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Defense of Rawls: Response to Brock

Abstract

Cosmopolitans like Gillian Brock, Charles Beitz, and Thomas Pogge argue that the principles of justice selected and arranged in lexical priority in Rawls' first original position would—and should for the same reasons as in the first—also be selected in the second original position. After all, the argument goes, what reasons other than morally arbitrary ones do we have for selecting a second set of principles? A different, though undoubtedly related, point of contention is the cosmopolitan charge (most famously, made by Pogge) that Rawls fails to consider the unfavorable conditions that owe themselves to global factors. Perhaps there was a time when interconnectedness and interdependency between states was not a factor; but in the current global order, this certainly is not the case. While this paper will address other related cosmopolitan concerns mentioned in Brock's work, it is these two points that are perhaps the two biggest threats to the Rawlsian project and, as such, it is these two points that will be the primary focus of this paper.

Defense of Rawls: Response to Brock

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Abstract

Cosmopolitans like Gillian Brock, Charles Beitz, and Thomas Pogge argue that the principles of justice selected and arranged in lexical priority in Rawls' first original position would—and should for the same reasons as in the first—also be selected in the second original position. After all, the argument goes, what reasons other than morally arbitrary ones do we have for selecting a second set of principles? A different, though undoubtedly related, point of contention is the cosmopolitan charge (most famously, made by Pogge) that Rawls fails to consider the unfavorable conditions that owe themselves to global factors. Perhaps there was a time when interconnectedness and interdependency between states was not a factor; but in the current global order, this certainly is not the case. While this paper will address other related cosmopolitan concerns mentioned in Brock's work, it is these two points that are perhaps the two biggest threats to the Rawlsian project and, as such, it is these two points that will be the primary focus of this paper.

In the first part of this paper, I will present what I take to be the central objections to the Rawlsian project of the *Law of Peoples*, hereafter *LP*, that are presented in Gillian Brock's *Global Justice*. In the second part of this paper, I will argue that the Rawlsian project, correctly understood, is not as vulnerable to the central cosmopolitan criticisms as Brock seems to suggest. I do this by offering what I take to be a fundamental, though perhaps often overlooked, key to understanding the Rawlsian project: a peoples' capacity for self-sufficiency.¹ I also argue that the implication of this fundamental key is sufficient for reconciling what Brock sees as an inconsistency between the Rawlsian project of offering an account of global justice in *LP* and Rawls' previous liberal commitments from *Theory of Justice*, hereafter *TJ*, and *Political Liberalism*, hereafter *PL*. It is my hope in this paper to demonstrate how, contrary to the cosmopolitan charge of inconsistency, it precisely *by* different principles being selected—namely without global difference principle—that Rawls is consistent.² Finally, the last part of this paper posits that Rawls would likely respond—and on some level does respond—to Brock's criticisms in a more satisfying way than she seems to suggest.

Central objections to Rawls' *Law of Peoples*

The cosmopolitan charge against Rawls presented in Brock's *Global Justice* is that Rawls is tolerant of economic injustices at the global level that Rawls is so vehemently intolerant of at a domestic level. The cosmopolitan complaint is that the same inequalities that are not to the greatest advantage of the least well-off that are not permitted on the domestic are permitted on the international level.

Cosmopolitans, as pointed out by Brock, charge Rawls with being inconsistent regarding what principles are appropriate for governing in the *LP* from the principles of governing found in his earlier work, in *TJ* and *PL*. As Brock wants to say, cosmopolitans argue that if structuring a society behind an appropriate veil of ignorance (which excludes our knowledge not of the world but of our place in it), then factors such as place of birth and borderlines are also arbitrary from a moral point of view. So, the argument goes, a different set of principles should not be chosen in a second original position.

The cosmopolitan argues that the principles of justice selected and arranged in lexical priority in the first hypothetical position would—and should—also be chosen in the second. Cosmopolitans maintain that just as sex, race, and talents are morally arbitrary, so is place of birth. So, as the argument goes, if we accept place of birth to be yet another arbitrary condition, then consistency requires that when deliberating behind the veil, the principles of justice that will be selected will be those which work to the maximum advantage of the globally least well-off. That is to say, a global difference principle would be selected. The principle of most contention, and the one that most of this paper will focus on, is the endorsement at the international level of principle 2a: the “difference principle” (or, what is known as the “maximin” principle of welfare economics).

As Brock seems to suggest, Rawls' project of offering an account of global justice in *LP* is inconsistent with Rawls' previous liberal commitments from *TJ* and *PL*. I will argue that this is not the case. Furthermore, Rawls still carries over from his earlier work in *TJ* and *PL* to his work in the *LP* his idea of an “overlapping consensus” regarding the principles of justice being made in an environment of reasonable pluralism.

