Justice under Anarchy:

Rawlsian Global Justice with New Zealand as a Case Study

by Andrew Ivory

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Abstract

This thesis makes an innovative argument for global justice by exploring neglected areas of Rawlsian theory, and using New Zealand as a case study. An enquiry into the Rawlsian view of domestic justice is included because it acts as a basis for Rawlsian global justice.

In giving its view of global justice, the thesis argues for a global difference principle focused on persons. This argument includes an exploration of a neglected aspect of the principle; how it is constrained by the duty of assistance and the just savings principle. The thesis will also show that the global difference principle makes demands on developed nations because they can help realize the principle by improving conditions in developing nations by using Official Development Assistance (ODA). It is also likely that developed nations can improve conditions in the developing world by using the international factor of trade. However, rather than just focusing on this factor, the thesis reasons it is best to use this factor in tandem with ODA. The thesis also shows that developed nations should provide ODA by demonstrating how the numerous pledges made by developed nations over the years regarding ODA amount to promises, and that promises have moral significance.

Before moving on to discuss New Zealand's ODA programme, the thesis examines one of Rawls's international principles of justice, the freedom and independence of peoples principle, and how it applies to New Zealand. In making an argument for the principle, the thesis shows how the principle can fit into a global justice framework, and adds to the literature by showing how the principle should treat small polities. The thesis also assesses how New Zealand's history of colonialism has and has not respected the principle. This history also affects New Zealand's ODA programme, so much so that one can be justified in describing this programme as being a relic of this history. This programme will be the subject of the final topic-based chapter. Previous assessments of the programme have been done with no, or a limited, normative framework. By this point a detailed Rawlsian normative framework, along with a picture of ODA's efficacy, is in place, and is used to analyse the programme. This analysis includes the policy recommendations of monetarily enlarging the programme, focusing the programme on the globally least advantaged, and giving more of the programme's funds to multilateral agencies

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Chapter 1: Introduction

Thomas Nagel starts his essay "The Problem of Global Justice" by saying "We do not live in a just world … may be the least controversial claim one could make in political theory."[1] However, Nagel then argues that due to "the perplexing and undeveloped state"[2] of political theory on global justice, it is difficult to say what a just world is. In an attempt to draw a picture of one, Nagel contrasts two views. First there is the cosmopolitan view that the "demands of justice derive from an equal concern or a duty of fairness that we owe in principle to all our fellow human beings".[3] Then there is what he calls the political view, exemplified in John Rawls's *The Law of Peoples* (henceforth *LoP*), that states justice is primarily a relationship between "fellow citizens of a sovereign state".[4] This is because, according to this view, the institutions of state put, "fellow citizens of a sovereign state into a relation that they do not share with the rest of humanity" and that it is this relationship that must, "be evaluated by the special standards of fairness and equality that fill out the content of justice."[5] On one reading of this statist view, there is no such thing as global justice because there is no world state, or in other words, there is no global justice under global anarchy.[6]

As we will see in this thesis, much of the debate over global justice is like how Nagel portrays it, with cosmopolitans on one side of the debate, and the statists, led by Rawls, on the other.[7] There is a deep irony in this situation. In *A Theory of Justice* (henceforth *ToJ*),

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[1] Thomas Nagel, 'The Problem of Global Justice', in *Philosophy and Public Affairs*, Vol. 33, No. 2, (March 2005), p. 113, DOI: 10.1111/j.1088-4963.2005.00027.x.
[2] Ibid.
[3] Ibid, p. 119.
[4] Ibid, p. 120.
[5] Ibid.
[6] Whether global justice might ultimately require a global or world state is a question I do not address in this thesis. Rawls is against a world state. He claims:

> [A] world government—by which I mean a unified political regime with the legal powers normally exercised by central governments—would either be a global despotism or else would rule over a fragile empire torn by frequent civil strife as various regions and peoples tried to gain their political freedom and autonomy.

John Rawls, *The Law of Peoples, with "The Idea of Public Reason Revisited"* (*LoP*), (Cambridge, Massachusetts: Harvard University Press, 2002 [1999]), § 4.1, p. 36. However, Rawls does not base this claim on much evidence, and the success of the large federal state of the United States brings this claim into question.
[7] Not all commentators see the debate over global justice divided in this way. Lea L. Ypi argues cosmopolitanism is compatible with a form of statism, which while not placing as much emphasis on fellow citizenship, still sees the state as the primary agency of achieving just goals. She argues, "political communities

published 28 years prior to *LoP*, Rawls presented a liberal egalitarian view of justice applied to one state.[8] While *ToJ* did contain hints Rawls would take a different view of global justice[9], many political philosophers, like Charles Beitz, thought a Rawlsian view of global justice should be cosmopolitan.[10] Many in this group, like Allen Buchanan, were dismayed with the statist view given in *LoP*[11], but there were other political philosophers, like Nagel, who were pleased.[12]

In this thesis, I will argue *LoP* presents some defensible principles of justice, but Rawls should have presented a view on global justice more in keeping with the spirit of *ToJ*, which would mean having a global difference principle focused on persons. To show some of the implications of this view, and to make an original contribution to the literature, the thesis will look at how we can apply this view to a particular country, New Zealand.

[like states] provide the unique associative sphere in which cosmopolitanism obtains political agency, [and] may be legitimately enforced and cohesively maintained." Since this thesis argues that we can start to realize a cosmopolitan goal, a global difference principle focused on persons, partly via Official Development Assistance (ODA), which is part of the state system, to a certain extent the thesis coheres with Ypi's analysis. 'Statist Cosmopolitanism', *The Journal of Political Philosophy*, Vol. 16, No. 1, (March 2008), p. 48, DOI: 10.1111/j.1467-9760.2008.00308.x.

[8] I am not the first to note the irony in the difference between the views Rawls presents in *A Theory of Justice* (*ToJ*) and *LoP*. Catherine Audard notes, "It is ironic that the best-known theoretician of distributive justice should not regard distributive justice as appropriate to international relations." 'Peace or Justice: Some Remarks on Rawls's Law of Peoples', in *Revue Internationale de Philosophie* [International Journal of Philosophy], Vol. 3, (2006), pp. 301-326, paragraph 10, also available at URL: http://www.cairn.info/article.php?ID_ARTICLE=RIP_237_0301, (accessed 9 December 2014).

[9] The only place in *ToJ* where Rawls spends time on global justice is in a small section where he discusses the "just political principles regulating the conduct of states", and this is to answer the question of when an individual is justified in refusing military service. In giving his answer, Rawls writes that he, "can give only an indication of the principles", but thinks there would be, "no surprises", and the principles would be, "familiar ones". Here Rawls has in mind the far from cosmopolitan principles traditionally found in international law. When discussing these principles, Rawls refers in a footnote to J. L. Brierly's *The Law of Nations*, and states in regards to these familiar principles, this book, "contains all that we need here". *A Theory of Justice* (*ToJ*), (Cambridge, Massachusetts: Harvard University Press, 2005 [1971]), (revised edition 1999), § 58, pp. 377-378 original edition/331-332 revised edition. However, Brierly goes further than Rawls suggests. While Brierly describes the state of international law at the time of writing, at certain points he expresses the hope states will strengthen their moral obligations to one another. For example, he writes:

> [I]n the society of states the need is not for greater liberty for the individual states, but for a strengthening of the social bond between them, not for the clamant assertion of their rights, but for a more insistent reminder of their obligations towards one another.

The Law of Nations, (sixth edition), (Oxford University Press, 1963), pp. 50-51.

[10] Charles R. Beitz, *Political Theory and International Relations*, (Princeton: Princeton University Press, 1979), pp. 126-176. Beitz was aware that in *ToJ* Rawls only supported limited principles of international justice. Ibid. While still critical of this limited set, Beitz notes that Rawls includes a human rights principle and the duty of assistance, two principles not mentioned in *ToJ*. Beitz thinks, "These additions constitute substantial changes from *A Theory of Justice* and result in a considerably more progressive view." 'Rawls's Law of Peoples', in *Ethics*, Vol.110, No.4, (July 2000), p. 672, Stable URL: http://www.jstor.org/stable/10.1086/233369.

[11] Allen Buchanan, 'Rawls's Law of Peoples: Rules for a Vanished Westphalian World', in *Ethics*, Vol. 110, No. 4 (July 2000), pp. 697-721, Stable URL: http://www.jstor.org/stable/10.1086/233370.

[12] Nagel thinks that what he calls Rawls's political conception of global justice "is probably correct." 'The Problem of Global Justice', p. 126.

Along with making original contributions, the thesis will also have exegetical value, clarifying some issues in Rawlsian theory. Exegesis is worthwhile in itself, but the main value of exegesis in this case is in providing a clearer theory, which will give a clearer view of global justice.

A thesis on global justice needs to take a different stance from the one taken in *LoP* because *LoP*, in a sense, is not about global justice. The phrase "global justice" only appears once, and this is only so Rawls can dismiss the idea the phrase expresses.[13] This reflects his position that the world stage is where questions of international justice arise between peoples (which Rawls sometimes presents as idealised versions of states).[14]

I will use the phrase "global justice" repeatedly in this thesis because I will argue that while entities approximating peoples populate the world stage, this does not mean there should not be principles of justice that apply globally and focus on persons.

Besides the introductory and concluding chapters, I divide the thesis into three parts. The first part of the thesis begins with chapter two and ends with chapter five. This part introduces Rawls's distinction between ideal and nonideal theory but focuses more on ideal theory. In doing so, the first part of the thesis presents a Rawlsian cosmopolitan view of global justice that includes a global difference principle focused on persons.

The second and third parts of the thesis focus more on nonideal theory. The second part proceeds from chapter six to chapter nine, and looks at how we might realize a global difference principle and other principles of global justice by using Official Development Assistance (ODA) and trade. While this part of the thesis will have more of an empirical focus, it will explore a number of issues in Rawlsian theory, most notably the Rawlsian view of promising.

The third part of the thesis includes two chapters, chapters ten and eleven. In these chapters, we will take what we have learned in the first two parts of the thesis to give a moral analysis of two aspects of New Zealand's foreign relations, its history of colonialism and its ODA programme.

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[13] John Rawls, *The Law of Peoples, with "The Idea of Public Reason Revisited"*, (Cambridge, Massachusetts: Harvard University Press, 2002 [1999]), § 11.1, p. 82. As we will see in detail later, Rawls does discuss global distributive justice, but this is once again so he can dismiss the idea.

[14] At one point Rawls describes the hypothetical Islamic society discussed in *LoP*, Kazanistan, as "an idealized Islamic people". Ibid, § 9.3, p. 75.

Now that I have introduced the general structure of the thesis, I will move on to give an outline of each chapter.

The first part of the thesis starts with the second chapter. This chapter starts by giving some reasons why I chose Rawls's theory, but the argument for selecting Rawls's theory will continue throughout the thesis. Part of this argument will occur later in this chapter when I consider Rawls's argument for his domestic principles of justice. Before this, it will be necessary to lay some groundwork for Rawls's argument. This will start with a description and discussion of Rawls's distinction between ideal and nonideal theory. The chapter will then move on to an examination of part of Rawls's ideal theory, which is his domestic model. This examination is necessary because a Rawlsian view of global justice needs this model as a basis. The second chapter will also include an investigation of what Rawls calls "the two moral powers", which are the "sense of justice" and the "conception of the good". The chapter will argue that the potential of virtually all persons to develop these powers is the main justification for treating persons equally. The chapter will then consider Rawls's domestic principles of justice and his argument for why we should select them ahead of perfectionist and intuitionist principles. However, because the thesis focuses on Rawls's difference principle, there will be a focus on, and endorsement of, Rawls's argument that we should select this principle ahead of a utilitarian principle. To further buttress the argument in favour of the difference principle, I will go beyond the work of Rawls and consider the stricter forms of egalitarianism advocated by Kai Nelsen and G. A. Cohen. I will conclude that Nielsen's argument and Cohen's argument fail.

Having investigated Rawls's domestic model and the principles derived from it; in the third chapter, we will do the same for Rawls's international model. In doing this we will first look at Rawls's taxonomy of polities because Rawls bases his argument for having international principles of justice focused on peoples on the idea peoples are a type of polity that have a certain moral nature. He further contends that there are two types of peoples, liberal and decent. Along with peoples, Rawls identifies burdened societies, outlaw states, and benevolent absolutisms. Only the representatives of peoples select the principles of international justice, even though the principles apply to all polities.

I will note that the representatives in the international original positions select from interpretations of principles rather than selecting from a range of principles. Besides the work

of Alyssa R. Bernstein, commentators have not discussed this issue, so this discussion, which builds on Bernstein's work, will add to the literature.

Having seen what Rawls's thinks the domestic and international principles of justice are, in the fourth chapter I will argue that one of the clauses found in the domestic principles, the difference principle, should, *pace* Rawls, operate at the global level. This is because the main arguments for a domestic difference principle also apply at the global level.

After this, the chapter will move on to respond to a number of Rawls inspired arguments against the global difference principle. This response will start by addressing the argument that a global difference principle would be unacceptable to non-liberal societies due to their views on the nature of persons. One reason I will give for rejecting this argument is that there is evidence that social and economic rights, which are similar to a global difference principle, are acceptable to actual hierarchical societies.

The chapter will then consider the related argument, made by Rawls and developed by Philip Pettit, which claims the appropriate representatives in the international original positions are the representatives of peoples, and then claims that these representatives would not select a global difference principle focused on persons. I will question the first claim, and then argue that even if the first claim is true, the second claim does not follow.

The chapter will then study an argument that is present but not fully developed in the current literature, namely the argument that international reasonable pluralism makes a global difference principle morally unacceptable. In response, the chapter argues international reasonable pluralism is not as extensive as Rawls argues it is, and that this fact weakens his argument.

The chapter will then analyse the argument that a difference principle should target whom Rawls calls "the least advantaged", and that this is not possible in the case of the globe because there is no globally least advantaged group. In response, I will argue that if we follow Rawls's definition we can identify a globally least advantaged group. I will also note international institutions do something similar when they try to identify the world's poor.

We will then assess Samuel Freeman's argument that we should reject a global difference principle because it will clash with domestic difference principles. We will argue that we do not have to do this by showing how different difference principles can redistribute different resources.

Finally, the chapter will assess Nagel's argument that Rawls's principles apply to basic structures, and implies there is no global basic structure, and therefore there can be no global difference principle. To rebut this argument, the fourth chapter will argue Rawls convincingly identifies something analogous to such a structure, namely the basic structure of what he calls "the Society of Peoples".

The focus on the difference principle and arguments against it will continue into the fifth chapter where we will study Rawls's claim that one of his international principles of justice, the duty of assistance, covers some of the same ground as the global difference principle, but is preferable due to features it does not share with the global difference principle. In response, the chapter will find that the duty of assistance is not different to the global difference principle in the way that Rawls says it is. In doing this, the chapter will show that the scenarios Rawls gives to highlight the differences between the two principles, fail. The discussion of the scenarios will add to the literature by clarifying the neglected Rawlsian notion of deserved inequalities, a notion that acts as a constraint on the global difference principle. The discussion will also show how the duty of assistance and the just savings principle also act in this fashion, another aspect of Rawls's theory which is not commented on much in the literature.

In investigating the global difference principle and the duty of assistance, the chapter shall find they are complementary, with the global difference principle being mainly a distributive principle, and the duty of assistance being mainly a principle that focuses on the realization and preservation of institutions. The chapter will then add to the literature by demonstrating how we can have both principles by noting the similarities between the duty of assistance and Rawls's just savings principle, a principle that, like the duty of assistance, focuses on the realization and preservation of institutions, and constrains the domestic and global difference principles.

Having finished with the first part of the thesis, that by focusing mainly on issues of ideal theory had developed a Rawlsian cosmopolitan theory, we will move on to the second part of the thesis that focuses more on an issue in nonideal theory, namely realizing principles of global justice. It is natural when looking at this issue in nonideal theory to study empirical issues, and this will be done in the sixth chapter when we will look at two of Rawls's empirical claims, that if established would count against the possibility of realizing certain principles of global justice. First is the claim Rawls and some economists make, namely that

whether a nation is wealthy or poor is mainly due to what occurs within that nation. Rawls's former student, and sometimes critic, Thomas Pogge, has labelled this claim "explanatory nationalism."[15] If true, it would undermine the idea that the global difference principle is a realizable principle of justice. This is because this principle requires that international factors have a role in reducing poverty in poor nations. The chapter will conclude that national factors do explain some of the differences in economic performance of different nations, but argue that international and global factors, like how governments sell natural resources on the international market, also have an effect. The chapter will also argue that when trying to give a moral assessment of the economic performance of nations, there is the further question of whether we can hold the persons who make up these nations responsible for the national factors that help to explain their nation's economic performance. In a philosophical context, David Miller has already made this point. However, this chapter will add to the literature by arguing that this responsibility is less likely to occur in non-liberal societies than Miller suggests.

