makes express a role for private engagement. He ascribes international relations in the first instance to the pursuit of commerce, properly vested in private actors. Agents of commerce represent the private vanguard of cosmopolitan relations among the global public.

Seligman attributes to Kant a 'more rigorous vision of social differentiation', in opposition to the absolute state. Instead, '[t]he State, as the embodiment of political society, is no longer viewed as coterminous with civil society, as the publicness of rational debate and critique is seen (and indeed emphasized) as the province of civil society in its distinction from the State' (Seligman 1992: 43). Kant offers only the one ethical mandate in the juridical construction of public commitment: that each and every member be equally treated as an autonomous and objective end. Further ethical elaboration resolves into the prerogative of each person privately. This appears to leave considerable room for private actors to pursue independent ethical agendas in the public sphere, particularly as foreshadowed by the role of commerce in driving a stable

international peace. Thus the seeds of a role for NGOs in playing out contemporary theories of the democratic peace.

The broad prerogative that Kant leaves to private ethical initiative, however, does not square with the ideologically radical statement of human nature put forward by Rousseau, whom Kant followed, a statement of human nature corrupted but redeemable. Here is the split that leads to the subsequent radical denial of non-governmental actors, in the context that we are discussing them, by Hegel and Marx. Fixing the Kantian ethical axioms wholly within the vision of Rousseau, they reverse the trend of limiting the juridical control of the public sphere, instead subordinating private prerogative to the political expression of collective sovereign will. Thus Marx condemns a dualist political system such as he associates with Kant, Hume and Locke: in political community the citizen approaches a communal being, while ‘in civil society he is active as a private individual, treats other men as means, reduces himself to a means, and becomes the plaything of alien powers’ (Marx 1967: 225).

The tenor of Marx’s thought is observable in the foregoing work of Hegel, which also captures the effort to reconcile Kant and Rousseau. Whereas Marx, however, effectively argues for the one true government, Hegel argues for the independent entity of the sovereign state. The state itself, in general, is ‘the absolute final aim’, ‘it exists for its own sake’. Moreover, ‘all the worth which the human being possesses – all spiritual reality, he possesses only through the State’. Only participation in the state enterprise makes possible ‘a just and moral social and political life’, and it is only by private investment in the juridical operation of the state that ‘[f]reedom obtains objectivity, and lives in the enjoyment of this objectivity. For Law is the objectivity of Spirit; volition in its true form. Only that will which obeys law, is free’ (Hegel 2001: 54).

In rendering the state an end in itself, following Rousseau, Hegel ostensibly corrects the weakness in Kant’s scheme of social incorporation by strengthening the juridically and morally normative content in the public sphere. Seligman, speaking principally with respect to Rousseau, refers to this as a ‘moral community where what is moral is precisely the community’ (Seligman 1995: 204). As he puts it, this ‘idea is at the heart of the civic virtue tradition where a community of virtue is one where the social good is defined solely by the subjugation of the private self to the public realm’ (Seligman 1995: 204). That tradition, whether as a matter of separate Hegelian or Marxist agendas, has given rise to past and contemporary global dynamics that conflict with the development of international civil society and the legitimacy of non-governmental actors generally. Today it is less the unified ideological program such as communism, but rather the ongoing decentralized program of sovereign prerogative, against which non-governmental actors strive for recognition as a matter of international law, and participation in a juridically normative international community that still favors states as subjects.

5 Tocqueville and Private Initiatives

By contrast, liberal political philosophy in the American Revolution actively promoted a wide array of non-governmental actors and a flourishing civil society, at least at the domestic level.

Tocqueville observed, in the middle of the 19th century, that ‘[i]n America, the freedom to associate for political purposes is unlimited’ (Tocqueville 2004: 217). Moreover, ‘[p]olitical associations are but a minor detail in the vast canvas comprising all the associations that exist in the United States’ (Tocqueville 2004: 595). Writing for the benefit of a France still emerging from the long turbulence of its revolution, he noted that ‘[n]othing, in my view, is more worthy of our attention than America’s intellectual and moral associations’ (Tocqueville 2004: 599).