Central to understanding the Rawlsian project

I am arguing that the point that the criticisms provided by Brock seem to miss is the very point that is the key to understanding the Rawlsian project. Understanding the implications of, and motivations behind, one of the eight global principles delegates would choose when deliberating behind a second appropriate “veil of ignorance” is

central, though perhaps overlooked, to understanding the Rawlsian project. Not only does Brock seem to miss this, but the defenses she provides for Rawls seem to miss the motivations behind this point as well: “Peoples are free and independent, and their freedom and independence are to be respected by other peoples.”³

Looking closely at this leads us to see that it is not the case that Rawls is inconsistent or changing his position from his earlier liberal commitments set forth in *TJ* and *PL*. It is that Rawls is acknowledging that *peoples* can live independently of other *peoples* in a way that individuals on a domestic level cannot. That is to say, peoples have the capacity to be self-sufficient and individuals do not. Peoples can, despite their current conditions, *become* self-sustaining and live independently of other peoples while individuals cannot (or at least not in the same way). It is this point that demonstrates the difference between peoples and individuals in a way that is significant to the Rawlsian project. And it is this difference, I want to argue, that explains why a different set of principles (namely, without a difference principle) would be chosen, and rightly so.

So it is not that, contrary to popular cosmopolitan belief, Rawls changes his position. Rather, it is that Rawls—and delegates in the hypothetical position—acknowledge a significant difference between peoples and individual persons. And if peoples differ in a significant way from individuals, would it not make sense that a different set of rules or principles ought to apply?

The defenses of Rawls provided in Brock’s work attempt to defend Rawls based on the misunderstanding critics have concerning the purpose of Rawls’ work. These defenders want to say that Rawls’ *LP* asks a less ambitious question: how should liberal peoples interact with non-liberal peoples.⁴ Joseph Heath wants to say that, “Just as Rawls’ primary objective in *Theory of Justice* was to argue against utilitarianism, in the *Law of Peoples* it is to dislodge realism” (30). However, while the claims of these defenses may be true, these defenses fail to show why Rawls’ project is going in the direction that it is. The defenses offered in Brock’s book fail to show the point of how peoples differ from individuals as being a motivation behind Rawls’ project.

Defense against the charge of inconsistency

Now that I have explained the fundamental difference—the difference that is relevant to the Rawlsian project—between peoples and individuals, I will now argue that it is *by* different principles being selected—namely without a global difference principle—that Rawls is consistent. It is now my hope to show that if the same principles were to be selected, it is *then* that Rawls would be inconsistent. This defense against the charge of inconsistency rests on something that Rawls stays committed to since *TJ* and *PL* and on through to *LP*: the priority of self-respect.⁵ The point is that by different principles

being selected, Rawls is securing the interests behind the principles rather than securing the principles themselves.

Individuals' wealth and their roles in a social hierarchy cannot be guaranteed equal. If one's self-respect is tied to these things, knowledge of one's subordinate ranking in a society can be a threat to one's self-respect. While equal roles or statuses in a society cannot be guaranteed, equal citizenship can. As such, it is thought by Rawls that equal citizenship can play this role of securing self-respect in a way that one's status in a social hierarchy cannot. It is for this reason of providing a secure *basis for self-respect* that Rawls gives lexical priority to the Liberty Principle.⁶ Given that—for the sake of securing self-respect—the Liberty Principle is given lexical priority, the Difference Principle comes only after, and never at the expense of, the Liberty Principle.

Rawls was clearly committed to self-respect taking priority over a difference principle in his work on domestic justice in both *TJ* and *PL*. Rawls was also clear that not only was the Difference Principle to come second to the Liberty Principle, but that it was also intended to serve as further support for the first principle. Rawls was clear that his commitment was to self-respect *over* a difference principle.

A closer look at this allows us to see that if the same principles were to be selected on the global level as were selected on the international level, *then* Rawls would be inconsistent. That is to say, it is *by* different principles being selected (namely without a global difference principle) that Rawls is consistent. Rawls gives priority to self-respect over a difference principle on the domestic level, and Rawls also gives priority to self-respect over a (global) difference principle on an international level.⁷

In *LP*, Rawls argues that it is the case that a *peoples'* self-respect also cannot be tied to wealth. Rawls is clear on this point in *LP*. Rawls argues that a peoples' "wealth lies elsewhere; in their political and cultural traditions... and in their capacity for political and economic organization". That is to say, their self-respect is in some meaningful sense tied to their meaningful political projects. A global difference principle is a threat to a peoples' self-determination and, given that a *peoples'* self-respect is tied to this, selecting a difference principle at the global level would violate Rawls' earlier commitment to the priority and importance of self-respect. Thus, contrary to cosmopolitan criticisms, consistency requires a different set of principles (namely without a global difference principle) be selected.