The second empirical claim made by Rawls the chapter will consider is similar to the first; viz. the claim that what Rawls calls the "well-orderliness" of a nation is mainly due to factors that occur within that society. We will see that if this claim were true, it would undermine Rawls's idea that the duty of assistance is a realizable principle of justice. The chapter will also conclude that Rawls's claim regarding well-orderliness is often false because international factors, including the aforementioned selling of natural resources, can have an effect on well-orderliness.

In the seventh chapter, we will see how the international factor, Official Development Assistance (ODA), also known as international aid[16], can in the near future be a step towards realizing a global difference principle. In assessing this policy, and later on when assessing the policy of trade, there will be a focus on the near future due to the difficulties in assessing the long-term consequences of policies. In assessing the policy of ODA, the chapter will consider economist William Easterly's claim that ODA has generally been a failure in reducing poverty. This would also mean ODA has been a failure in helping to realize a global difference principle because reducing global poverty would be a step towards realizing a

[15] Thomas Pogge, 'Do Rawls's Two Theories of Justice Fit Together?', in Rex Martin and David A. Reidy eds., *Rawls's Law of Peoples: A Realistic Utopia?*, (Malden, Massachusetts: Blackwell Publishing, 2006), pp. 217-221. For another discussion by Pogge of the idea see his *World Poverty and Human Rights*, (Cambridge: Polity Press, 2008), § 5.3, pp. 145-151.

[16] In reaction to institutional changes, observers started to refer to international aid as "ODA" in the 1960s. In keeping with the literature on this topic, I will use the two terms "aid" and "ODA" interchangeably.

global difference principle. Easterly argues that this failure is due to a number of obstacles, including the obstacle of not knowing where to allocate resources to help poor people, and the obstacle of donor interest. The chapter will show that these obstacles are not always present, and that when they are present, we can sometimes overcome them.

The chapter will then argue that we can know ODA has been effective in realizing a global difference principle by using randomized controlled trials similar to the ones used to test the effectiveness of drugs in curing disease.

However, knowing ODA can be effective in realizing a global difference principle will not be enough to show we should pursue ODA. This is because of the possibility other policies will be more effective and therefore we should pursue them instead of ODA. The policy most often suggested by economists and others in development circles as an alternative to ODA, which would help to reduce poverty and help to realize a global difference principle, is trade. Therefore, the eighth chapter will study both trade in both its free and fair forms.

Another reason for looking at the policy of trade via global justice theory is that, as Fernando R. Tesón and Jonathan Klick note, those writing on global justice rarely discuss trade. While Tesón and Klick do make some use of Rawls's ideas, I will argue there are a number of problems with their Rawlsian influenced argument in favour of free trade, including their claim that free trade's non-coercive nature makes it morally preferable to other policies including ODA. The chapter will also argue that while there are reasons to believe free trade will help the world's poor, and therefore we should use free trade as a step towards realizing a global difference principle, it is not the sole solution to world poverty, which is how some of its advocates portray it. Indeed, we will see that in some instances ODA can help to promote trade. The chapter will also note that Tesón and Klick neglect to mention free trade can sometimes require coercion.

The chapter will close by briefly considering fair trade. It will note that fair trade is more of a social movement than a school of thought, and will suggest that trade can be made fair if it improves the condition of the globally least advantaged.

Looking at whether trade and ODA can be a step towards realizing a global difference principle, raises the question whether other factors matter in the assessment of these policies. In this regard, the eighth chapter takes into account the coercive nature of these policies. In

the ninth chapter, I will argue that another factor that we should take into account when giving a moral assessment of ODA is promises.

The chapter will add to the literature by having a description of the numerous pledges by developed nations to give 0.7% of their Gross National Product (GNP) in ODA, and then arguing that we can use Rawls's analysis of promises to show these pledges about ODA amount to promises. Then the chapter will also argue that the promise breaking, that the breaking of these pledges represents, cannot be morally justified. This discussion of promises is the final part of the second part of the thesis.

The third part of the thesis looks at the nonideal theory question of how global justice applies to two aspects of New Zealand's foreign policy. This starts in the tenth chapter that will consider Rawls's freedom and independence of peoples' principle and how it applies to New Zealand's history of colonialism. Because the principle refers to peoples, such a consideration might appear wrongheaded in a thesis that makes an argument for cosmopolitanism. However, this is not the case, in part because when making an argument for the principle, Rawls mainly depends on the claim that it is good for persons to have an attachment to their particular free and independent people. We also find this cosmopolitan argument in international law for the similar principle of self-determination.

A reason for investigating the freedom and independence of peoples' principle in relation to New Zealand is that New Zealand has arguably violated this principle via its history of colonising the Pacific Island nations of the Cook Islands, Niue, Samoa, and Tokelau. However, making an exact judgment about New Zealand on this issue is difficult, in part because of the varying constitutional relationships New Zealand currently has with these nations. Rawls envisioned us respecting the freedom and independence of peoples by having polities with full statehood, but the cases of the Cook Islands, Niue, and Tokelau show that arrangements short of full statehood can respect this freedom and independence. In discussing this issue, the chapter will also look at how small polities can fit into Rawlsian theory, a topic commentators have largely ignored.

The chapter will conclude that currently New Zealand generally respects the freedom and independence of the Cook Islands, Niue, Samoa, and Tokelau, but that historically, due to its colonialism, this was often not the case.

A reason for investigating New Zealand's history of colonialism in this thesis, besides it being able to be analysed via a Rawlsian framework and that we can use this framework to come to a number of interesting conclusions, is that this history has influenced New Zealand's ODA programme. Indeed, New Zealand's long-standing and significant bilateral ODA programmes with the Cook Islands, Niue, Samoa, and Tokelau are a relic of New Zealand's history of colonialism. The eleventh chapter will investigate this and other aspects of New Zealand's programme to see what role the programme had in the past, currently, and what role it could have in the near future, in realizing a global difference principle. The chapter will also touch on how the programme can help to realize the duty of assistance, and how it may have affected the freedom and independence of peoples. A number of researchers have already assessed this programme, but these researchers generally present their assessments without a normative framework, or with a very limited one.[17] By this stage of the thesis, there will be a detailed normative framework in place. There will also be a general picture of ODA and its effectiveness.

There is, however, reason for thinking New Zealand's ODA programme might differ from this general picture. This is because the programme is distinctive in a number of ways. Notably, while geographical closeness, perhaps surprisingly, does not have much of an influence over most countries' ODA allocation, it does affect New Zealand's, with countries in the Pacific much more likely to be selected to receive ODA, and also more likely to receive more ODA than other ODA recipients. I will argue that some justification can be given to this Pacific focus due to a shared history, prior commitments, and some of the globally least advantage being in the Pacific. But I will further argue that the focus cannot be fully justified because the focus of New Zealand's ODA programme should be more on improving the condition of the globally least advantaged no matter where they live.

Another feature of New Zealand's ODA programme, that the chapter will investigate, is the programme's size in monetary terms. The programme is relatively small in this sense due in part to the small size of New Zealand's economy.[18] However, this small size also

[17] For an example see, Jonathan Grossman and Annette Lees [aka the Ministerial Review Team], 'Towards Excellence in Aid Delivery: A Review of New Zealand's Official Development Assistance Programme', (March 2001), URL: http://nzadds.files.wordpress.com/2011/01/ministerial-review-nzoda-2001.pdf, (accessed 9 December 2014).

[18] In 2012, New Zealand's ODA programme was 21st out of 28 in monetary terms among the country members of the Organization for Economic Co-operation and Development's (OECD's) Development Assistance Committee (DAC) (the European Union is also a member). This is what one might expect since New Zealand is 24th out of 28 in Gross Domestic Product (GDP) Purchasing Power Parity (PPP) terms among DAC country

reflects the small percentage of New Zealand's GNP that goes towards ODA[19], with New Zealand only coming close in the 1970s to its repeatedly pledged goal of giving 0.7%.[20] I will argue that this smallness means the programme is not fulfilling its role in helping to realize a global difference principle, and that because of this (and that New Zealand has made numerous pledges to give 0.7%) New Zealand should increase the amount of ODA it gives to at least 0.7%. One might think that advocating this, along with advocating a shift away from ODA to the Pacific to ODA to the globally least advantaged, is unrealistic and not pragmatic because such a move would lack public support, but I will gather evidence that will show this is not the case.

The eleventh chapter will also compare what New Zealand's ODA programme contributes to bilateral and multilateral programmes and agencies, and argue that the amount given to multilateral programmes and agencies should be increased because these programmes and agencies are less likely to reflect strategic interests.

The eleventh chapter ends the third part of the thesis and the topic-based chapters. Then there will be the concluding chapter that will sum up the conclusions of previous chapters, and end with some thoughts on the overall picture of the prospects for global justice the thesis gives.

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members in 2012. OECD, 'Gross Domestic Product in US dollars at current prices and current PPPs', DOI: 10.1787/2074384x-table3.
For a definition of the PPP concept see OECD, 'Glossary of Statistical Terms: (PPPS)-OECD', (last updated on 11 June 2013), URL: http://stats.oecd.org/glossary/detail.asp?ID=2205, (accessed 9 December 2014).
Organization for Economic Co-operation and Development (OECD), Query Wizard for International Development Statistics, (QWIDS), URL: http://stats.oecd.org/qwids/, (accessed 9 December 2014).
While QWIDS uses Gross National Income (GNI), this should not matter when discussing GNP because according to the OECD's Glossary of Statistical terms, "gross national income is identical to gross national product (GNP) as previously used in national accounts generally". 'Gross National Income', (5 March 2003) URL: http://stats.oecd.org/glossary/detail.asp?ID=1176, (accessed 9 December 2014). OECD, 'DAC members', URL: http://www.oecd.org/dac/dacmembers.htm, (accessed 9 December 2014).
[19] In 2012, New Zealand placed 17th out of 28 in the DAC in percentage of GNP given in ODA. QWIDS.
[20] Ibid.

Part 1: Rawlsian Cosmopolitanism

Chapter 2: Rawls's Theory and Domestic Model

Introduction

In this chapter, I start by describing what led me to Rawls's theory and give a brief theoretical justification for this move, but will delay a fuller argument for selecting Rawls's theory and his principles until later in the chapter. I do this because before making this argument, it is necessary to describe some of Rawls's theory. This will start with a description of Rawls's distinction between ideal and nonideal theory. Along with clarifying Rawls's theory, this will help to clarify the structure of the thesis, which one can view as having its first part mainly dedicated to ideal theory, and its second and third parts mainly dedicated to nonideal theory. The chapter will then move on to Rawls's domestic model of justice and the two principles he derives from it. Looking at this model is necessary in this thesis because the principles of domestic justice influence what the principles of global justice are. It is also the only place where Rawls argues for the difference principle, a principle this thesis will argue should operate at the global level.

Rawls argues we can see what the domestic principles of justice are by imagining persons selecting principles of justice behind a "veil of ignorance" in the "original position". Rawls believes that this process will help our "considered judgments" reach "reflective equilibrium". He also thinks the principles of justice apply to a society's "basic structure". In this chapter, I will explain the meaning and reasons for using these terms.

One of the reasons Rawls gives for why those in the domestic original position would select the principles he says they would, including the difference principle, is that persons have what he calls "the two moral powers". In beginning to look at this argument, we will start to see how it naturally extends to the global arena.

The chapter will then assess Rawls's argument for why the representatives in the original position would select his principles rather than intuitionist, perfectionist, and utilitarian principles, with there being a focus on his argument for the selection of the difference principle ahead of a utilitarian principle. Like many of Rawls's arguments, this argument involves ideas often considered by economists, like decision making under

uncertainty, so naturally the argument, like much of the rest of *ToJ*[21], has attracted the critical attention of economists.[22] This chapter will consider the criticism made by R. A. Musgrave that in order for the representatives in the original position to select the difference principle their risk aversion has to be very high, and see how Rawls responds to criticism of this type.[23]

The chapter will close by considering the arguments made by Kai Nielsen and G. A. Cohen that we should reject the difference principle, as Rawls generally presents it, in favour of a more egalitarian principle. The chapter will conclude that these arguments fail.

The Focus on Rawls

The choice to focus on Rawls's theory raises the difficult question of why focus on this theory rather than another one. I hope that as the thesis progresses a number of the merits of Rawls's theory will be apparent to the reader. Indeed, in this chapter, after laying some Rawlsian groundwork, I will argue that Rawls's argument in favour of his theory has merit. However, before doing this I will briefly mention what drew me to Rawls's theory and how I can give this move some theoretical justification.

The main reason why I selected to look at Rawls's theory is that it offered a rational elaboration of one of my intuitions about New Zealand's ODA programme, namely that New Zealand should target the programme at the globe's worst off persons. As the thesis notes in

[21] As R. A. Musgrave notes:

> The magnificent edifice erected in Rawls's *A Theory of Justice* has been of great interest to economists, partly because a major wing of the structure is assigned to economic issues, but mostly because an economic way of thinking enters into much of its grand design.

'Maximin, Uncertainty, and the Leisure Trade-Off', in *The Quarterly Journal of Economics*, Vol. 88, No. 4 (November 1974), p. 625, Stable URL: http://www.jstor.org/stable/1881826.

[22] Some of this attention has been positive with Kenneth J. Arrow writing, "as an economist accustomed to much elementary misunderstanding of the nature of an economy on the part of philosophers and social scientists, I must express my gratitude for the sophistication and knowledge which Rawls displays here [in *ToJ*.]" 'Some Ordinalist-Utilitarian Notes on Rawls's Theory of Justice', in *The Journal of Philosophy*, Vol. LXX, No. 9, (10 May 1973), p. 245, Stable URL: http://www.jstor.org/stable/2025006.

[23] While Rawls wants to deny this criticism, he does not deny that risk plays a role in the selection of his two principles. In § 26 of *ToJ*, 'The Reasoning for the Two Principles', Rawls writes, "the two principles are those a person would choose for the design of a society in which his enemy is to assign him his place." Rawls then writes:

> [T]hat the two principles of justice would be chosen if the parties were forced to protect themselves against such a contingency explains the sense in which this conception is the maximin [rule of choice under great uncertainty] solution [to the problem of social justice]. And this analogy suggests that if the original position has been described so that it is rational for the parties to adopt the conservative attitude expressed by this rule, a conclusive argument can indeed be constructed for these principles.

Ibid, p. 153/133. I added this footnote in response to a point made by my examiner David Reidy.

chapter 11, many of my fellow New Zealanders appear to share this intuition. Still, some will be uncomfortable with this appeal to intuition. In an article where he gives a brief critique of some of Rawls's ideas, Peter Singer argues against the view, "that the role of moral philosophers is to take our common moral intuitions as data, and seek to develop the theory that best fits those intuitions."[24] However, while Singer rightly argues we can eliminate certain intuitions that we cannot give a rational basis, in the end he has to admit that an ethical theory, "must rest on a fundamental intuition about what is good."[25] In my case, I have a fundamental intuition that it is good to help the worst off.

As we will see, Rawls thinks we can come to giving priority to the worst off via a narrow conception of rationality that avoids controversial ethical elements. Some might think that my ethical intuition about the worst is an example of such an element, and that it would be better to simply depend upon on Rawls's theory and make no appeal to intuition. I would agree with Singer that such an attempt to build an ethical theory purely on rationality would not work[26], and would further say we need to recognise the motivating factor intuitions provide. What Rawls's theory does is to provide some rational support for my intuition, and suggests one can describe the intuition as a, "rational intuition."[27]

One might think that this is not a Rawlsian approach. After all, we have just seen that in coming to his theory Rawls appeals to a narrow form of rationality. There is also the apparent problem that, as we will shortly see, Rawls criticises what he calls "intuitionism." Rawls is also a great admirer of Kant, who attempted to base morality purely on rationality. Nevertheless, this does not mean that Rawls denies that intuitions play an important role in ethical thinking. Indeed, when criticising "intuitionism" Rawls writes, "any ethical view is bound to rely on intuition to some degree at many points."[28] Therefore, placing importance on intuition is in keeping with Rawls's theory.

Having explained what led me to Rawls's theory, and having given some justification for this move, I will now start with a description of Rawls's theory that will lead into Rawls's argument for his theory and its concomitant principles. This description will start with a description of two different types of Rawlsian theory.

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[24] Peter Singer, 'Ethics and Intuitions', in *The Journal of Ethics*, Vol. 9, (2005) p. 332, DOI 10.1007/s10892-005-3508-y.
[25] Ibid, p. 349.
[26] Ibid, p. 351.
[27] I take this term from Singer. Ibid, p. 351.
[28] Rawls, *ToJ*, § 7, p. 40/35.