With respect to political associations, Tocqueville suggested, in line with Kant and Hume, that in a democracy such private initiatives in civil life serve as a bulwark against the tyranny of the majority, and combat the political or moral indifference that facilitates despotism (Tocqueville 2004: 218, 590). Where Hegel responded to Kant by thickening the normative value of the state, Tocqueville sees instead in private associations the capacity to correct the modern discontents of egalitarian liberal politics: ‘Of all the laws that govern human societies, one seems more precise and clear than all the rest. If men are to remain civilized, or to become so, they must develop and perfect the art of associating to the same degree that equality of conditions increases among them’ (Tocqueville 2004: 599).

Tocqueville’s vocabulary is very much the vocabulary of the liberal Enlightenment thinkers who preceded him. Private associations are a ‘new science’ (Tocqueville 2004: 596). Indeed, ‘the science of association is the fundamental science. Progress in all the other sciences depends on progress in this one’ (Tocqueville 2004: 599). Moreover, Tocqueville almost appears to echo, in roughly sociological terms, aspects of Kant’s *Perpetual Peace*, anticipating democratic peace theory: ‘I think it is fair to say that as a general and constant rule, the martial passions will become rarer and less intense among civilized peoples as conditions become more equal’ (Tocqueville 2004: 761).

As Kant associates a peaceful cosmopolitan movement with the spread of commerce, Tocqueville makes a similar link, on the grounds that ‘[c]ommerce is naturally the enemy of all violent passions. It likes moderation, delights in compromise, and is careful to avoid anger’ (Tocqueville 2004: 750). In sum, ‘if you can establish a state of society in which everyone has something to hold on to and little to take, you will have done a great deal for the peace of the world’ (Tocqueville 2004: 748). And this in a state of political organization where ‘[t]he morals and intelligence of a democratic people would be no less at risk than its business and industry if government were everywhere to take the place of associations’ (Tocqueville 2004: 598).

6 Private Initiative and Public Concern for Habermas

Tocqueville not only observes the link between civil society and a democratic peace, reflecting a similar, largely implicit link in Kant’s work, but he serves also as a link to Habermas’s treatment of the public sphere. The two share an understanding of the importance in the ways and means of private engagement with political community, serving as a counterforce to state power. In Habermas’s work, ‘[a] critical idea of “publicity” arises that undercuts the secrecy of the absolutist state, subjecting state policies and officials to the inspection of reason; the bourgeois “public” as a

collective of private citizens acquires considerable power as a critical influence on the state and as an economic force' (Peters 1993: 544).

Habermas describes an institutional development of this critical normative force according to various means: 'the Revolution created in France overnight, although with less stability, what in Great Britain had taken more than a century of steady evolution: the institutions, which until then had been lacking, for critical public debate of political matters' (Habermas 1989: 69-70). The historical institutions that he identified include, among others, private clubs and a popular media: 'Club-based parties emerged from which parliamentary factions were recruited; there arose a politically oriented daily press' (Habermas 1989: 70). Thus, '[t]he public's rational-critical debate of political matters took place predominantly in the private gatherings of the bourgeoisie', creating as a matter of private initiative the sort of actors and community capable of effecting normative authority outside of or in contradistinction to public office (Habermas 1989: 70). An adequate treatment of Habermas's work is beyond the scope of this chapter. We note, however, that his work was seized on after the fall of the Soviet Union for the promise readers identified in his description of civil society in history, and what the public sphere, properly developed, might offer to the democratic development of formerly Soviet Bloc countries. Likewise, his work suggests a role for non-governmental actors in the development of international government: a global public sphere, comprising the contributions of private actors, offers a critical check on the potentially self-serving exercise of state powers in world society.