The acceptance of a difference principle on the global level and the rejection of a difference principle on the international level are both attempts to secure the same end: the self-respect of a peoples on the international level and the self-respect of individuals on a domestic level. The acceptance of one and rejection of the other owes itself to the significant difference between the domestic level and the international level (*viz.* the

capacity for self-sufficiency). Thus, Rawls is making this move to secure the interests behind the principle rather than the principle itself.

More satisfying Rawlsian response

The implications of the difference between peoples and individuals, correctly understood, is fundamental to understanding why Rawls' position is not as vulnerable to the central cosmopolitan criticisms mentioned in Brock's work as she seems to suggest. The point is that, Rawls would argue, once a peoples reach the level of subsistence (or once they are brought to the level of subsistence via others' *duty of assistance*), a peoples' primary concern is maintaining and preserving its autonomy. That is to say, self-determination and the self-respect that comes of it is a significant part of their collective aim. The sense of pride and self-respect that comes of being a self-determining peoples cannot be had if one is dismissive of the significance of the first of eight principles selected: "*Peoples are free and independent, and their freedom and independence are to be respected by other peoples*" (*LP*, p. 37).

While it may be the case that, as Pogge wants to say, a degree of interdependency exists and is the cause of unfavorable conditions for some, this in no way is a threat to Rawls' project. Focusing on the interdependency that does exist between states as being a problem for Rawls' work further demonstrates how the purpose of Rawls' work is either misunderstood or ignored. Regardless of the fact that, as Pogge and Beitz want to point out, a level of interdependency or interconnectedness exists in the current global order, it need not exist among peoples in a way that it is necessary to exist among individuals. That is to say, regardless of whether or not a peoples does at the moment live independently (as Pogge says they do not), the point is that, unlike individuals, peoples *can* live independently.

Pogge's claim that unfavorable conditions owe themselves—at least in part—to global factors may not be wrong in itself; however, this is a claim criticizing Rawls' account of international distributive justice when international distributive justice is not even the purpose of Rawls' project. Rawls' aim in the *LP* is not to give an account of international distributive justice, but to give an account of how a liberal peoples is to live in a world with other liberal and non-liberal but decent societies.

While Pogge's criticism is not a threat to the Rawls' project, Rawls would still respond in a more satisfying way than Brock seems to suggest. In arguing for Rawls' difference principle to be extended beyond borders, Pogge brings up the point (perhaps rightly so) the harm done to states by factors external them (i.e., global factors of interconnectedness). However, Rawls would respond by saying that this is where the role of a "duty of assistance" would come in. And a "duty of assistance", the Rawlsian would say, to undo harm done to states would not require a global difference principle.

A global difference principle would not be chosen because of the threat to a peoples' political autonomy it carries with it. Rawls is clear in saying throughout the *LP* that a decent hierarchical society's self-respect is tied to the moral significance of its self-determination and political autonomy rather than to its material wealth. A critic of Rawls may respond by saying that a decent society's self-determination is threatened in the absence of some level of material wealth. And if the society's self-determination is threatened, following the same reasoning, its self-respect is threatened. However, Rawls would respond by saying a sufficient degree of material wealth—sufficient for their ability to secure for themselves their autonomy, self-sufficiency, and a well-ordered structure—would fall under the one's duty of assistance. This does not, Rawls would say, require a global difference principle.

Refusal to acknowledge or fully understand the implications of the difference between peoples and individuals is a potential cause to why Brock, and other critics of Rawls, take his work to be inconsistent—in the sense that the principles of justice need not apply globally in the way they are to apply domestically. Rawls' point still stands that the difference principle ought to apply domestically but not globally (and this is not a matter of inconsistency) because individuals cannot live independent of other individuals in the way that peoples can live independent of other peoples.

Criticisms in Brocks' book based on the interdependencies of states in the current global order seem to miss the point of Rawls' work. Rawls' project, correctly understood, is not open to this type of attack because Rawls' work is to approach international justice based *not* on the current climate or order of relations but based on a climate or particular order one could—within reason—hope for (hence the purpose of the *LP*, as Brock acknowledges, is to consider the possibility of a realistic utopia and to define what constitutes the realistic utopia). Rawls' realistic utopia, Rawls wants to say, is realistic in the sense that it “takes people as they are” and it accommodates for cultural pluralism and it respects people's fundamental interest in self-determination (*LP*, 13). So Rawls' work is based on a global climate one could within reason hope for rather than on the global climate that is.

Central to Rawls' *LP* is what is referred to in his earlier work as an “overlapping consensus” among delegates concerning principles of justice. It does not seem to be the case that, as Rawls' critics want to suggest, he changes his position. He still keeps his Kantian position that the individual is of moral worth and that the state is only legitimate insofar as the state recognizes this. It is not that Rawls changes his position, it is that different conditions from individuals on a domestic level and peoples on a global level apply. Rawls never changes his position from *TJ* to *PL* and on through *LP* on this point. Rawls would say peoples, like individuals, are moral agents worthy of respect; where the difference lies is in their capacity for independence.