Ideal Theory and Nonideal Theory

In the second section of *ToJ*, Rawls introduces the distinction between ideal and nonideal theory, even though he does not use the phrase "nonideal theory." Rawls writes:

> The other limitation on our discussion [in *ToJ*] is that for the most part I examine the principles of justice that would regulate a well-ordered society. Everyone is presumed to act justly and to do his [and her] part in upholding just institutions. … Thus I consider primarily what I call strict compliance [ideal theory] as opposed to partial compliance theory [nonideal theory]. The latter studies the principles that govern how we are to deal with injustice. It comprises such topics as the theory of punishment, the doctrine of just war, and the justification of the various ways of opposing unjust regimes, ranging from civil disobedience and conscientious objection to militant resistance and revolution. Also included here are questions of compensatory justice and of weighing one form of institutional injustice against another. Obviously the problems of partial compliance theory are the pressing and urgent matters. These are the things that we are faced with in everyday life. The reason for beginning with ideal theory is that it provides, I believe, the only basis for the systematic grasp of these more pressing problems. The discussion of civil disobedience, for example, depends upon it. At least, I shall assume that a deeper understanding can be gained in no other way, and that the nature and aims of a perfectly just society is the fundamental part of the theory of justice.[29]

Having introduced the distinction, Rawls generally leaves it to one side for the rest of *ToJ*. This may help to explain something recently noted by A. John Simmons, viz. that while the use of Rawls's distinction between ideal and nonideal theory has become commonplace, "relatively little serious critical attention has actually been focused on the distinction itself".[30] Still, the lack of comment is surprising given that Rawls appears to present the distinction in a way that is open to a number of objections. As Simmons notes, the assumption of strict compliance with principles of justice appears to be highly unrealistic. Some persons in every society throughout history have acted in ways nearly everyone would agree were unjust. The assumption also appears to leave the door open to utilitarianism as a principle of justice, something Rawls argues against in *ToJ*. This is because one of the strongest arguments against utilitarianism is that persons would not always follow its principles because persons have a partly self-interested nature. It appears the utilitarian can respond that this objection is not open to the Rawlsian when she is discussing ideal theory because ideal theory simply assumes strict compliance with principles of justice. However, this, and the previous point, misconstrues Rawls's view of strict compliance. Simmons point out:

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[29] Ibid, § 2, pp. 8-9/7-8.
[30] A. John Simmons, 'Ideal and Nonideal Theory', in *Philosophy & Public Affairs*, Vol. 38, Issue 1, (Winter 2010), p. 5, DOI: 10.1111/j.1088-4963.2009.01172.x.

> [T]he strict compliance assumption is designed only to allow us to imagine the results of getting "up and running" the institutions embodying different conceptions of justice, which requires imagining that those subject to those institutions support and comply with them, at least initially. But it may turn out that some conceptions—such as utilitarianism—will predictably involve "strains of commitment" that "exceed the capacity of human nature", such that long-term support and compliance are unlikely or impossible. The strict compliance assumption, then, "still permits the consideration of men's capacity to act on the various conceptions of justice".[31]

Still, one might criticise Rawls's use of ideal and non-ideal theory on the basis that he wrongly places primacy on ideal theory. After all, even he says that issues of nonideal theory are "the pressing and urgent matters" and that they are the problems "we are faced with in everyday life." Does this not give credence to Charles W. Mills, who writes, "the institutional prescriptions [Rawls] advocates are of little use when applied to real societies"?[32] One may further ask, is not this even truer when we consider the global difference principle? In answering this question, we can argue that we should view the principles of ideal theory as principles we work towards via, *inter alia*, principles provided to us by nonideal theory. This helps us to understand the importance of ideal theory, and how nonideal theory, while of great practical importance, is of secondary theoretical importance. For example, while the doctrine of just war is of practical value in a world where war is commonplace, the ultimate justification for this doctrine, I would argue, is that it aims towards a world without war. Of course, whether such a world is possible is a matter for debate, as is the possibility of a world that is moving towards a global difference principle. I hope this thesis adds to this latter debate.

Another related criticism of Rawls made by Liam B. Murphy, who writes, "Rawls himself has not devoted much time to nonideal theory."[33] However, Murphy made this criticism soon after the publication of *LoP*, and this criticism does not appear to reflect an awareness of *LoP*'s content. Rawls divides *LoP* into three parts, with the first two parts being on ideal theory, and the third part being on nonideal theory. Therefore, at least when it comes to international relations, Rawls cannot be criticised for neglecting nonideal theory. Nevertheless, as this thesis progresses we will see there are some problems with how Rawls uses the ideal and nonideal theory distinction in *LoP*, in particular when he criticises the global difference principle, and when he discusses decent peoples. However, I hope these comments suggest that the distinction is not simply wrongheaded as some of Rawls's critics,

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[31] Ibid, p. 9.
[32] Charles W. Mills, '"Ideal Theory" as Ideology', in *Hypatia*, Vol. 20, No. 3, (Summer 2005), pp. 168-169, Stable URL: http://www.jstor.org/stable/3811121.
[33] Liam B. Murphy, *Moral Demands in Nonideal Theory*, (Oxford: Oxford University Press, 2000), p. 8.

like Mills, suggest, and that the principles he identifies as part of ideal theory may be of use to real societies. When looking at the principles put forward by Rawls in ideal theory, along with the ideal/nonideal theory distinction, we should also keep in mind the model he uses to derive these principles, a model to which we now turn.

Rawls's Model

Rawls starts his domestic model of justice by imagining an "original position"[34], a position where free and rational[35] persons are in a position of equality similar to "the state of nature" in other social contract theories. As David Gauthier notes, "the language of the social contract theory is the language of ideal explanation; the men [and women] in the state of nature are not ourselves."[36] The same is true of Rawls's original position, which is not an actual state of affairs. Instead, Rawls wants the original position to "represent equality between human beings as moral persons".[37]

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[34] In § 31 of *ToJ*, in the context of wider discussion of equal liberty, Rawls provides what he calls "an elaboration of the original position." This is the four-stage sequence. The first stage of this sequence is finished when, "parties have adopted the principles of justice in the original position". They then move on to the second stage where they, "decide upon the justice of political forms and choose a constitution". The third stage is when, "The justice of laws and policies is to be assessed," and the fourth and final stage, "is that of the application of rules to particular cases by judges and administrators, and the following of rules by citizens generally." *ToJ*, § 31, p. 196/172, ibid, ibid, 198/174, 199/175.
I question whether this four-stage sequence is appropriate to assess questions of global justice. Do we really need some sort of global constitution, which would be very difficult to set up, before trying to realize certain principles of global justice? Rawls four-stage sequence may also not be appropriate to assess countries like New Zealand, where the constitution is not as central as it is in the United States. Rawls was aware of the cultural particularity of the four-stage sequence, writing, "The idea of a four-stage sequence is suggested by the United States Constitution and its history." Ibid, p. 196 n. 1/172 n. 1.
I thank my examiner Stephen Winter for reminding me of the role the four-stage sequence plays in Rawls's thinking.

[35] What does Rawls mean by "free and rational"? When it comes to the issue of freedom, Rawls, in *ToJ*, mainly discusses the concept of autonomy in a highly Kantian manner. When it comes to the related issue of free will, Rawls's discussion is brief, and he does not place it in the context of the familiar, for philosophers, compatibilism/incompatibilism debate. Rawls, *ToJ*, § 40, pp. 251-257/221-227. In his later political philosophy, Rawls found a justification for this placement. In answering the question: "In what sense are citizens free?" Rawls writes, "The relevant meaning of free persons is to be drawn from the political culture of such a [democratic] society and may have little or no connection, for example, with freedom of the will as discussed in the philosophy of mind." Rawls, Erin Kelly ed., *Justice as Fairness: A Restatement*, (Cambridge, Massachusetts: Harvard University Press, 2001), p. 21. This reflects a turn in Rawls's later philosophy from being concerned with what is actually the case, to being concerned with what individuals think is the case. However, at another point in *Justice as Fairness*, he writes, "It [the conception of the person] must of course be compatible with (one or more) … philosophical or psychological conceptions [of the person]." Ibid, p. 19.
Rawls, in *ToJ*, goes into more detail when discussing his interpretation of rationality. I will discuss this interpretation presently, and at later points in this thesis.

[36] David Gauthier, 'The Social Contract as Ideology', in *Philosophy & Public Affairs*, Vol. 6, No. 2 (Winter 1977), p. 138, Stable URL: http://www.jstor.org/stable/2264939.

[37] Rawls, *ToJ*, § 4, p. 19/17. Rawls notes that the veil of ignorance is not an entirely original idea, writing:

Rawls places those in the original position behind a "veil of ignorance." The veil is there in order to prevent persons making decisions based on inappropriate reasons, which in this case are knowledge of morally arbitrary factors. This means persons behind the veil of ignorance do not know their social position, and natural endowments like intelligence and strength; the representatives are not, however, entirely ignorant. They do know that the other persons behind the veil are also, like themselves, reasonable, rational, and are motivated to promote their interests.

Since Rawls talks about free and rational persons being in the original position, one might think that we are to imagine virtually all persons within a society being in this position; however, Rawls, in order to simplify his model, generally speaks of representatives being in the original position. When it comes to who these representatives are, Rawls writes:

> [T]hat for the most part [when it comes to questions of domestic justice] each person holds two relevant positions: that of equal citizenship and that defined by his [or her] place in the distribution of income and wealth. The relevant representative men [and women], therefore, are the representative citizen and those who stand for the various levels of wellbeing.[38]

So, initially at least, the representatives are simply described as citizens who are members of social groups defined by their level of income and wealth which correlate with levels of wellbeing.

The task that faces the representatives is to select principles of justice to apply to society's "basic structure". Rawls sums up the structure as, "the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation."[39] Rawls argues that it is appropriate to have principles of justice apply to the basic structure because its effects, "are so profound and present from

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> The veil of ignorance is so natural a condition that something like it must have occurred to many. The closest explicit statement of it known to me is found in J. C. Harsanyi, 'Cardinal Utility in Welfare Economics and in the Theory of Risk-Taking,' in *Journal of Political Economy*, vol. 61 (1953).

Ibid, original edition, § 24, p. 137, n. 11. John C. Harsanyi, 'Cardinal Utility in Welfare Economics and in the Theory of Risk-Taking', in *Journal of Political Economy*, Vol. 61, No. 5, (October 1953), pp. 434-435, Stable URL: http://www.jstor.org/stable/1827289. In the revised edition of *ToJ*, Rawls suggests that we can find the idea of the veil of ignorance implicitly in Kant's discussion of universal law in *The Critique of Practical Reason*. This is because, "when Kant tells us to test our maxim by considering what would be the case were it a universal law of nature, he must suppose that we do not know our place within this imagined system of nature." Ibid, revised edition, § 24, p. 118, n. 11. Immanuel Kant, *The Critique of Practical Reason*, (Thomas Kingsmill Abbott trans.), (fifth edition), (London: Longmans, Green, and Co. 1898 [1788]), p. 133, also available at URL: http://files.libertyfund.org/files/360/0212_Bk.pdf, (accessed 9 December 2014).

[38] Rawls, *ToJ*, § 16, p. 96/82.

[39] Ibid, § 2, p. 7/6.

the start [of persons' lives]."[40] When it comes to the selection of these principles, Rawls expects that the representatives to make the same decision the persons they are representing would make, because they have the same levels of wellbeing as these persons, and, like them, are reasonable and rational.

In explicating what he means by rational, Rawls writes that the, "concept of rationality must be interpreted as far as possible in the narrow sense, standard in economic theory, of taking the most effective means to given ends." Rawls does this because, "one must try to avoid introducing into it [the concept of rationality] any controversial ethical elements."[41] One must do this in part because it helps to widen the appeal of one's theory of justice. However, this lack of ethical elements might lead one to conclude that Rawls was trying to base his theory on a narrow form of rational self-interest, and that any resulting picture of justice would be a veiled form of egoism. A related concern is that one could not arrive at Rawls's egalitarian principles just via narrow self-interest, or as Leonard Choptiany colourfully put it in a review of Rawls's early view of justice, "One can neither draw blood from a stone nor extract moral principles from the decisions of rational egoists."[42] Perhaps in response to these concerns, in his later philosophy Rawls was keen to stress the importance and nature of reasonableness. In *LoP*, he notes, "The term "reasonable" is often used in *A Theory of Justice*, but not, I think, ever specified." Fortunately, as Rawls notes, "This is done in *Political Liberalism* [Rawls's second major work on domestic justice, henceforth *PL*]".[43] In *PL* Rawls defines reasonableness as the willingness to offer fair terms of cooperation, and recognition of the burdens of judgment.[44] This definition raises the further definitional questions of what are "fair terms of cooperation" and "the burdens of judgment". Rawls would define "fair terms of cooperation" as those that would be recognised in the original position, but, for now, we can define it as terms a party to an agreement would find acceptable if they happened to be in the position of the other parties to the agreement. I will address the meaning of "the burdens of judgment" in the fourth chapter in a discussion of the related concept of reasonable pluralism.

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[40] Ibid.
[41] Ibid, § 3, p. 14/12.
[42] Leonard Choptiany, 'A Critique of John Rawls's Principles of Justice', in *Ethics*, Vol. 83, No. 2, (January 1973), p. 150, Stable URL: http://www.jstor.org/stable/2380099.
[43] Rawls, *LoP*, § 12.2, p. 87.
[44] John Rawls, *Political Liberalism*, (expanded edition), (New York: Columbia University Press, 2005), Lecture III, 'Political Constructivism', § 2, p. 94.

Rawls, in *ToJ*, also states that while those in the original position come close to resembling *homo economicus* in their motivation, this, "must not be confused with the motivation of persons in everyday life who [in a Rawlsian society] accept the principles that would be chosen [in the original position] and who have the corresponding sense of justice."[45] Those in the original position are also not purely economic beings, in that they know that the persons they are representing are, "creatures having a conception of their good and capable of a sense of justice"[46] or in other words, have the two moral powers.

The possession of these powers justifies treating humans as morally equally persons, and justifies the set-up of the original position that reflects this equality. Rawls also thinks that in order to respect this equality at the domestic level we need to have a difference principle. This thesis will argue that to respect this equality also requires a global difference principle. These factors give us reason to investigate the moral powers.

The Two Moral Powers

Let us first consider the capacity for a sense of justice, which in *ToJ* Rawls describes as, "a skill in judging things to be just and unjust, and in supporting these judgments by reasons."[47] He argues this skill is "extraordinarily complex" because we are ready to make judgments of justness on a potentially infinite number of cases.[48] Despite this complexity, the sense of justice is similar among those who possess it, so we can expect others to agree with our judgments.[49] According to Rawls, we also have a shared desire to act on these judgments.[50]

[45] Rawls, *ToJ*, § 25, p. 148/127.
[46] Ibid, § 4, p. 19/17.
[47] Ibid, § 9, p. 46/41.
[48] Ibid.
[49] In the society described in *ToJ*, "Everyone has a similar sense of justice and in this respect a well-ordered society is homogeneous. Political argument appeals to this moral consensus." Ibid, § 41, p. 263/232. Aware such a consensus might be viewed as unrealistic, Rawls notes:

> For the most part the philosophical tradition … has assumed that there exists some appropriate perspective from which unanimity on moral questions may be hoped for, at least among rational persons with relevantly similar and sufficient information. Or if unanimity is impossible, disparities between judgments are greatly reduced once this standpoint is adopted.

Ibid, p. 263/233. Rawls, of course, offers up the original position as a version of this standpoint.
[50] Ibid, § 9, p. 46/41.

These judgments, which Rawls calls "considered judgments", are, "rendered under conditions favorable[51] to the exercise of the sense of justice".[52] Rawls explains what he means by favourable conditions when he writes, "once we regard the sense of justice as a mental capacity, as involving the exercise of thought, the relevant judgments are those given under conditions favorable for deliberation and judgment in general."[53] Therefore, in this portrayal the sense of justice involves thought and is not something purely intuitive.

Rawls argues that the form of deliberation that takes place when we use our sense of justice needs further guidance because, "In describing our sense of justice an allowance must be made for the likelihood that considered judgments are no doubt subject to certain irregularities and distortions".[54] Naturally, we would like these to be removed, and Rawls thinks that this can be accomplished by a theory of justice which acts as both an account and guide for our sense of justice.