Finally, we note that Habermas's project, on its face, is different from Rawls's theory of justice. But in their essentials, and in addition to their common Kantian heritage, the two overlap considerably. Rawls ultimately hinges his greater theory on the exercise of public reason, which is very much related to Habermas's more sociological consideration of the public sphere. Each of them represents a popular deliberative process aimed at achieving moral social conditions. Moreover, it is worth noting that in their famous exchange of ideas in the pages of *The Journal of Philosophy*, Habermas writes, with respect to Rawls's body of work, 'I admire this project, share its intentions, and regard its essential results as correct' (Habermas 1995: 110).

Where Habermas offers a sociological portrait of civil society as it was and is, Rawls offers an idealized vision of the proper working of civil society under just conditions, producing thereby a theoretical construction capable of guiding the development of civil society under non-ideal conditions. We turn now, then, to a deeper look at Rawls's theory of justice and his expressly international *Law of Peoples*, as well as his legacy as carried forward and critiqued by contemporary cosmopolitan thinkers.

7 International or Global Justice?

It is hard to overstate the central role of Rawls in contemporary political philosophy. Since the mid-1970s, his *Theory of Justice* and subsequent work has generally been considered to be the most systematic and comprehensive account of social justice currently available. Rawls's aim in *A Theory of Justice* is to find and justify principles of justice for the basic structure of a domestic

society. Rawls defends two principles of justice, combining a liberal defence of individual liberties and freedom with an egalitarian defence of equal opportunity. He presents *The Law of Peoples* (1999) as an extension of his principle of domestic justice for the international context.

Characteristic of Rawls's approach in both in the domestic and international theory of justice is the use of a thought-experiment involving a fictional deliberative forum, the *original position*. To ensure that this hypothetical deliberation is fair and equal, the parties in the deliberation operate behind 'a veil of ignorance', depriving them of knowledge about themselves, and thus disabling any bias towards their own interests according to social and historical contingencies or particular conceptions of the good. In Rawls's theory, however, there is an important difference between the domestic and the international context as well. In the domestic context, *individuals* decide behind a veil of ignorance on the basic principles of justice. In the international context, this role is assigned to representatives of states. Moreover, in the domestic context, all individuals have an equal say in the determination of the basic principles of justice. This notion of equality is not applied to peoples or states. Rather, in *The Law of Peoples* Rawls makes an *a priori* distinction between different types of peoples: reasonable liberal peoples, decent hierarchical peoples, outlaw states, burdened societies and benevolent absolutisms. It is a prerogative of reasonable liberal peoples to decide on the principles of justice that should govern international relations.

The Law of Peoples can be read as a theory of the foreign policies that liberal states should adopt. This theory proceeds in two stages. Firstly, it identifies the set of principles that liberal peoples amongst themselves can agree upon as the basis of fair cooperation in society of liberal peoples. Perhaps surprisingly, Rawls suggests that representatives of liberal peoples in the global original position will agree to adopt principles that come close to some basic principles that underlie current international law: the independence and equality of states, the *pacta sunt servanda* principle, the prohibition on intervention, the right of self-defence and the obligation to honor human rights and justice in war. Moreover, Rawls argues, peoples have a duty to assist peoples lacking the resources to sustain just regimes. Secondly, it sets out how liberal peoples should deal with other types of people. Here Rawls argues that liberal peoples should respect and recognize decent hierarchical peoples, but take a different stand towards outlaw states, burdened societies and benevolent absolutisms.

Rawls discusses global poverty and the standard of living of persons in the context of what he calls *burdened societies*: those societies whose historical, economic and cultural conditions make it difficult, if not impossible, to become well-ordered on their own. He argues that poverty is primarily caused by the incompetence, corruption, and tyranny entrenched in the governments, institutions and cultures of developing countries. He focuses on the political culture and on the religious, philosophical, and moral traditions that support the basic structure of their political and social institutions, as well as on the industriousness and cooperative talents of its members, all supported by their political virtues.