It seems that even the defenses of Rawls' *LP* offered by Brock in response to cosmopolitan criticisms miss the implications of the distinction between peoples and individuals with respect to global justice. Defenders of Rawls, as Brock points out, want to say that Rawls' critics misinterpret what Rawls' project is about and that, "he aims to establish under what condition we can secure a 'peaceful and stable' world order, rather than one which is 'just'" (p. 31). While this may or may not be true, this defense of Rawls still seems to miss the point—and the justification—of *why* under a second original position different principles would be chosen. It is not that Rawls changes his position, it is that different conditions from individuals on a domestic level and peoples on a global level apply. Rawls never changes his position from *TJ* to *PL* and on through *LP* on this point. Rawls would say peoples, like individuals, are moral agents worthy of respect; where the difference lies is in their capacities for independence.

Contrary to Brock's cosmopolitan critique in *Global Justice*, Rawls never abandons his two principles of justice. Rawls stays committed to his two principles of justice as being the way in which peoples on a domestic level ought to be structured. It is not that Rawls abandons his principles, it is simply that Rawls refuses—due to the consistency liberalism requires of us—to say his principles can be forced upon unwilling states. Even the defenses of Rawls' *LP* that Brock provides fail to acknowledge this point.

Rawls' point is that while complete self-sufficiency among individuals cannot reasonably be expected, self-sufficiency of peoples or, rather, the potential for self-sufficiency of peoples can be. A global "difference principle" is a threat to a peoples' self-determination and, subsequently, to its reasonable degree of self-respect whereas agreeing to a duty of assistance is not. It is for this reason that delegates in a second original position will reach an overlapping consensus regarding these principles of justice that do not include a global difference principle.

Conclusion

In this paper I have shown that the Rawlsian project, correctly understood, is not as threatened by cosmopolitan criticisms as Brock seems to suggest. I have done this by showing that Rawls' approach to international justice is based *not* on the current climate or order of international relations but based on a climate or particular order one could—within reason—hope for. That is, the Rawlsian project is concerned also with defining a realistic utopia.

Another reason I provided for why the Rawlsian project is not threatened is by suggesting that perhaps what is overlooked by both critics and defenders of Rawls is the implication of the fundamental difference between peoples on global level and individuals on a domestic level (with respect to global justice). That difference being

peoples' ability to live independent of other peoples—in a way that individuals cannot—and the desire for the self-respect that comes of it.

Finally, I have suggested that despite the common cosmopolitan responses, consistency does not require the principles of distributive justice be extended globally; rather, as Rawls would respond, it is not that Rawls abandons his principles, it is simply that Rawls refuses—due to the consistency liberalism requires of us—to say his principles are to be forced upon unwilling states.

*I thank Marcus Arvan for his helpful comments.

¹ Rawls' point here is that a peoples, if not already self-sufficient, have the capacity to *become* self-sufficient. The justification for Rawls' rejection of a global difference principle (and my argument for Rawls' consistency that I base on Rawls' commitment to self-respect) hinges on the idea that a peoples can live independently of other peoples in a way that an individual cannot.

² It is my intention to show that by selecting different principles, Rawls is securing *the interests behind the principles* rather than securing the principles themselves. And the interests being secured are consistent with Rawls' earlier commitments.

³ Rawls, John. *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999) p. 37.

⁴ Samuel Freeman suggests many misunderstand the purpose of Rawls' work.

⁵ Rawls argues that “perhaps the most important primary good is that of self-respect” (*TJ*, sec. 67) and that without self-respect people will doubt their own worth and their ability to carry out their life goals. Rawls argues in both *TJ* and *PL* for the importance of self-respect:

“The importance of self-respect is that it provides a secure sense of our own value, a firm conviction that our determinate conception of the good is worth carrying out. Without self-respect nothing may seem worth doing, and if some things have value for us, we lack the will to pursue them. Thus, the parties give weight to how well principles of justice support self-respect...” (*PL*, p. 318).

Stressing the importance of self-respect, on a domestic level Rawls gives lexical priority to the liberty principle over a difference principle and argues that the Priority of Liberty serves as “the basis for self-respect” (*TJ*, sec. 39).

⁶ Note that priority is not given to *full* liberty, but *equal* liberty (e.g., not *full* liberty of conscience, but *equal* liberty of conscience). Remember, equal social status cannot be guaranteed but, via the liberty principle, equal citizenship can.

⁷ It is because a global difference principle is a threat to a peoples' state self-determination that it is rejected.