The theory can act as a guide because someone may find the principles of the theory so convincing, "he [or she] may well revise his [or her] judgments to conform to its principles".[55] There is also the possibility she may do the reverse and modify the principles of her theory in order for it to accord with her considered judgments. She will do this if she believes that in this case her considered judgments are regular and clear, and has more confidence in them than she does have in her theory. Eventually, Rawls hopes, this process will reach an end with the deliberator satisfied with both her considered judgments delivered mainly by her sense of justice, and her theory of justice delivered mainly by her other forms of moral reasoning. In *ToJ* Rawls refers to this state of affairs as a person being in "reflective equilibrium".[56]

Rawls defines the other moral power, the capacity for a conception of the good, as, "the capacity to form and revise, and rationally to pursue a conception of one's rational

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[51] Throughout the thesis, in quotes and titles I retain original American English spellings.
[52] Ibid, p. 47/42.
[53] Ibid, p. 48/42.
[54] Ibid.
[55] Ibid.
[56] Ibid, § 4, p. 20/18. In *LoP*, Rawls does not use the term reflective equilibrium. Instead he writes of us being able, "to endorse, on due reflection, the principles and judgments of the Law of Peoples." *LoP*, § 6.4, p. 58. Once we have done this we would have tied, "together, into one coherent view, our considered political convictions and political (moral) judgments at all levels of generality." Ibid. In a footnote, Rawls confirms "due reflection" has the same meaning as "reflective equilibrium", but does not explain why he uses a different term. Ibid, § 12.1, p. 86, n. 32. The term "due reflection" is used twice in *ToJ*, but not in a theoretically loaded way. Rawls, *ToJ*, § 24, p. 139/120 and § 87, p. 587/514.

advantage or good."[57] As this definition suggests, Rawls sees rational advantage and goodness as equivalent. Indeed, Rawls views goodness as rationality.[58] Unlike the theory of justice delivered by the sense of justice, the conception of goodness delivered by the capacity for a conception of goodness varies from individual to individual. This means there is not agreement on what for an individual constitutes rational advantage or goodness.[59]

We can, Rawls argues, consider those who possess a capacity for a conception of the good and a sense of justice to be morally equal.[60] Furthermore, as William A. Galston notes, Rawls emphasises that the two moral powers, "are … within the capacity of every normal person to develop and to exercise, at least in favorable circumstances."[61] If both these propositions are true, this means virtually everyone is morally equal. Some might object to this on the basis that even if virtually everyone has these moral powers, these powers could vary in quality. Rawls argues that this is not the case when it comes to the capacity for a conception of the good, because the variation in judgments made by those with this moral power is not due to a variance in the capacity for a conception of the good, but rather is due to the plurality of goods. Different individuals will focus on different goods. Some individuals deny what other individuals focus on actually are goods, but Rawls argues that we should respect the judgment of differing individuals on what are goods because the conception of the good is the individual's view of what is good for her, and the individual is in the best position to come to this judgment.[62] However, one should not think this means the conception of the good is necessarily individualistic. The individual may realize her conception of the good by belonging to various groups.

While there are numerous conceptions of the good, Rawls, in *ToJ*, maintains there is only a single conception of justice. This is because the sense of justice leads individuals to one conception of how we should organize the basic structure of society. Certain individuals' sense of justice will be greater than others and this means they will be better at making

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[57] Rawls, *PL*, Lecture I, 'Fundamental Ideas', § 3, p. 19.
[58] Rawls, *ToJ*, Chapter VII, 'Goodness as Rationality'.
[59] In *Justice as Fairness: A Restatement*, Rawls identifies six ideas of the good in "justice as fairness", a phrase he often uses to sum up his theory of justice. However, Rawls still maintains that in his theory the idea of goodness as rationality is primary. *Justice as Fairness: A Restatement*, pp. 141-142.
[60] Rawls does think that as a, "consequence of unjust and impoverished social circumstances, or fortuitous contingencies" a few individuals do not have the moral powers, but he does not explain how we should treat these individuals. *ToJ*, § 77, p. 506/443.
[61] William A. Galston, 'Moral Personality and Liberal Theory: John Rawls's "Dewey Lectures"', in *Political Theory*, Vol. 10, No. 4 (November 1982), p. 498, Stable URL: http://www.jstor.org/stable/190960.
[62] Rawls writes, "A thing's being a good X for K is treated as equivalent to its having the properties which it is rational for K to want in an X in view of his [or her] interests and aims." *ToJ*, § 63, p. 407/358.

judgments in the real world of what is just and unjust, and supporting these considered judgments with reasons, but under ideal conditions individuals should come to agreement on the one conception of justice.

Rawls argues that the variance in the sense of justice does not alter the equal moral worth of persons because the potential to develop this moral power and the capacity for a conception of the good is what gives persons this status.[63] In support of this claim, Rawls writes:

> [I believe] regarding the potentiality [to develop the two moral powers] as sufficient [for participation in the original position and for moral equality] accords with the hypothetical nature of the original position, and with the idea that as far as possible the choice of principles should not be influenced by arbitrary contingencies. Therefore it is reasonable to say that those who could take part in the initial agreement, were it not for fortuitous circumstances, are assured equal justice.[64]

However, how plausible is it that virtually all persons have the potential to participate in the original position, given a varying realized sense of justice enables some persons to be better judges of what is just and unjust in the real world? Could not this mean that the potential to develop a sense of justice also varies; with some persons not having enough potential to participate hypothetically in the original position? We can respond to this concern by saying we should not let the considerable variance in the realized sense of justice make us think the variance in potential is also considerable. This is because much of the variance in the realized sense of justice would be down to environmental conditions. Working out the influence of environmental conditions would be difficult. However, what if one could show that certain individuals under the best conditions would be unable to develop a refined sense of justice and make good judgments in difficult cases of what is just or unjust in the real world? This would not be a problem because there are some features of the original position that would make making good judgments less intellectually demanding, and thereby make it possible for these individuals to participate.

We can see this when we keep in mind that in the original position the amount of information the representatives have to process is limited in order to assist them to come to an impartial judgment. In the real world, there are no such limits, which makes coming to impartial judgments much more difficult.

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[63] Ibid, § 77, p. 506/442.
[64] Ibid, p. 509/446.

Now that we know the representatives and the moral powers they possess, along with the situation they find themselves in in the original position, we are ready to look at the principles Rawls says they would select.

Rawls's Principles of Domestic Justice

Rawls thinks the representatives would select two principles. In *ToJ*, the second and final statement of these principles is:[65]

> *Rawls's Two Principles of Domestic Justice*
>
> *First Principle*
>
> Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.

[65] The first statement of the two principles in *ToJ* is:

> First: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others. Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.

Ibid, § 11, p. 60/53. Rawls views the second statement of the principles as building on the first.
In both the original and revised editions of *ToJ*, Rawls writes, "this conception of justice [the two principles of justice] is the unique solution to the problem set by the original position." Ibid, § 20, p. 119/103. Given the revised edition of *ToJ* was published in 1999, the same year as *LoP*, one might think that Rawls's views had not changed in the period between the original publication of *ToJ* and the publication of *LoP*. However, the revisions in the 1999 edition of *ToJ* are mainly ones made by Rawls in 1975 for the German edition. Ibid, Preface for the Revised Edition, p. xi. This means a good deal of time had elapsed between most of the revisions to *ToJ* and the publication of *LoP*. During this time, Rawls had concluded that the representatives in the original position could select anyone of a family of liberal conceptions of justice. Members of this family would have three characteristic principles in common. Of these characteristics, in *LoP*, Rawls states:

> [T]he first enumerates basic rights and liberties of the kind familiar from a constitutional regime; the second assigns these rights, liberties and opportunities a special priority, especially with respect to the claims of the general good and perfectionism values; and the third assures for all citizens the requisite primary goods to enable them to make intelligent and effective use of their freedoms.

Rawls, *LoP*, § 1.1, p. 14. Rawls gives these three characteristics in virtually the same form in *PL* (which Columbia University Press published in 1993). The later Rawls argues that persons can interpret these three characteristics in a number of ways, which gives rise to a number of different types of liberalism. Furthermore, Rawls claims, "Of these liberalisms, justice as fairness is the most egalitarian." Ibid, n. 5. In the same vein in *PL* he says, "the two principles express an egalitarian form of liberalism". *PL*, Lecture I, 'Fundamental Ideas', p. 6. While he has come believe that his two principles may not be selected, in *PL* he also writes, "Justice as fairness—its two principles of justice, which of course includes the difference principle—I believe to be the most reasonable [liberal political] conception because it best satisfies these conditions [or characteristics]." However, he also believes other liberal conceptions are also reasonable. As an example, he gives a conception, "that substitutes for the difference principle, a principle to improve social well-being subject to a constraint guaranteeing everyone a sufficient level of adequate all-purpose means." Ibid, Introduction to the Paperback Edition, pp. xlvi-xlvii.

Second Principle

Social and economic inequalities are to be arranged so that they are both:
(a) To the greatest benefit of the least advantaged, consistent with the just savings principle, and
(b) Attached to offices and positions open to all under conditions of fair equality of opportunity.[66]

Following a number of commentators, including Amartya Sen[67], I will call the first principle "the liberty principle", while I will call the second principle "the principle governing social and economic inequality".[68] This chapter will have an initial investigation of both these principles, but I will delay discussion of some aspects of these principles until later chapters.

I will start our initial investigation by noting that if the two principles clash, we curtail the principle governing social and economic inequality and honour the liberty principle due to the priority of liberty.[69] We will also sometimes have to curtail certain liberties because the liberty principle is about preserving a system of basic liberties that sometimes requires this curtailment. Rawls gives the example of free speech being curtailed in order for people having the right to a fair trial, which means freedom of speech is being curtailed in the interests of the freedom of the person.[70]

It is part of the second principle, the idea, "social and economic inequalities are to be arranged to the benefit of the least advantaged", which is most commonly identified as the

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[66] Rawls, *ToJ*, § 46, pp. 302/266.
[67] Amartya Sen, 'Equality of What', *The Tanner Lectures on Human Values*, (22 May 1979), p. 214. URL: http://tannerlectures.utah.edu/_documents/a-to-z/s/sen80.pdf, (accessed 1 April 2014).
[68] Often commentators refer to the second principle as the difference principle, but once again, following Sen, I would instead say that the second principle incorporates the difference principle. Ibid. For an example of someone referring to the second principle as the difference principle, see: Joel Feinberg, 'Justice, Fairness and Rationality', in *The Yale Law Journal*, Vol. 81, No. 5 (April 1972), p. 1005, Stable URL: http://www.jstor.org/stable/795158.
[69] Rawls came to agree with H. L. A. Hart's criticism that the argument for the priority of liberty in the original edition of *ToJ* was insufficient, but Rawls also thinks he successfully addresses these criticisms in his 1982 essay, 'The Basic Liberties and Their Priority'. The best part of this essay is when Rawls argues that since those behind the veil of ignorance do not know if those they are representing have a minority religious, philosophical or moral view, this gives them reason to adopt liberty of conscience as a principle of justice. Rawls then goes on to argue that this liberty has priority because the beliefs they cover, "are understood to be forms of belief and conduct the protection of which we cannot properly abandon or be persuaded to jeopardize for the kinds of considerations covered by the second principle of justice." 'The Basic Liberties and Their Priority', *The Tanner Lectures on Human Values*, (10 April 1981), URL: http://tannerlectures.utah.edu/_documents/a-to-z/r/rawls82.pdf, p. 26, (accessed 9 December 2014). H. L. A. Hart, 'Rawls on Liberty and Its Priority', in *University of Chicago Law Review*, Vol. 40, (1972-1973), pp. 534-555, also available at URL: http://heinonline.org/HOL/Page?handle=hein.journals/uclr40&div=33&g_sent=1&collection=journals#548, (accessed 9 December 2014).
[70] Rawls, *ToJ*, § 32, p. 203/178.

difference principle, and it is this principle that will be discussed most in this thesis. Let us start this discussion by analysing the meaning of the terms used in the statement of the principle, starting with who the least advantaged are.

Rawls defines the least advantaged "as those who are least favoured by each of the three main kinds of contingencies." This means this group is composed of, "persons whose family and class origins are more disadvantaged than others, whose natural endowments (as realized) permit them to fare less well, and whose fortune and luck in the course of life turn out to be less happy".[71]

While one might object that this definition does not mention liberty, and liberty should be included because of its importance, it is likely the least advantaged will also experience low levels of liberty. This is because, even in a society where the basic liberties are enshrined in law, a liberal society, citizens need, "primary goods to enable them to make intelligent and effective use of their freedoms."[72]

The factors that define the least advantaged, as the word "contingencies" suggests, are beyond a person's control. Some new contingencies emerge during the course of one's life, for example, certain types of luck and fortune, but others like what family or class one is born into, and one's natural endowments, are present before birth. These latter contingencies determine what Rawls calls one's starting place in society.[73]

Rawls argued that justice should be mainly concerned with how the basic structure treats these starting places, rather than altering these starting places, or on compensating persons for poor choices that they make during the course of their life. This is because Rawls tended to take starting places as given. He generally did not consider how we could change family and class structures[74], and did not suggest science-fiction scenarios where scientists altered natural endowments. The focus on starting places also explains why Rawls talks about

[71] Ibid, revised edition, § 16, p. 83. In this definition, Rawls talks about the least advantaged being within the "normal range". Those outside the normal range are persons who have severe physical and mental health issues. Rawls gives a number of reasons for excluding these persons, but the main reason appears to be that these persons cannot be part of social cooperation.
[72] Rawls, *LoP*, § 1.1, p. 14. I owe the point about the importance of liberty to my examiner David Reidy.
[73] Rawls writes, "the relevant social positions are, so to speak, the starting places properly generalized and aggregated." Rawls, *ToJ*, § 16, p. 96/82.
[74] Rawls does not totally neglect the issue of class. In *ToJ*, he suggests that the class structure in the society he describes allows movement between classes due to the equality of opportunity principle, and that this helps to reduce inequality. Ibid, § 46, p. 301/256. In *LoP*, he argues that the class structures of outlaw regimes, due to not having consultative elements, help to explain the generally aggressive nature of these regimes. *LoP*, § 5.4, p. 54.

improving, "the expectations of the least advantaged members of society"[75], rather than simply improving the conditions in which they live.

One of the ways a basic structure treats starting places is via the distribution of social primary goods. These goods are things society produces which are generally useful to one no matter what one's rational plan of life is. Initially the main social primary good Rawls identifies are, "rights, liberties, and opportunities, and income and wealth." However, he also indicates the importance of self-respect.[76] One way the distribution of these goods takes place is by individuals who fill certain offices and positions having more social primary goods than others do. This may seem to disrespect the equal moral worth of persons, but Rawls thinks that the difference principle is one way his theory respects this equality while having this inequality in goods. Nevertheless, before considering how the difference principle does this, we can also note the role of another part of the principle governing social and economic inequality, the equal opportunity principle.

Rawls defines equality of opportunity in a standard manner, writing, "The thought here is that positions are to be not only open in a formal sense, but that all should have a fair chance to attain them."[77] This means:

> [A]ssuming that there is a distribution of natural assets, those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place [also known as their starting place] in the social system.[78]

If we realize this principle, this means everyone had a fair chance of filling positions associated with greater social and economic rewards, and this means those who fail to fill these positions have less room for complaint.

The least advantaged also have less room for complaint if we institute a difference principle, which means the basic structure arranges the inequalities associated with these positions to their benefit. Before considering how the basic structure might accomplish this, we can ask what exactly Rawls means by the edict that we must arrange inequalities to the benefit of the least advantaged. At times Rawls means we can arrange these inequalities in

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[75] Rawls, *ToJ*, § 13, p. 75/65.
[76] Ibid, § 11, p. 62/54. However, as we will see later in this chapter, individuals can maintain self-respect in a number of social structures.
[77] Ibid, § 12, p. 73/63.
[78] Ibid.

such a way that they result in the least advantaged having more of things of social and economic value, including liberty, than they would have under an equal distribution.[79]

Rawls's focus on the least advantaged may give the impression that he is only concerned whether they are benefiting from the difference principle, and it is true that the difference principle is a form of prioritarianism, which Derek Parfit defines as the view, "Benefiting people matters more the worse off these people are."[80] However, Rawls writes that he has, "taken for granted that if the principle is satisfied, everyone is benefited."[81] This of course raises the question of what Rawls means by "everyone is benefited." If we continue with our previous definitions, then "everyone is benefited by the difference principle" means "everyone has more liberty, and things of economic and social value under the difference principle than they would under an equal distribution." Rawls thinks that this is true because he assumes that by arranging social and economic inequalities in a certain way we can increase the production of social primary goods. This assumption is necessary because if the amount of social primary goods remained constant, any inequality would see at least one individual having less primary social goods than she would have enjoyed under an equal distribution.

Rawls sees social and economic inequality leading to the greater production of social primary goods via offering persons the incentive of a greater amount of these goods if they gain certain skills; he gives the example of being an entrepreneur.[82] In the absence of these incentives, Rawls posits, there would be fewer entrepreneurs, the economic process would be less efficient, and therefore there would be less social primary goods.