Rawls thus emphasizes the responsibility of domestic governments in developing countries for the fate of their citizens, whereas affluent societies have only a secondary and limited

responsibility. They have a duty to assist burdened societies to overcome specific unfavorable conditions. Thus assistance should primarily be focused on supporting burdened societies to enable them to (re)build a well-functioning domestic basic structure of society and major social and political institutions. Of course, this might imply dispensing funds but can also imply an emphasis on human rights to force ineffective regimes to take the well-being of all their citizens into account.

8 The Cosmopolitanism Alternative

In the wake of the publication of *A Theory of Justice* – and thus long before the publication of *The Law of Peoples* – several attempts were made at globalizing Rawls’s domestic principles of justice. Cosmopolitan critics like Charles Beitz and Thomas Pogge argued that Rawls failed to see the radical implications of his *Theory of Justice*, namely, that it can only be consistently conceived as a theory of *cosmopolitan* justice (Beitz 1979; Pogge 1989). In this way, they revive an age-old normative ideal which contends that all kosmopolitês, all citizens of the world, share a membership in one single community, the cosmo-polis, which is governed by a universal and egalitarian law.

These cosmopolitan critics of Rawls argue that nationality is just another ‘deep contingency’ – like genetic endowment, race, gender and social class – one more potential basis of institutional inequalities that are inescapable and present from birth. And since there is no reason within Rawls’s model to treat nationality differently, cosmopolitans advocated the application of his principles of justice, not only within a single society but also between individuals across societies. Not surprisingly, these authors remained less than convinced by Rawls’s rather traditional approach in *The Law of Peoples*. They argue that their interpretation is the only consistent reading of Rawls’s normative axiom of normative individualism that views *human beings*, instead of *compatriots*, as self-originating sources of valid claims. As such, contemporary cosmopolitans share a simultaneous acceptance *and* refutation of Rawls’s work. They all subscribe by and large to a liberal egalitarian position as formulated in Rawls’s *two principles of justice* as the normative foundation of their cosmopolitan theories. At the same time they refute Rawls’s own account of global justice as elaborated in *The Law of Peoples* as too limited, unRawlsian, and merely rules for an already vanished Westphalian world.

It is important to note that contemporary cosmopolitanism – being inspired by Rawls’s *Theory of Justice* – is first and foremost a liberal defence of cosmopolitanism. This does not imply that all cosmopolitan defences must be liberal; religious thinkers, for instance, have argued for the equal moral standing of all persons, but according to illiberal axioms or truths. It also does not imply that all liberal defences are cosmopolitan – Rawls’s *Law of Peoples* being the most obvious example. Rather, it reconfirms that Rawlsian liberalism has become the dominant lens through which cosmopolitanism is read in contemporary political philosophy.

Despite sometimes divergent foundations, contemporary moral cosmopolitan thought commonly exhibits three basic features. First, *normative individualism*: human beings or persons are

taken to be ‘self-originating sources of valid claims’ and, as such, human beings are the ultimate units of concern. In this way, moral cosmopolitanism differs from moral approaches that take ethnic or religious communities, the family, the state, traditions, etc. as moral concerns in and of themselves. For cosmopolitanism, such issues are not valuable intrinsically; rather, they are at best instrumentally valuable in the role they play in making people’s lives better. Second, *all-inclusiveness* (at least when applied to human beings): the status as ultimate unit of concern applies to every living human being equally and not merely to a sub-set thereof, e.g. compatriots, men, or Christians. The basic rights and interests of each individual are of equal importance – although beyond these basic rights and interests cosmopolitanism tolerates differences between individuals. Third, *generality*: the special status of persons has global force and thus generates obligations binding on all. Persons are the ultimate units of concern for everyone, not only for their compatriots.

In short, cosmopolitanism emphasizes the *moral worth* of persons, the *equal* moral worth of *all* persons and the existence of derivative *obligations to all* to preserve this equal moral worth of persons. Cosmopolitanism thus rejects Rawls’s two-level conception of international society, in which national governments are primarily responsible for the fate of their citizens. We all have, in principle, personal obligations to everyone else, and particularly the global poor.

Thomas Pogge is one of the most prominent defenders of this liberal-cosmopolitan position. He argues that the societies of the world interact in one global institutional order that severely deprives the globally worst-off of their basic necessities and unfairly favors affluent societies. He describes the significance of the global institutional order in two claims: (1) states are interconnected through a global network of market trade and diplomacy; and (2) this global institutional order is shaped by the better-off, and imposed on the worse-off. He does not argue that this global institutional order is inherently unjust, but rather that the current version thereof is designed in an unjust way, since Western governments have pushed their self-interest to the extreme and thus managed to arrange these institutions in such a way that their societies benefit more than others societies. The global institutional order affects the position of the globally worst-off in a direct and an indirect way.

An example of a direct effect is the current WTO treaty. The treaty permits the affluent countries to protect their markets against cheap imports – e.g. agricultural products, textiles, steel, and so on – through quotas, tariffs, anti-dumping duties, etc., in ways that poor countries are not permitted, or cannot afford, to match. Such protectionist measures reduce the opportunities of developing countries by hampering their exports to the affluent countries. Moreover, subsidizing domestic producers enables them to sell their products below the market price, pushing otherwise cheaper poor-country producers from the world markets. Pogge’s complaint is not that global markets are too open, but that they are not open enough. Affluent societies reap the benefits of globalization and international trade, but refuse to accept the burdens thereof.

Further examples of the indirect effect of the global institutional order on global poverty are international borrowing and resource privileges. A group that exercises effective power within a

country is generally recognized internationally as the legitimate government of that country, regardless of how the group came to power. This gives the group privileges to borrow in the country's name (international borrowing privileges) and sell the country's natural resources (international resource privileges). These advantages create strong incentives for groups to try to take power by force, thereby fostering oppressive and corrupt governments in developing countries. Rules and institutions of the global institutional order affect the global poor indirectly, by affecting the national institutional orders under which they live, encouraging non-democratic oppressive regimes, and reducing the prospects of the worst-off in those societies.

9 Rawls and His Cosmopolitan Interpreters: A Comparison

The primary distinction between the two approaches is that they emphasize different causes of global poverty. Rawls's *explanatory nationalism* focuses on the quality of domestic institutions, whereas the cosmopolitans' *explanatory globalism* emphasizes the global institutional order as the main explanation of poverty in developing countries.

Rawls envisages a division of labor between two levels, distinguishing intranational from international relations. On the national level, domestic governments have the primary responsibility for the well-being of their citizens and the protection of human rights. The system of international relations, then, establishes and maintains a background against which domestic societies can function and cooperate. This includes a duty for well-ordered societies to lift burdened societies above a minimum threshold to be able to 'manage their own affairs reasonably and rationally'.

Rawls explicitly points to domestic governments as the actors who are responsible for the plight of their citizens. His cosmopolitan critics are less clear on this issue. For example Pogge (consciously?) remains vague with respect to responsibility for the unjust character of the global institutional order:

by shaping and enforcing the social conditions that foreseeably and avoidably cause the monumental suffering of global poverty, we are harming the global poor – or, to put it more descriptively, we are active participants in the largest, though not the gravest, crime against humanity ever committed. Adolf Hitler and Joseph Stalin were vastly more evil than our political leaders, but in terms of killing and harming people they never came anywhere near causing 18 million deaths per year (Pogge 2005: 33).

It remains unclear to whom the 'we', above, refers. Pogge conflates the responsibilities of individual persons, governmental and non-governmental actors. In some instances he addresses governments of affluent societies, in other cases he directly targets 'affluent citizens'.

Rawls's emphasis on domestic institutions in the explanations of poverty seems to be perfectly sound. No society can flourish without strong domestic institutions, and cosmopolitans don't need to disagree. Less convincing, however, is that Rawls only focuses on domestic institutions in his explanation of poverty and does not take the normative impact of global economic interactions into account. Given the enormous global interdependence that already exists today – and that will

only grow in the foreseeable future – we can safely conclude that a preliminary assumption of the state as ‘a closed system isolated from others’ and ‘self contained’ has lost its descriptive power.