This scenario only explicitly mentions entrepreneurs benefiting. Aware of this, Rawls raises the additional possibility that the benefits from this economic process will, "spread

[79] Rawls writes, "All social values—liberty and opportunity, income and wealth, and the social bases of self-respect—are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage." Ibid, § 11, p. 62/54.
[80] Derek Parfit, 'Equality or Priority' in *The Ideal of Equality*, Matthew Clayton and Andrew Williams (eds.), (New York: Palgrave, 2002), p. 101. Parfit goes on to write, "Rawls's view is not merely compatible with the Priority View. Given his main argument, it *must* be, in its content, a version of this view [italics original]". Ibid, pp. 120-121. Parfit labelling his paper 'Equality or Priority' should not make one think that because Rawls's view is a prioritarian one, it cannot also be an egalitarian one. Parfit says that we can defend the difference principle by first arguing, "for equality, by appealing to the arbitrariness of the natural lottery. Then we allow departures from equality provided that these are not worse for those who are worst off." Ibid, p. 121. This discussion of prioritarianism benefitted from comments made by my examiner Stephen Winter.
[81] Rawls, *ToJ* § 13, p. 80/69.
[82] Ibid, p. 78/68.

throughout the system to the least advantaged."[83] One might think this happens purely through market processes, and Rawls does think these processes have some role in this.[84] When Rawls writes, "the greater expectations allowed to entrepreneurs encourages them to do things which raise the prospect of [the] laboring-class"[85] (a group he suggests under certain circumstances could be the least advantaged in society) he probably has in mind making investments and the like.

However, Rawls believes that if we only have market processes, the, "distribution which results in any period of time is determined by the initial distribution of assets", and Rawls further believes, "social circumstances and such chance contingencies as accident and good fortune"[86] influence this initial distribution of assets. This means he thinks that the least advantaged, who do poorly when it comes to this initial distribution, cannot expect to have their expectations maximized via a market process. In order to maximize these expectations, and thereby realize the difference principle, requires some government action.

What government action is required to do this, and to realize Rawls's other domestic principles of justice, is a difficult question, but there are critics who say government should not even start to attempt to realize these principles because there are other superior domestic principles of justice. So let us now look at Rawls's argument for why we should have his two principles of justice.

The Argument for the Selection of Rawls's Principles

Rawls says ideally those in the original position would select from all possible principles and theories of justice, but he argues this is too intellectually demanding. The best they can do is to compare Rawls's theory and two principles of justice with familiar theories of justice from the history of moral and political philosophy.[87]

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[83] Ibid, original edition, p. 78.
[84] Rawls also thinks, "in a competitive economy (with or without private ownership) with an open class system excessive inequalities will not be the rule." Ibid, § 26, p. 158/137.
[85] Ibid. For another point where Rawls treats the labouring-class as the least advantaged see: Ibid, § 46, p. 299/264, and ibid, § 16, p. 98/84.
[86] Ibid, § 12, pp. 72/61-62.
[87] Ibid, § 9, pp. 49-50/43. One might object that in *ToJ* Rawls does not consider sufficientarianism. However, the first person to formulate explicitly this doctrine in the philosophical literature, Harry Frankfurt, did so after the publication of the original edition of *ToJ*, even though Frankfurt used the label "doctrine of sufficiency" rather than "sufficientarianism". Frankfurt contrasted this doctrine with egalitarianism writing, "what *is* important from the point of view of morality is not that everyone should have *the same* but that each should

Two of the theories Rawls considers are intuitionism and perfectionism. We will briefly look at his arguments against theories, starting with intuitionism. According to Rawls, intuitionist theories:

> [H]ave two features: first, they consist of a plurality of first principles which may conflict to give contrary directives in particular types of cases; and second, they include no explicit method, no priority rules, for weighing these principles against one another: we are simply to strike a balance by intuition, by what seems to us most nearly right.[88]

Rawls writes, "A refutation of intuitionism consists in presenting the sort of constructive criteria that are said not to exist."[89] This means the presentation of Rawls's theory, with its constructive criteria, acts as an argument against intuitionist theories even though it does not directly address these theories. However, Rawls does provide a direct argument against the theory by arguing that the persons in the original position would not select it. In doing so, Rawls writes:

> [B]eing rational, the persons in the original position recognize that they should consider the priority of these principles. For if they wish to establish agreed standards for adjudicating their claims on one another, they will need principles for assigning weights. They cannot assume that their intuitive judgments of priority will in general be the same; given their different positions in society they surely will not. Thus I suppose that in the original position the parties try to reach some agreement as to how the principles of justice are to be balanced.[90]

We in the real world can also recognise the problematical nature of intuitionism recognised by those in the original position. We often have clashing intuitions. This similarity is not surprising since, as Rawls emphasises in *LoP*, the original positions, "models what we regard—you and I, here and now—as fair and reasonable conditions for the parties."[91] However, as was noted before, Rawls's rejection of intuitionism does not mean he rejects the need for intuitions in moral reasoning.

Rawls's criticism of perfectionism focuses on the form of perfectionism that sees itself as, "the sole principle of a teleological theory directing society to arrange institutions and to define the duties and obligations of individuals so as to maximise the achievement of

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have *enough* [italics original]." 'Equality as a Moral Ideal', in *Ethics*, Vol. 98, No. 1, (October 1987), p. 21, Stable URL: http://www.jstor.org/stable/2381290.

As we will see in chapter 5, in *LoP*, Rawls does not just consider the sufficientarian doctrine known as the duty of assistance. He endorses it.

I thank my examiner Stephen Winter for noting the need for me to mention sufficientarianism.

[88] Rawls, *ToJ*, § 7, p. 34/30

[89] Ibid, p. 39/35.

[90] Ibid, § 8, p. 42/37.

[91] Rawls, *LoP*, § 3.1, p. 30.

human excellence in art, science, and culture."[92] There are a number of problems with this form of perfectionism. If there are only certain individuals that can achieve excellence in art, science, and culture, and this achievement requires the sacrifice of a number of less talented individuals, then the road appears clear to justify a great deal of human suffering in the name of perfection. Indeed, Rawls notes that Nietzsche appears to have taken this road.[93]

However, as one might expect, Rawls's main argument against perfectionism is that those in the original position would not select it. He writes:

> The parties [in the original position] do not share a conception of the good by reference to which the fruition of their powers or even the satisfaction of their desires can be evaluated. They do not have an agreed criterion of perfection that can be used as a principle for choosing between institutions. To acknowledge any such standard would be, in effect, to accept a principle that might lead to a lesser religious or other liberty, if not to a loss of freedom altogether to advance many of one's spiritual ends.[94]

This does not mean that in a Rawlsian society that there will be no recognition of excellence in art, science and culture. However, rather than the institutions of state being dedicated to these excellences, Rawls says, "the human perfections are to be pursued within the limits of the principle of free association."[95]

While Rawls does spend some time arguing against intuitionism and perfectionism, because of utilitarianism's prominence in moral and political philosophy, not to mention economics, he is mainly concerned with showing the superiority of his two principles to utilitarian principles.[96]

A number of commentators on Rawls, including philosophically minded economist John C. Harsanyi, have had an even more narrow focus, looking at whether the difference principle is superior to a utilitarian principle.[97] Since in this thesis I will be mainly arguing for a global difference principle, I will also have this focus.

Some of these commentators, including another philosophically minded economist R. A. Musgrave, agree that the representatives would have selected the difference principle, but

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[92] Rawls, *ToJ*, § 50, pp. 325/285-286.
[93] Ibid, p. 325/286.
[94] Ibid, p. 327/288. Rawls also thinks his argument works against a more modest intuitionist form of perfectionism that sees perfectionism as only one principle among many.
[95] Ibid, p. 328/289.
[96] Ibid, Preface to the Revised Edition, p. xi.
[97] John C. Harsanyi, 'Can the Maximin Principle Serve as a Basis for Morality? A Critique of John Rawls's Theory', in *The American Political Science Review*, Vol. 69, No. 2 (June 1975), pp. 594-606, Stable URL: http://www.jstor.org/stable/1959090.

they argue that the representatives only do so because Rawls gives those in the original position an inappropriately high amount of risk-aversion.[98] We can start to see how these commentators might think this works by noting an unmodified maximizing utilitarian principle, which, in one of its forms, focuses solely on maximizing total welfare, could have certain groups doing poorly. The worst-off of these groups could be doing very poorly.

However, this group is likely to be small because high total welfare will generally see most individuals who make up social groups doing well. Those in the original position, due to the veil of ignorance, do not know which group is their group. Therefore, it might be thought that those in the original position would be willing to endorse the utilitarian principle, because they would reason that their chances of ending up in a group that is doing well is large, while the chances of them ending up in the worst off group is small.

If, however, those in the original position were highly averse to the risk of doing poorly, this may alter their decision. They might be attracted to a principle that looked to maximize the welfare of the worst off group, which is, in one of its guises, the difference principle.

In response to this, Rawls argues that those in the original position are not highly risk-averse.[99] It is understandable that he does this. High-risk aversion does not accord with human nature, so its postulation appears arbitrary, or perhaps designed in order to make the representatives in the original position select the principles Rawls wants them to. Instead, Rawls argues that grave risks face those in the original position, which means even with normal levels of risk aversion they are going to adopt a conservative attitude, which will lead them to selecting the difference principle.[100] Part of the gravity of risk is that those in the original position cannot be sure of the probability that they will be among the least advantaged or another group that is doing poorly. This is in part because they do not even know their temporal location. Therefore, Rawls thinks that the reasoning concerning probabilities described previously is inappropriate.[101]

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[98] Musgrave, 'Maximin, Uncertainty, and the Leisure Trade-Off', p. 626.
[99] Rawls, *ToJ*, revised edition, § 13, pp. 72-73.
[100] Ibid, § 26, p. 154/134.
[101] My examiner David Reidy suggests that I underestimate the role that reciprocity, stability and publicity play in the selection of the two principles. I admit that these factors do have a role. However, my discussion of cooperation and mutual benefit helps to show the role reciprocity plays in Rawls's thinking. This is because Rawls sees the concepts as being in a close relationship. Indeed, in *ToJ* Rawls writes, "the difference principle expresses a conception of reciprocity. It is a principle of mutual benefit." Ibid, § 17, p. 102/88.
When it comes to stability Rawls writes:

Still, some would argue that even if we cannot reason this way in the original position, we could still see how counter-intuitive and overly egalitarian the difference principle is by imagining how it would judge certain scenarios, and that this would give us a reason not to select the principle. Those making this argument could say we should imagine three scenarios. Under scenario one everyone has 5 units of positive expectations; under scenario two the least advantaged (who make up 20% of the population) have 6 units of positive expectations while everyone else has 20, and under scenario three the least advantaged (who still make up 20% of the population) have 7 units of positive expectations while everyone else has 8. The difference principle, at least *prima facie*, says we should prefer scenario three because under this scenario everyone is better off than they would have been under an equal distribution, and the expectations of the least advantaged have been maximized. This is counter-intuitive because it appears to give too much weight to the interests of the least advantaged.

Rawls, aware of these types of objections, gives an extreme version of the objection when he writes, "it seems extraordinary that the justice of increasing the expectations of the better placed by a billion dollars, say, should turn on whether the prospects of the least favored increase or decrease by a penny."[102] Rawls's response to his own objection is to say, "The possibilities which the objection envisages cannot arise in real cases; the feasible set is so restricted that they are excluded." This is partly because, "the two principles [of justice] are tied together as one conception of justice which applies to the basic structure of society as

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> Other things equal, the persons in the original position will adopt the more stable scheme of principles. However attractive a conception of justice might be on other grounds, it is seriously defective if the principles of moral psychology are such that it fails to engender in human beings the requisite desire to act upon it.

Ibid, § 69, p. 455/398. However, this statement comes late in *ToJ*, where Rawls also states, "This argument from stability is for the most part in addition to the reasons so far adduced", which brings into question how central it is to Rawls's argument. Ibid.
When it comes to what he calls the condition of publicity Rawls writes:

> When the basic structure of society is publicly known to satisfy its principles for an extended period of time, those subject to these arrangements tend to develop a desire to act in accordance with these principles and to do their part in institutions which exemplify them. A conception of justice is stable when the public recognition of its realization by the social system tends to bring about the corresponding sense of justice. Now whether this happens depends, of course, on the laws of moral psychology and the availability of human motives.

Ibid, § 29, p. 177/154. While I do not look deeply into the question of publicity, the evidence I provide that shows public support for focusing ODA on the least advantaged, suggests that a global difference principle may meet the condition of publicity.
[102] Ibid, p. 157/136.

a whole."[103] Rawls thinks that this means increasing the expectations of the better placed by a billion dollars would either be impossible in this world, or would also result in the least favoured doing better than they would have done if the better placed had not gained a billion dollars.

Rawls notes some philosophers would concede this point. However, since they think, "Moral conceptions should hold for all possible worlds"[104], would still think the difference principle is objectionable because it does not endorse the possible world where the expectations of the better placed increase by a billion dollars while the expectations of the least favoured decrease by a penny. Rawls's response is to say that those in the original position are not set with the task of coming up with an "ethics of creation" which applies to all possible worlds, rather they are expected to come up with principles of justice which are constrained by certain general facts.[105] Still, one might think that these constraints do not rule out the less extreme examples previously discussed. Rawls initial response to this objection is to argue that certain plausible economic assumptions rule these scenarios out.[106] However, if these assumptions turn out to be false, Rawls "bites the bullet" and says we should endorse scenarios like scenario three because, "those who are better off should not have a veto over the benefits available for the least favored. We are still to maximize the expectations of those most disadvantaged."[107] This conclusion may be counterintuitive to some but Rawls believes that honouring the equal moral worth of persons entails this conclusion. He also thinks that utilitarianism endorses scenarios that are even more counterintuitive.

Rawls points out that in a world where slaves were less miserable, which meant slavery increased human happiness, the utilitarian, who believes in maximizing happiness, would have to endorse slavery.[108] Rawls notes that this utilitarian will often say in reply that facts of human nature rule this possibility out, but Rawls thinks that this type of reply displays one of the inferiorities of utilitarianism when compared to his two principles of justice. This is because the liberty principle, unlike the utilitarian principle, incorporates the idea that the denial of liberty involved in slavery is inherently wrong.[109] Having considered

[103] Ibid, p. 158/136.
[104] Ibid, p. 159/136.
[105] Ibid, § 27, p. 159/138.
[106] He calls these assumptions close-knitness and chain connection. For Rawls's discussion of these two assumptions see: Ibid, § 13, pp. 81-83/70-73.
[107] Ibid, p. 80/70.
[108] Ibid, § 26, pp. 158-159/137.
[109] However, in Rawls's theory, slavery is not dismissed immediately; instead, it is argued that slavery is wrong because it is not in accordance with principles representatives in the original position would select. To

arguments that, *inter alia*, claim that the difference principle is overly egalitarian, we will now consider the argument that claims that the difference principle is not egalitarian enough.

Why should one not argue for a stricter form of egalitarianism?

Kai Nielsen argues that the difference principle is too inegalitarian because its toleration of inequality wounds an individual's self-respect.[110] In doing so, he writes:

> We cannot in Rawls' system in situations of moderate scarcity (relative abundance) trade off a lesser self-respect for more goodies. But the disparities in power, authority and autonomy that obtain even in welfare state capitalism, to say nothing of its cruder forms, and are not only allowed but justified by the difference principle, undermine for the worst off and for many others as well, their self-respect.[111]

The reason why Nielsen says that in Rawls's system we cannot trade off a lesser self-respect for more goodies (by which he means income and wealth and what income and wealth can buy) is because of the importance Rawls places on self-respect. I already noted in this chapter the importance Rawls places on self-respect, but let us now consider this position in more detail along with the concept of self-respect. Nielsen claims, "Self-respect for Rawls is the most important primary good".[112] However, Rawls is less certain than this quote suggests. At one point in *ToJ* Rawls writes, "perhaps the most important primary good is that of self-respect", while at another point he writes, "self-respect is the main primary good."[113] Still, given the importance Rawls places on self-respect, and Nielsen's claim that the inequalities allowed by the difference principle wounds someone's self-respect as Rawls defines it, it is imperative to know what Rawls thinks self-respect is. In giving this definition, Rawls writes:

> We may define self-respect … as having two aspects. First of all … it includes a person's sense of his [or her] own value, his [or her] secure conviction that his [or her] conception of his [or her] good, his [or her] plan of life, is worth carrying out. And second, self-respect implies a confidence in one's ability, so far as it is within one's power, to fulfill one's intentions.[114]

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emphasise this point, Rawls imagines a slaveholder, unsuccessfully, arguing for slavery from a Rawlsian viewpoint. Ibid, § 28, p. 167/145.

[110] For Nielsen's suggested replacement principle, see his *Equality and Liberty: A Defense of Radical Egalitarianism*, (Totowa, N.J.: Rowman and Allanheld, 1985), pp. 48-49.

[111] Ibid, p. 50.

[112] Ibid.

[113] Rawls, *ToJ*, § 67, p. 440/386; § 80, p. 534/468.