The global institutional order is not a monolithic whole, but it consists of many institutions. Some of them might be beneficial for the global poor, others detrimental. Research on the effects of global interaction on the global poor is too premature to draw firm conclusions. Given the indirect effects the global institutional order might have, e.g. via resource or borrowing privileges, it is very hard to distinguish the effects on poverty of domestic and global institutions, respectively. But we agree with Pogge that bad government and corruption in the developing world cannot be simply explained as ‘wholly native ingredients of a lesser culture’ without acknowledging that they are sustained by elements within the global institutional order.

Rawls and his cosmopolitan critics do not present mutually excluding approaches. At the end of the day, it is an empirical question as to what extent domestic and global institutions contribute to global poverty. But it is plausible to assume that the global institutional order contributes to global poverty. Since the global institutional order has such profound and enduring effects on national states, and individuals within them, and since these effects are neither chosen nor consented-to by those affected – especially those negatively affected – this structure itself should be assessed from the standpoint of justice.

Recommended for further reading are Beitz (1979), Habermas (1989), Pogge (2002), Rawls (1971), Rawls (1999), and Seligman (1992).

References

- Barker, Sir Ernest, ed. (1960) *Social contract: essays by Locke, Hume, and Rousseau*. Oxford: Oxford University Press.
- Beitz, Charles (1979) *Political Theory and International Relations*. Princeton: Princeton University Press.
- Charnovitz, Steve (1996) “Two Centuries of Participation: NGOs and International Governance”. *Michigan Journal of International Law* 18: 183-286.
- Clark, Peter (2000) *British Clubs and Societies 1580-1800: The Origins of an Associational World*. Oxford: Oxford University Press.
- Habermas, Jürgen; Burger, Thomas, trans. (1989) *The Structural Transformation of the Public Sphere: an inquiry into a category of bourgeois society*. Cambridge, Mass: MIT Press.
- ; Cronin, Ciaran, trans. (1995) “Reconciliation Through the Public Use of Reason: Remarks on John Rawls’s Political Liberalism.” *The Journal of Philosophy* 92: 109-131.
- Hegel, G.W.F; Sibree, J., trans. (2001) *The Philosophy of History*. Kitchener, Ontario: Batoche Books.

- Kant, Immanuel; Reis, H. S., ed. (2003 [1970]) *Kant: Political Writings*. Cambridge: Cambridge University Press.
- Marx, Karl; Easton, D. and Guddat, Kurt, eds. (1967) *Writings of the Young Marx on Philosophy and Society*. Garden City, NY: Doubleday & Co.
- Moniz, Amanda Bowie. "Saving the Lives of Strangers: Humane Societies and the Cosmopolitan Provision of Charitable Aid". *Journal of the Early Republic* 29: 607-640.
- Peters, John Durham (1993) "Distrust of representation: Habermas on the public sphere". *Media, Culture and Society* 15: 541-571.
- Pogge, Thomas (1989) *Realizing Rawls*. Ithaca: Cornell University Press.
- (2002) *World Poverty and Human Rights*. Oxford: Polity Press.
- (2005) "Real World Justice". *Journal of Ethics* 9: 29-53.
- Rawls, John (1971) *A Theory of Justice*. Oxford: Oxford University Press.
- (1999) *The Law of Peoples*. Cambridge, Mass.: Harvard University Press.
- Seligman, Adam B. (1992) *The Idea of Civil Society*. New York: The Free Press.
- (1995) "Animadversions upon Civil Society and Civic Virtue in the Last Decade of the Twentieth Century"; pp. 200-223 in Hall, John A, ed. *Civil society: theory, history, comparison*. Cambridge: Polity Press.
- de Tocqueville, Alexis; Goldhammer, Arthur, trans. (2004) *Democracy in America*. New York: The Library of America.