[114] Ibid, § 67, p. 440/386.

How may the difference principle damage this type of self-respect? The most likely way would appear to be by damaging a least advantaged individual's sense of her own value. This could occur by a least advantaged individual comparing their allotment of social primary goods to those allotted to an entrepreneur, and thinking these allotments reflect personal value. The least advantaged person then concludes their own value must be low, which causes them to have little or no self-respect.

One possible problem with this scenario is it presupposes persons make judgements on personal value via interpersonal comparisons of the possession of social primary goods. It may be that in order to be convinced of their value and self-worth individuals only require a certain amount of social primary goods. Raising this possibility is, as is Rawls's writing on this subject in *ToJ*, highly speculative. What is the actual evidence on this topic? Searching for this evidence might seem futile because it might appear difficult to measure an individual's sense of her own value and self-respect, and thereby have an idea of how different social arrangements with different levels of egalitarianism might affect these personal factors. It would appear to be much easier to measure income and wealth, or as Nielsen would put it "goodies." Nevertheless, researchers David P. Schmitt and Jüri Allik have attempted to measure the related personal factor of self-esteem, and done this in numerous countries. Schmitt and Allik, *inter alia*, would ask subjects if they agreed with the statements:

> ""I see myself as someone who is outgoing, sociable" … "I see myself as someone who is helpful and unselfish with others" … "I see myself as someone who is a reliable worker" … "I see myself as someone who worries a lot" … "I see myself as someone who is curious about many different things".[115]

The results might surprise some. Responses were generally positive, indicating high self-esteem and probably high self-respect across a variety of countries with varying levels of egalitarianism.[116] This suggests that the strictly egalitarian society Nielsen envisions may not have higher levels of self-respect than a society governed by a difference principle. Since this was Nielsen's main argument in favour of his principle, I think we can now move on to consider a more moderate egalitarian objection to the difference principle.[117]

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[115] David P. Schmitt and Jüri Allik, 'Simultaneous Administration of the Rosenberg Self-Esteem Scale in 53 Nations: Exploring the Universal and Culture-Specific Features of Global Self-Esteem', in *Journal of Personality and Social Psychology*, Vol. 89, No. 4, (2005), p. 627, DOI: 10.1037/0022-3514.89.4.623.
[116] Ibid, pp. 627-639.
[117] Before leaving totally a consideration of self-respect, we can briefly comment on Rawls view of self-respect concerning peoples. In *LoP*, Rawls argues for, "the great importance of maintaining mutual respect between

This is the objection of G. A. Cohen, who argues that how Rawls generally presents the difference principle is problematic from an egalitarian point of view.[118] Cohen writes:

> I believe that the idea that an inequality is justified if, through the familiar incentive mechanism, it benefits the badly off is more problematic than Rawlsians suppose; that (at least) when the incentive consideration is isolated from all reference to desert or entitlement, it generates an argument for inequality that requires a model of society in breach of an elementary condition of community. The difference principle can be used to justify paying incentives that induce inequalities only when the attitude of talented people runs counter to the spirit of the difference principle itself: they would not need special incentives if they were themselves unambivalently committed to the principle. Accordingly, they must be thought of as outside the community upholding the principle when it is used to justify incentive payments to them.[119]

The talented person might say they are still acting in accordance with the difference principle. Cohen would have some sympathy with this claim, but would say the talented person is only acting in accordance with what he calls the lax difference principle, which he differentiates from the strict difference principle. The lax difference principle, according to Cohen, accepts inequalities that are the result of talented persons demanding more pay than others receive in order that they, the talented persons, make the choice to work hard and make the best use of their superior talents, and thereby indirectly help the worse off. The strict difference principle, according to Cohen, says the more talented should not expect more pay simply because they choose to make the best use of their talents. The fact they have more talent, and therefore can produce more goods and services than others, is the result of luck, and cannot justify a claim for greater rewards.

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peoples and of each people maintaining its self-respect, not lapsing into contempt for the other, on one side, and bitterness and resentment, on the other". *LoP*, § 17.2, p. 122.
This quote suggests that the self-respect of peoples has a lot to do with how other peoples view them. Researchers have not done much work on national self-respect, never mind the particular type of self-respect Rawls had in mind. However, researchers have done work on the related notion of national pride, but this work has mainly focused on developed countries. Some of this work suggests that historical origins influence national pride more than the view of other peoples. For example, Tom W. Smith and Seokho Kim found, "off-shoots of Europe led by the USA and Venezuela" had the highest levels of national pride. 'National Pride in Comparative Perspective: 1995/96 and 2003/04' in *International Journal of Public Opinion Research*, Vol. 18, No. 1, (2006), p. 133, DOI: 10.1093/ijpor/edk007.
I thank my examiner David Reidy for reminding of the important role the concept of self-respect plays in Rawls's work.

[118] I thank my examiner Stephen Winter for reminding me of the significance of Cohen's work.

[119] Cohen, *Rescuing Justice and Equality*, p. 32. What is Cohen suggesting when he writes that talented people, "must be thought of as outside the community upholding the [difference principle] when it used to justify incentive payments to them"? He is suggesting it would be difficult for talented people to justify the difference principle, as Rawls generally presents it, to the badly off in a community where this version of the difference principle is realized. In a Cohenian spirit, we can imagine a talented person trying to do this. The talented person will say, "If we lived in a more strictly egalitarian society, I would not get higher rewards than other people. This would mean I would choose not to work as hard, which means I would produce less goods and services, which means less goods and services would trickle down to you, along with less revenues from taxes, which means you would be worse off. This means you should accept the current situation."

Cohen argues that in *ToJ* Rawls sometimes portrays talented individuals as always obeying the strict difference principle and at other times portrays talented individuals as always obeying the lax difference principle. This leads Cohen to claim that Rawls portrays talented individuals inconsistently, and to argue that to be consistent, not just with how he portrays the behaviour of talented individuals, but also with his wider theory, Rawls should portray talented individuals, along with less talented members of society, as obeying the strict difference principle. What should we make of this critique?

One issue with Cohen's critique is that it does not mention the distinction between ideal and nonideal theory, or partial compliance and strict compliance.[120] He only mentions full compliance. This leads him to mischaracterise Rawls's position on how persons comply with the principle.

Cohen argues that talented individuals, who are self-interested market maximizers, can comply with the lax difference principle.[121] However, if we take compliance with the principles of justice to be acting from the motivation to honour the principles, then these individuals never comply with the principles of justice; they only act from self-interest. One might try to defend Cohen's portrayal of talented individuals in Rawls's theory as being correct by pointing out that Rawls claims that the principles are the ones self-interested individuals would select in the original position. However, Rawls carefully distinguishes between the behaviour of these representatives and the behaviour of individuals in a Rawlsian society.

Another issue with Cohen's critique is the issue of whether he endorses the difference principle. At one point, he says, "For my part, I accept the difference principle in its generous interpretation".[122] By "generous interpretation", he means an interpretation, "which … allows inequalities that do not help but also do not hurt the worse off."[123] I would argue that in allowing these inequalities, this generous difference principle does not respect the moral equality of persons. The only way one can have social and economic inequality while respecting this equality is if this inequality maximises the benefits to the least advantaged.

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[120] At other points in *Rescuing Justice and Equality*, Cohen does mention "general compliance" and, "compliance in daily life with law that serves principle rather than compliance in daily life with principle itself." Cohen also mentions a nonideal world where, "citizens do not confirm or act upon the correct principles of justice." One could question this characterisation of the nonideal world on the basis that some citizens in this world sometimes confirm or act upon the correct principles of justice. Ibid, pp. 357, 375, 221.
[121] Ibid, p. 69.
[122] Ibid, p. 32.
[123] Ibid, p. 29.

Along with saying that he accepts the generous difference principle, Cohen says one can see this interpretation in Rawls's writings. On this latter point, one might think that Cohen is mistaken because the final statement of the difference principle only states social and economic inequalities are to be, "To the greatest benefit of the least advantaged", and does not add the clause that failing that, these inequalities are not to make the least advantaged worse off. However, as Derek Parfit points out, Rawls implies his acceptance of these inequalities when he gives what he calls the lexical version of the difference principle.[124] Rawls writes that this principle states:

> [I]n a basic structure with n relevant representatives, first maximize the welfare of the worst off representative man [or woman]; second, for equal welfare of the worst-off representative, maximize the welfare of the second worst-off representative man [or woman], and so on until the last case which is, for equal welfare of all the preceding n–1 representatives, maximize the welfare of the best-off representative man [or woman].[125]

However, Rawls displays uneasiness with this principle, immediately going on to state:

> I think, however, that in actual cases this principle is unlikely to be relevant, for when the greater potential benefits to the more advantaged are significant, there will surely be some way to improve the situation of the less advantaged as well. The general laws governing the institutions of the basic structure insure that cases requiring the lexical principle will not arise. Thus I shall always use the difference principle in the simpler form [.][126]

I think this displays recognition on Rawls's part that inequalities that have no effect on the least advantaged are unacceptable from an egalitarian standpoint.

Cohen, perhaps also uncomfortable with these inequalities, would amend his view. However, he did not reject the generous interpretation of the difference principle. Instead, he wrote:

> I would now say … That distributive justice is (some kind of equality), but that … the difference principle, often trumps justice. Accordingly, I would … say that although, with certain qualifications, I indeed accept the difference principle, I do not accept it *as a principle of justice*, but rather as a policy of intelligent policy [italics original]."[127]

Here Cohen appears to be saying that in a nonideal world the difference principle is acceptable, but that in an ideal world there would be "some kind of equality."[128] However, the

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[124] Parfit, 'Equality or Priority', p. 120.
[125] Rawls, *ToJ*, § 13, p. 83/72.
[126] Ibid. I thank my examiner Stephen Winter for pointing out the need to mention the lexical difference principle.
[127] Cohen, *Rescuing Justice and Equality*, p. 30, n. 7.
[128] Cohen is also not entirely clear about what justice is, but does suggest at one point, "justice is giving each person her due." Ibid, p. 7.

difference principle, in its more miserly interpretation, is "some kind of equality." Admittedly, it is still a bit paradoxical to say that there can be equality in economic and social inequality, but one should always remember that this inequality is there to ensure that the least advantaged have the maximum possible benefits.

Conclusion

This chapter had the dual role of describing and arguing for Rawls's theory and its concomitant principles of domestic justice. In doing so, the chapter introduced Rawls's distinction between ideal and nonideal theory, his domestic model, the two moral powers, and the two principles of domestic justice. In a thesis on global justice, it was necessary to focus on Rawls's domestic model and principles of justice because the Rawlsian view of global justice needs these elements as a basis. As was noted in the introductory chapter, many were dismayed when Rawls gave his international model and the principles of justice he derived from it, in part because they believed that the model and principles did not follow from Rawls's domestic model and principles. I will largely agree with this critique, but before considering this critique in detail, let us introduce ourselves to Rawls's international model.

Chapter 3: Rawls's International Model

Introduction

Rawls believes his international model will lead to the selection of eight international principles of justice. Before looking at what these principles are and how the representatives in the international original positions select them, we will briefly introduce important entities in his model, viz. his polities. Among these polities are liberal peoples and decent peoples, with the other three types of polities Rawls identifies being burdened societies, outlaw states, and benevolent absolutisms. We will see that while these latter three polities have no role in selecting the principles of international justice, Rawls believes the principles still apply to them.

The process the representatives of liberal and decent peoples go through in Rawls's international model in arriving at these principles is different from that which occurs in the domestic model. Rather than selecting from a range of principles, the representatives of liberal and decent peoples select from interpretations of principles already present in international law. Commentators have given a good deal of attention to the lack of alternative principles. In this chapter, we will consider Christopher Heath Wellman's defence of this lack, and conclude that this defence does not work. We will also consider the less commented on interpretative nature of this process by considering Alyssa R. Bernstein's and Rawls's comments on this process.

Introducing Rawls's Polities

Rawls, to a certain extent, separates discussion of his polities into different parts of *LoP*. In the first part of *LoP*, he discusses what he calls the first part of ideal theory, and is mainly concerned with describing liberal peoples. In the second part of *LoP*, he discusses what he calls the second part of ideal theory and is mainly concerned with discussing decent peoples. In the third part of *LoP*, he moves on to nonideal theory and is mainly concerned with discussing outlaw states and burdened societies, and very briefly discussing benevolent absolutisms.

Rawls describes liberal and decent peoples as being well-ordered and living together in the "Society of Peoples", but they are fundamentally different partly because they view persons differently. Liberal peoples view persons as, "citizens first" who, "have equal basic rights as equal citizens."[129] In contrast, decent peoples view persons, "as responsible and cooperating members of their respective groups" but not as equal.[130] This means, "some persons will take part in representing" the interests of the members of their group, but they do so as members of these groups, "and not as individuals."[131] Due to not viewing persons as equal, decent peoples do not have the electoral principle of one person, one vote; and do not engage in original position reasoning on questions of domestic justice, which means their view of domestic justice differs from that of liberal peoples, and does not depend on a theory of justice comparable to Rawls's. Rawls suggests that a philosophical doctrine could act as a basis for a decent peoples' view of domestic justice, but the only example of a decent people he gives is of a hypothetical Islamic society with a religion-based view of domestic justice.

The differences between liberal and decent peoples helps to explain why Rawls says they are dealt with by different parts of ideal theory, with the first part dealing with liberal peoples and the second part dealing with decent peoples. Of the second part Rawls writes, "The second step of ideal theory is more difficult: it challenges us to specify a second kind of society—a decent, though not a liberal society—to be recognized as a bona fide member of a politically reasonable Society of Peoples".[132] In describing both liberal and decent peoples Rawls, *inter alia*, says they are reasonable, free and responsible. However, as the thesis progresses, we will see problems face Rawls when he describes decent peoples in this fashion. To be more specific, in chapter four in a discussion of international reasonable pluralism, I will bring into question the freeness and reasonableness of the opinions of decent peoples, while in chapter six I will bring into question the freeness and responsibility of decent peoples.

Burdened societies are not like liberal or decent peoples because they, "lack the political and cultural traditions, the human capital and know-how, and, often, the material and

[129] Rawls, *LoP*, § 8.2, p. 66.
[130] One might suggest that the view of persons in decent societies is different to that of liberal societies but that in decent societies those higher up in the hierarchy still view persons as equal. However, I do not see how the different treatment of persons found in decent societies does not reflect a view that persons are not of equal value. On what other basis could those higher up in a decent hierarchical society deny persons lower down in the hierarchy equal rights?
[131] Rawls, *LoP*, § 9.2, p. 73.
[132] Ibid, § 8.1, p. 63.

technological resources needed to be well-ordered".[133] Outlaw states appear to choose to be not well-ordered, by generally refusing, "to comply with a reasonable Law of Peoples"[134], sometimes by being aggressive and expansionist, and by not recognising the human rights of their members.[135] Benevolent absolutisms also appear to choose not to be well-ordered, and while, unlike outlaw states, they have regard for their members' human rights, benevolent absolutisms deny their members any meaningful role in political decision-making.[136]

These latter three types of polities will not have representatives who draw up the international social contract with its international principles of justice, because they refuse or cannot view other polities as equal. However, the long-term goal of this contract and its principles is for all polities to become either liberal or decent peoples. It is these international principles we now turn to.

Rawls's Principles of International Justice

Initially the representatives of liberal peoples will select the principles of international justice in a second original position, then the representatives of decent peoples will select them in a third original position.[137] The representatives do know what type of people they are

[133] Ibid, § 15.1, p. 106.
[134] Ibid, § 13.1, p. 90.
[135] When Rawls writes of a "slave society", he appears to have in mind an outlaw state. Rawls writes:

> A social system that violates these [human] rights cannot specify a decent scheme of political and social cooperation. A slave society lacks a decent system of law, as its slave economy is driven by a scheme of commands imposed by force. It lacks the idea of social cooperation.

Ibid, § 8.2, p. 65. I thank my examiner David Reidy for pointing out the need to expand my discussion of human rights.
[136] Ibid, Introduction, p. 4. This brief definition is the only one Rawls gives of benevolent absolutisms.
[137] The reason for having two international original positions rather than one is not entirely clear. We get some idea of why this may be necessary when Rawls writes, "the Law of Peoples is developed within political liberalism and is an extension of a liberal conception of justice for a domestic regime to a Society of Peoples". This means in *LoP*, "we work out the ideals and principles of the *foreign policy* of a reasonably just *liberal people* [italics original]." Rawls then says we consider which principles of justice decent peoples will select, "to assure ourselves that the ideals and principles of the foreign policy of a liberal people are also reasonable from a decent nonliberal point of view." Ibid, p. 10. Therefore, Rawls appears to say *LoP* is mainly a view of international justice from a liberal point of view. This means we start with an international original position populated by the representatives of liberal peoples, but in order for this view to be universal in scope, we need a second international original position to accommodate the different, but still reasonable, viewpoint of decent peoples. However, this goes against the Rawlsian idea that we should place equal parties (which according to Rawls liberal and decent peoples are) together considering principles of justice in an original position.
At another point in *LoP*, Rawls implies another reason for having two international original positions, along with saying why at certain times this may not be necessary. Rawls writes:

> At another level, it makes sense to think of liberal and decent peoples together in an original position when joining together into regional associations or federations of some kind, such as the European

representing, but do not know, "the size of the territory, or the population, or the relative strength of the people whose fundamental interests they represent ... [or] the extent of their natural resources, or the level of their economic development, or other such information."[138] As in the domestic case of the original position, the veil is there to ensure those in these original positions come to an impartial judgment.

Rawls claims, "that their [decent peoples] representatives in an appropriate original position would adopt the same eight principles [of international justice] … as those … adopted by the representatives of liberal societies."[139] Given their differing views on the nature of the person and domestic justice, on the face of it, this agreement is surprising, but let us withhold judgment and investigate the principles further.

The name Rawls gives his set of international principles of justice is "The Law of Peoples", which is of course the same name he gave to his book on international justice, published in 1999.[140] To provide elaboration on the meaning of the name, Rawls writes, "By the "Law of Peoples" I mean a particular political conception of right and justice that applies to the norms of international law and practice."[141] Rawls also writes that the, "basic charter of the Law of Peoples" comes, "from the history and usages of international law and practice".[142] One might think this is problematic because the Law of Peoples cannot both apply to and come from international law and practice, but what Rawls is doing is justifying principles that we can identify in international law and practice but which states do not always follow, even though they could. This approach ties in with the later Rawls's desire for his political philosophy to be realistically utopian.

To clarify what he means by "realistically utopian" Rawls writes, "Political philosophy is realistically utopian when it extends what are ordinarily thought of as the limits

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> Community, or the commonwealth of the republics in the former Soviet Union. It is natural to envisage future world society as in good part composed of such federations together with certain institutions, such as the United Nations, capable of speaking for all the societies of the world.

Ibid, § 8.4, p. 70. This suggests that the separation of liberal and decent peoples into two international original positions is a reflection of the real world where liberal and decent peoples do not tend to join to form cooperative organizations with a basic structure; but, if they did, having them together in one international original position would be appropriate.

[138] Ibid, § 3.2, pp. 32-33.

[139] Ibid, § 8.4, p. 69.

[140] The book is an expanded version of an essay of the same name. For the essay see: *Critical Inquiry*, Vol. 20, No. 1, (Autumn 1993), pp. 36-68, Stable URL: http://www.jstor.org/stable/1343947.

[141] Ibid, p. 3.

[142] Ibid, § 4.4, p. 41. At another point in *LoP* Rawls describes the Law of Peoples as, "familiar and traditional principles of justice among free and democratic peoples"; this also brings into question whether decent peoples would agree to them. Ibid, § 4.1, p. 37.

of practical political possibility."[143] Furthermore, "The idea of this society [governed by the Law of Peoples] is realistically utopian in that it depicts an achievable social world that combines political right and justice for all liberal and decent peoples in a Society of Peoples."[144]

These comments from Rawls show how his international model has a balance between what one could describe as pragmatic and moral considerations. Indeed, a number of commentators have made this observation.[145] There is of course the question of whether Rawls correctly balances these considerations. In following chapters, I will argue that Rawls errs when he argues that pragmatic considerations rule out a global difference principle.[146] However, before getting to this point, let us specify the international principles of justice Rawls endorses.

Rawls's Eight Principles of International Justice

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. Peoples are to observe a duty of non-intervention.
5. Peoples have the right of self-defense but no right to instigate war for reasons other than self-defense.
6. Peoples are to honor human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.
8. Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime.[147]

Rawls admits this list of principles is incomplete, but it is the only canonical statement of principles of international justice in *LoP*.

The first principle, "Peoples are free and independent, and their freedom and independence are to be respected by other peoples", is partly about the need to tolerate the

[143] Ibid, § 1.1, p. 11.
[144] Ibid, Introduction, p. 6.
[145] For an example see David Boucher, 'Uniting What Right Permits with What Interest Prescribes: Rawls's Law of Peoples in Context', in *Rawls's Law of Peoples: A Realistic Utopia?*, pp. 19-37.
I thank my examiner Greta Snyder for pointing out the need to discuss the pragmatic nature of Rawls's position.
[146] However, this does not mean pragmatic considerations do not have a role when it comes to deciding how to start to realize a global difference principle. Judging when this is the case will often be a judgment call. Later in this thesis, I will make the call that public support for ODA counts in favour of governments using it to help realize a global difference principle.
[147] Rawls, *LoP*, § 4.1, p. 37.

different ways liberal and decent peoples order their societies.[148] I will discuss the principle more fully in the tenth chapter, which considers New Zealand and how it has and has not respected this principle.

Rawls does not give a detailed discussion of the second and third principles, regarding treaties and agreements, and his explicit discussion of the fourth principle, the principle of non-intervention, is limited to how the human rights principle can override it.[149]

Most of Rawls's discussion of the fifth principle—the principle of self-defence—comes in a section on well-ordered peoples' right to war.[150] This, however, does not mean Rawls thinks only well-ordered peoples have a right to war. Rawls argues benevolent absolutisms and burdened societies have the right to war in self-defence because they honour human rights, albeit a very narrow set. This is the only time he mentions benevolent absolutisms outside brief outlines of his taxonomy of polities.[151]

When it comes to the right to war, liberal and decent peoples have the further justification of defending their just or decent institutions, and the freedom, in the case of decent peoples the very limited freedom, of their members. One might think that Rawls thinks that the right of self-defence covers all rights to war since peoples have, "no right to instigate wars for reasons other than self-defense", but Rawls believes that peoples can defend their allies, and can intervene militarily if an outlaw state gravely violates human rights of its own inhabitants.[152] This latter case is a case of the human rights principle overriding the non-intervention principle.[153]

In the next chapter, we will consider how similar reasons might lead to the selection of the human rights principle and a global difference principle, but for now, we will note that Rawls's discussion of the human rights principle is mainly limited to issues of war.[154] This is because he sees two of the main roles of these limited set of rights as restricting, "the

[148] Ibid, § 7.1, p. 59.
[149] For Rawls's views on how the human rights principle can override the non-intervention principle see ibid, § 10.2, pp. 79-84.
[150] Ibid, § 13.2, pp. 91-92.
[151] Ibid, p. 92.
[152] Ibid, Introduction, p. 8. These inhabitants would also be justified in trying to overthrow the regime. Rawls writes, "Laws supported merely by force are grounds for rebellion and resistance." Ibid, § 12.2, p. 88.
[153] Ibid, § 4.3, p. 38
[154] Ibid, § 10, pp. 78-81.

justifying reasons for war and its conduct" and specifying, "limits to a regime's internal autonomy."[155]

Therefore, the sixth principle, the human rights principle, ties into the seventh principle, the principle there should be certain restrictions on the conduct of war.[156] According to Rawls, the need to honour human rights does not mean, however, that the targeting of civilians in war cannot be justified. Indeed, he thinks this can be justified in a "supreme emergency".[157]

Rawls claims that the sixth and seventh principles "are superfluous in a society of well-ordered peoples".[158] Presumably, Rawls means that by their nature liberal and decent peoples honour human rights, which means if they were to conduct a war, they would do so in a just manner. Rawls indicates other principles are also superfluous in a society of well-ordered peoples, but does not say which. Perhaps this does not matter because all the principles are in a sense superfluous in a society of well-ordered peoples because Rawls defines such a society as one that follows these principles.[159]

The eighth and final principle is the duty of assistance. This duty is the moral requirement that liberal and decent peoples help burdened societies to become either liberal or decent peoples.[160] A detailed discussion of this principle will occur in the fifth chapter.

In the next chapter, I shall argue we should add a global difference principle to this list of principles. In doing so, I will not be the first to make this or similar suggestions. Darrel Moellendorf argues that Rawls should have added principle "(9) Peoples are to honor

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[155] Ibid, p. 79. This view reflects the prominence Rawls gives to issues of war and peace in *LoP*. This prominence leads Hyunseop Kim to argue that Rawls's, "theory of international justice was conceived and developed with a focus on war and peace, not on, say, global distribution." This may be true, but that does not mean we can leave the issue of global distribution to one side. I would also argue that we should not view the human rights principle as Kim presents it, which is being mainly about maintaining stability in the international sphere, but rather as a way to recognise the moral equality of persons. 'A Stability Interpretation of Rawls's The Law of Peoples', in *Political Theory*, Published online before print, (6 January 2014), p. 22, DOI: 10.1177/0090591713516150.

[156] Rawls, *LoP*, § 14, pp. 94-105.

[157] Ibid, § 14.3, p. 98.

[158] Ibid, § 4.2, p. 37.

[159] Rawls writes, "I shall use the term "Society of Peoples" to mean all those peoples who follow the ideals and principles of the Law of Peoples in their mutual relations." Ibid, Introduction, p. 3.

[160] Rawls suggests that the duty of assistance also extends to benevolent absolutisms and outlaw states when he writes, "The aim of the Law of Peoples would be fully achieved when all societies have been able to establish either a liberal or a decent regime, however unlikely that may be." Ibid, p. 5. However, Rawls has little to say about how benevolent absolutisms and outlaw states might become liberal or decent peoples. He does argue, however, that just conduct by well-ordered regimes during armed conflict with outlaw states may encourage outlaw states to become well-ordered once the conflict is over, and that well-ordered regimes should assist outlaw states to become well-ordered in this initial post conflict period. Ibid, § 14.2, p. 106.

principles of egalitarian distributive justice" to the Law of Peoples.[161] Moellendorf suggests that the main reason why Rawls does not include this or any other egalitarian distributive principles is that he wants to make the list of principles acceptable to decent peoples.[162] This is clearly part of the explanation, but further explanation is required.

This further explanation comes from the choice Rawls gives the representatives in the international original positions. Rawls writes that in these positions:

> The parties are not given a menu of alternative principles and ideals from which to select, as they are in *Political Liberalism*, or in *A Theory of Justice*. Rather, the representatives of well-ordered peoples simply reflect on the advantages of these principles of equality among peoples and see no reason to depart from them or to propose alternatives.[163]

Considering that the representatives do not even propose alternatives, can we describe the process as selecting? Alyssa R. Bernstein gives reason for thinking we might be able to do this by noting that Rawls says the representatives select from interpretations of the eight principles. Furthermore, she argues this gives them a range of choice because we can interpret the principles in a number of ways, and can see them as relating to one another in a number of ways.[164] The latter claim is certainly true. This is in part because Rawls does not offer us a clear and strict priority rule as he does in the domestic case. The earlier claim regarding interpretation may seem questionable, but Rawls points to his discussion of what he calls the two traditional powers of sovereignty, in order for us to see how one can describe this interpretive process as selection. These two powers traditionally covered the right of a state to go to war for rational prudential reasons (which included increasing a state's power and wealth), and the right for a state to do as it wishes with its citizens. Rawls advocates reformulating these principles in the light of the Law of Peoples, so we end up with states that have the sovereign power to wars of self-defence, and the sovereign power to constrain their citizens with laws as long as these laws respect human rights.[165] Still, this is a more constrained process than what occurs in the domestic realm. What justification can one give for this constraint?

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[161] Darrel Moellendorf, 'Constructing the Law of Peoples', in *Pacific Philosophical Quarterly*, Vol. 77, (1996), p. 137. I thank my examiner Stephen Winter for making me aware of Moellendorf's work.
[162] Ibid, p. 139.
[163] Rawls, *LoP*, § 4.4, p. 41.
[164] Alyssa R. Bernstein, 'Kant, Rawls, and Cosmopolitanism: *Toward Perpetual Peace* and *The Law of Peoples*', in *Jahrbuch für Recht und Ethik/ Annual Review of Law and Ethics*, Vol. 17, (2009), also available at URL: http://www.philosophy.ohiou.edu/pdf/kantrawlscosmpltnsm2008sept07final1.pdf, p. 23 online version, (accessed 9 December 2014).
[165] Rawls, *LoP*, §4.4, p. 42.

Christopher Heath Wellman attempts to give a justification when he argues that when it comes to these principles, "the key comparative question is not whether *moral analysis* recommends a competing set of principles as more *ideal*, it is whether *historical evidence* indicates that another set could more *fully and effectively* eliminate the political oppression and such [that leads to such evils as poverty] [italics original]."[166] Wellman believes that Rawls thinks that the historical evidence suggests his eight principles are the most effective, and goes on to argue that Rawls uses the international original positions only to confirm there is nothing morally objectionable in imposing the eight principles internationally.[167]

However, Rawls's view is not as focused on effectiveness as Wellman argues. Rawls spends most of *LoP* describing an ideal world where there are only liberal and decent peoples and where the international community has fully realized his eight principles. Moreover, as we have just seen, Rawls also wants to leave some room for moral analysis by suggesting that those in the international original positions still go through a selective process. However, Wellman is correct to argue that one of Rawls's main justifications for his eight principles is his claim that they are the most effective in producing a world free from such evils as poverty.

This claim made by Rawls is bold and in need of further justification. The following chapters will address Rawls's further justification, and other claims he makes in support of his eight principles, and the empirical questions these claims raise.

Conclusion

This chapter briefly looked at Rawls's international model of justice. This model has two international original positions, a taxonomy that identifies five polities, and representatives that select eight principles of international justice. One of the most discussed differences between this set of principles and Rawls's domestic principles of justice is that this set of principles does not have a difference principle. The international principle that comes closest to the domestic difference principle is the duty of assistance, but as we will see in the fifth chapter, the duty of assistance is an analogue to the just savings principle rather

[166] Christopher Heath Wellman, 'Reinterpreting Rawls's *Law of Peoples*', in *Social Philosophy and Policy*, Vol. 29, Issue 1, (January 2012), p. 228, DOI: http://dx.doi.org/10.1017/S0265052511000148.

[167] Does Rawls think this about the effectiveness of his principles? He writes that once the Law of Peoples is established, or in other words, "once the gravest forms of political injustice are eliminated by following just (or at least decent) social policies and establishing just (or at least decent) basic institutions" then, "these great evils [like poverty] will eventually disappear". *LoP*, Introduction, p. 7. This does not necessarily mean Rawls thinks the Law of Peoples will be more effective than a global difference principle at eliminating poverty. However, such a belief does follow from his views on the causes of wealth, which I will discuss in the sixth chapter.

than the difference principle. However, before we move to Rawls's argument that the duty of assistance has a number of features that make it preferable to the global difference principle, let us consider some other arguments against the global difference principle and some arguments for it.

Chapter 4: The Global Difference Principle and its Critics

Introduction

This chapter will argue that a Rawlsian view of global justice should include a global difference principle focused on persons. The chapter will also respond to a number of Rawls inspired arguments against the principle including those made by Philip Pettit, Samuel Freeman, and Nagel. These authors could point out that in opposing the difference principle they were following Rawls, who offered a number of arguments against the principle. The chapter will also respond to these arguments.

The chapter will start with an argument for the global difference principle similar to the one made by Charles Beitz, viz. that the global difference principle focused on persons is justified by virtually all persons possessing the potential to develop the two moral powers.[168]

As Rawls points out, placing this importance on the two moral powers also leads to what I will call a "global liberty principle." Rawls argues that decent peoples will oppose both this and the global difference principle. While I will only briefly discuss the global liberty principle, I will argue that it is similar to civil and political rights, while the global difference principle is similar to economic and social rights. I will point out that a number of countries have supported both of these types of rights by voting for certain UN resolutions. This will suggest that opposition to these principles is not as widespread as Rawls suggests, and that Rawls's idealised decent peoples may not oppose these principles. However, I will note that liberal societies have been more in favour of civil and political rights, while non-liberal societies have been more in favour of economic and social rights.

The chapter will then move on to consider what I will call the "The Question of Representatives Argument" made by Rawls and developed by Pettit. This argument starts by claiming that the representatives of peoples are the appropriate parties to be in the international original positions, and then claims these representatives would not select a

[168] Charles Beitz, 'Cosmopolitan Ideals and National Sentiment', in *The Journal of Philosophy*, Vol. 80, No. 10, Eightieth Annual Meeting of the American Philosophical Association, Eastern Division (October 1983), pp. 591-600, Stable URL: http://www.jstor.org/stable/2026155.

global difference principle focused on persons. I will question the first claim, and then argue that even if the first claim is true, the second claim does not follow.

In the next section of the chapter, I will further argue that Rawls seemed to appreciate the representatives in the international original positions could select a cosmopolitan principle like the global difference principle. In making this argument, I will note that he argued that the representatives would select the human rights principle, which I will argue is a cosmopolitan principle.

While the time the chapter spends on the question of representatives and human rights will be relatively brief, the chapter will spend more time on what I will call Rawls's "International Reasonable Pluralism Argument". In making this argument, Rawls first argues that there is international reasonable pluralism because there are liberal and decent peoples who are both reasonable (even though liberal peoples are more reasonable) but who have different views on the value of persons. He then argues that this is analogous to the situation in a liberal domestic society where there is what he calls a "reasonable pluralism of comprehensive doctrines"[169] held by persons. Rawls argues that in this domestic society it would be wrong to impose a reasonable liberal comprehensive doctrine on persons who hold reasonable non-liberal comprehensive doctrines. Analogously, he argues that having a global difference principle is wrong because this amounts to imposing a reasonable liberal comprehensive doctrine on peoples who hold reasonable non-liberal comprehensive doctrines. The chapter will argue that this analogy fails for a number of reasons including that international reasonable pluralism is not as extensive as Rawls suggests.

Having pointed out a number of problems with the international reasonable pluralist argument, the chapter will move on to consider the claim that there is no social group that equates to the globally least advantaged group, and therefore a global difference principle focused on persons would have no target. On the contrary, I will argue that if we accept Rawls's definition of the least advantaged, and look to the world, then we will be able to identify a global group that have enough similarities to be considered the globally least advantaged group.

However, if Rawls's definition picks out a globally least advantaged group and a least advantaged group in a domestic society, this leads us to having two difference principles,

[169] Rawls, *LoP*, § 4.4, p. 40.

which say we should arrange social and economic inequalities to the benefit of two different groups. As Freeman points out, this might lead to demands to fulfil mutually incompatible actions. The chapter will argue that we can avoid this by having an additional justification for the domestic and global difference principles, which will help us to identify different resources we could redistribute to the two different groups.

Lastly, we will come to what I will call "the argument from basic structures." This argument comes from Nagel who argues that Rawls's two principles of domestic justice apply to basic structures, and implies there is no global basic structure in part because of the lack of coercion involved in the relations between societies. This lack of a global basic structure, Nagel argues, means there can be no global difference principle. In rebutting this argument, I will point out that Rawls suggests there is something analogous to a global basic structure, namely the basic structure of the Society of Peoples. I will also reference the argument made by Laura Valentini that there is a significant amount of coercion in international relations, which suggests that the existence of a global basic structure cannot be denied on the basis of a lack of global coercion. I will then argue that even if there is not a global basic structure, we should construct one.

The Global Difference Principle and its place in Rawlsian theory

Rawls was aware that there were those who argued that a Rawlsian approach that extended beyond justice for one society would lead to cosmopolitan principles including a global difference principle focused on persons. Nevertheless, when Rawls first discusses cosmopolitanism in *LoP*, which is the only time in *LoP* he uses the phrase "global justice", he only mentions what one could call "a global liberty principle." In doing so, Rawls writes:

> Some think that any liberal Law of Peoples … should begin by first taking up the question of liberal cosmopolitan or global justice for all persons. They argue that in such a view all persons are considered to be reasonable and rational and to possess what I have called "the two moral powers"—a capacity for a sense of justice and a capacity for a conception of the good [.] … From this starting point they go on to imagine a global original position with its veil of ignorance behind which all parties are situated symmetrically. Following the kind of reasoning familiar in the original position for the domestic case, the parties would then adopt a first principle that all persons have equal basic rights and liberties. Proceeding this way would straightaway ground human rights in a political (moral) conception of liberal cosmopolitan justice.[170]

[170] Ibid, § 11.1, p. 82.

It is telling that here Rawls says, "in such a [liberal cosmopolitan] view all persons are considered … to possess… what I have called "the two moral powers""; rather than just saying persons have the two moral powers. This suggests one can justifiably take the liberal view or the decent view of persons. Which means one can justifiably think that persons possess the moral powers and are therefore of equal moral worth and therefore we should have a global liberty principle, or one can justifiably think that persons do not possess these powers, or anything else which makes them of equal moral worth, and therefore we should not have a global liberty principle.[171] I would instead argue that the liberal view is correct.[172]

One of the reasons I do this is because, if we give up on the idea that persons actually possess the potential to develop the two moral powers, then we give up on the idea that Rawlsian theory could have a firm base; this giving up makes Rawlsian theory nothing more than a form of liberal prejudice. Rawls might still insist that, somehow, the liberal view is more reasonable, but this is unconvincing when he does not base this reasonableness on facts. Instead, if we take seriously the argument made in *ToJ* (that virtually all persons, no matter what society they happen to belong to, actually have the potential to develop these powers)[173] we are led to global principles of justice.

[171] However, Rawls's belief, "a liberal constitutional democracy is, in fact, superior to other forms of society" and his view that individuals livings as members of decent peoples will, "recognise the advantages of liberal institutions", may indicate that on some level he still thinks facts favour the view that persons possess the two moral powers. Ibid, § 7.3, p. 62.

[172] Many ethical theories start from the assumption persons have certain qualities that make them of equal moral worth, even though these theories differ on what these qualities are, and this leads to differences in opinion over what equal treatment is. Sen argues that because persons are of equal moral worth they deserve an equality of something, with the question being what this something is. 'Equality of What?'.

[173] Rawls, in *ToJ*, justifies his claim that virtually all persons have the potential to develop the two moral powers by appealing to evolution. He writes:

> The theory of evolution would suggest that it [human nature] is the outcome of natural selection; the capacity for a sense of justice and the moral feelings is an adaptation of mankind [and womankind] to … [their] place in nature. As ethologists maintain, the behavior patterns of a species, and the psychological mechanisms of their acquisition, are just as much its characteristics as are the distinctive features of its bodily structures; and these patterns of behavior have an evolution exactly as organs and bones do. It seems clear that for members of a species which lives in stable social groups, the ability to comply with fair cooperative arrangements and to develop the sentiments necessary to support them is highly advantageous, especially when individuals have a long life and are dependent on one another.

ToJ, § 76, p. 503/440. This argument is developed in Rawls's former student Allan Gibbard's 'Human Evolution and the Sense of Justice', in *Midwest Studies in Philosophy*, Vol. 7. Issue 1, (September 1982), pp. 31-46, DOI: 10.1111/j.1475-4975.1982.tb00082.x.

As Rawls notes, we are not alone in taking this path. Beitz came to view his cosmopolitanism as justified by persons possessing the two moral powers.[174] However, Beitz acknowledges that such a cosmopolitan view, "would be pointless if there were no feasible scheme of institutions to which principles of [global] justice could apply."[175] While Beitz thinks there is such a scheme, Rawls thinks there is not.

In supporting his position, Rawls argues that if liberal democratic societies promote cosmopolitan principles and any necessary associated institutions, they will face opposition from non-liberal societies. According to Rawls, this opposition is reasonable, and this makes it difficult and morally unacceptable to have a cosmopolitan scheme of institutions. However, if we look to actual political practice we arguably see a different picture at least when it comes to the global difference principle.

Of course, societies have not promoted or rejected an actual global liberty principle or an actual global difference principle, but they have considered similar entities. In regards to a global liberty principle, I am talking of civil and political rights. Notable in this regard is the UN's International Covenant on Civil and Political Rights, which includes such declarations as:

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[174] Beitz, 'Cosmopolitan Ideals and National Sentiment', p. 595. In 1999, Princeton University Press republished *Political Theory and International Relations* with a new afterword where Beitz phrased the matter somewhat differently. He wrote:

> [I]f there were no international basic structure—if, for example there were no appreciable international capital flows, little trade, no international economic institutions, and only rudimentary forms of international law—then we would not find principles of international distributive justice of any practical interest. It could be said in this counterfactual world that the world economy is something most people can realistically avoid, and in any case that there is no structure of institutions or pattern of practice to which regulative principle could be applied.
> What the facts about interdependence and the global structure demonstrate is that this cannot be said about the actual world as we have it today.

Beitz writes in a footnote, "I believe the remarks in the text are consistent with the formulation in my 'Cosmopolitan Ideals and National Sentiment', p. 595." *Political Theory and International Relations: With a new afterword by the author*, (Princeton: Princeton University Press, 1999), p. 204. However, in this work Beitz goes further. Writing of a world where there is no international cooperation, Beitz writes:

> Unless international cooperation according to the principle of justice can be shown to be infeasible, limiting the scope of the principle to national societies on the grounds that international cooperation does not exist today (or, as Brian Barry argues, because present-day international cooperation lacks the requisite mutuality) would arbitrarily favour the status quo.

'Cosmopolitan Ideals and National Sentiment', p. 595. I would emphasise Beitz's latter point.
While not appealing to the two moral powers directly, David Richards makes a similar argument in 'International Distributive Justice', in *NOMOS*, Vol. XXIV, (1982), (New York: New York University Press), pp. 275-299.

[175] Beitz, 'Cosmopolitan Ideals and National Sentiment', p. 595.

> Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his [or her] choice, and freedom, either individually or in community with others and in public or private, to manifest his [or her] religion or belief in worship, observance, practice and teaching.[176]

Theorists often contrast these rights with economic and social rights, which I would argue are similar to a global difference principle. A notable UN resolution concerning economic and social rights is the International Covenant on Economic, Social and Cultural Rights, which includes such declarations as, "The States Parties to the present Covenant recognise the right of everyone to … the continuous improvement of living conditions."[177] The critic, who argues that the global difference principle is not similar to social and economic rights, may point out that the global difference principle does not make this demand for the continuous improvement of the living conditions of everyone. However, we can reply by noting that improving the living conditions of everyone would see an increase in the expectations of the least advantaged, which means a move towards realizing this right would be a step towards realizing a global difference principle.

Both covenants gained widespread support in the UN.[178] As Gillian Brock notes:

> If we take this [widespread support] seriously, it can no longer be maintained that there is significant controversy in the global public culture concerning the recognition the international community gives to individual basic entitlements, including recognition of individuals' equality and entitlements to basic freedoms.[179]

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[176] International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 19 December 1966, Article 18, Clause 1, URL: https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf , (accessed 9 December 2014).

[177] International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly of the United Nations on 16 December 1966, Article 11, Clause 1, URL: https://treaties.un.org/doc/Publication/UNTS/Volume%20993/volume-993-I-14531-English.pdf, (accessed 9 December 2014).

[178] UN General Assembly (GA) Resolution 2200 (XXI), 16 December 1966, URL: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/2200(XXI)&Lang=E&Area=RESOLUTION, (accessed 9 December 2014). This resolution introduced both covenants for signature, ratification, and accession. The majority of UN member states have signed, ratified, and acceded to the two covenants. The small numbers of member states who have not are a diverse group but most are not liberal democracies. A notable exception to this is the United States, which has signed but not ratified the International Covenant on Economic, Social and Cultural Rights. UN, Treaty Collection, Status of International Covenant on Economic, Social and Cultural Rights as of 21 April 2014, URL: http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-3&chapter=4&lang=en, (accessed 9 December 2014). UN Treaty Collection, Status of International Covenant on Civil and Political Rights as of 21 April 2014, URL: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en, (accessed 9 December 2014). Those UN member states that had not signed, ratified or acceded to the covenants were determined by comparing the list of those who had, to the list of UN member states. UN, 'Member States of the United Nations', URL: http://www.un.org/en/members/, (accessed 9 December 2014).

[179] Gillian Brock, 'Recent Work on Rawls's Law of Peoples: Critics versus Defenders' in *American Philosophical Quarterly*, Vol. 47, No. 1, (January 2010), p. 95, Stable URL: http://www.jstor.org/stable/40606904. Brock is not just referring to widespread agreement on the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

This suggests that the opposition to the global liberty principle and the global difference principle may not be as widespread as Rawls suggests. However, the leaders of liberal democratic societies have tended to emphasise the importance of the global implementation of civil and political rights and down play the importance of social and economic rights, while the leaders of non-liberal societies have tended to do the reverse.[180] This suggests that Rawls's picture of liberal societies forcing a global difference principle on reluctant non-liberal societies may be misleading, but may be more accurate when it comes to the global liberty principle.

When Rawls, in *LoP*, argues against the global difference principle, he does not explicitly mention global original position reasoning even though such reasoning would lead to this principle. One can find a partial explanation for this omission by where Rawls places the discussion, in the third part of *LoP* that deals with nonideal theory. Rawls did the same thing in the earlier essay version of *LoP* where he also criticised the global difference principle. However, there are problems with this placement. As Pogge notes:

> Rawls considers such a principle [the global difference principle] only in regard to one part of nonideal theory: coping with unfavourable conditions, although it has generally, if not always, been proposed as an analogue to the domestic difference principle, which is used primarily to design the ideal basic structure.[181]

A response Rawls could give would be to concede that the placement of criticism of the global difference principle within a discussion of nonideal theory was a mistake, but that one

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She is also referring to agreement on: the Convention on the Elimination of all forms of Racial Discrimination, the Convention on the Elimination of Discrimination against Women, the Convention against Torture, and the Convention on the Rights of the Child.
I thank my examiner Stephen Winter for alerting me to Brock's work.

[180] David Beetham, 'What Future for Social and Economic Rights?', in *Political Studies*, Vol. 43, Issue Supplement 1, (August 1995) pp. 41–60, DOI: 10.1111/j.1467-9248.1995.tb01735.x. One might think that the priority of liberty means leaders of liberal democratic societies were correct to promote civil and political rights ahead of social and economic rights. On a related point one might also think that a global liberty principle should take priority over a global difference principle, which means funds should go first to realizing this principle. However, in the early stages of trying to realize these principles, a stage we are clearly in, funds that go towards realizing a global difference principle will also help to realize a global liberty principle. This is because, as has already been noted, the least advantaged are likely to lack liberty because they lack the, "primary goods to enable them to make intelligent and effective use of their freedoms." Rawls, *LoP*, § 1.1, p. 14. A related point is that Rawls does not insist that liberty always takes priority even though he likes to, in a sense, maintain this priority. For example, in *PL* he writes:

> [T]he first principle covering the equal basic rights and liberties may easily be preceded by a lexically prior principle requiring that citizens' basic needs be met, at least insofar as their being met is necessary for citizens to understand and to be able fruitfully to exercise those rights and liberties.

PL, Lecture I, 'Fundamental Ideas', § 1, p. 7. I made this comment in response to a point made by my examiner David Reidy.

[181] Pogge, 'An Egalitarian Law of Peoples', in *Philosophy & Public Affairs*, Vol. 23, No. 3, (Summer 1994), pp. 211-212, Stable URL: http://www.jstor.org/stable/2265183.

can make a similar criticism of the principle within ideal theory. Indeed, Rawls implies such an argument in *LoP*, when he suggests that when we consider questions of global justice we should look to the ideal theory question of who the representatives selecting principles of global justice should be. Those making this argument claim that when we do this we will see why a global difference principle is not appropriate. Let us take a closer but brief look at this argument.

The Question of Representatives

This argument points out that when Rawls, for the sake of argument, talks of parties in a global original position coming to a global liberty principle focused on persons; he implies that these parties are persons who are representing global social groups. This contrasts with how he describes the two international original positions. In these two cases, we have the representatives of peoples. These representatives are concerned with the interests of the people they represent and not in the interests of global social groups. This, Rawls argues, means they will not select any global principle focused on persons, a category that, along with a global liberty principle, includes a global difference principle. Rawls further asserts this is appropriate.

In developing this anti-cosmopolitan position, Pettit argues Rawlsian cosmopolitanism that uses global original position reasoning, like the form of Rawlsian cosmopolitanism presented in this thesis, "fails to take sufficient account of the nature of peoples. It fails to reflect an understanding of just what sort of thing a people is."[182] Pettit believes this failure is partly a failure to recognise peoples (which certain states are well-ordered enough to be referred to as[183]) are agents in the same way persons are, they just happen to operate on the international stage while persons operate on the domestic stage. Pettit argues that, like persons, peoples have certain goals, make judgments about how to change, revise, order, and pursue their goals, and do all this in a rational manner.[184] However, even if we concede this point to Pettit, there is still the question of whether we can describe peoples as moral agents.[185] Do they have moral qualities? If they do, are the qualities

[182] Philip Pettit, 'Rawls's Peoples', in *Rawls's Law of Peoples: A Realistic Utopia?*, p. 49.
[183] Ibid, p. 45.
[184] Ibid, p. 46.
[185] It is open to question whether we should concede this point. As Brock notes, "The pervasiveness, general acceptance, and commitment to human rights in international relations suggest that starting with individual persons [in a global original position] is not implausible." 'Recent Work on Rawls's *Law of Peoples*, p. 95.

something over and above the qualities of the persons who make up these peoples[186], for this is necessary to give moral justification for the placing of the representatives of peoples in the original position.[187] At one point in *LoP* Rawls hints at such an argument by writing, "some forms of culture and ways of life are good in themselves"[188], but he does not pursue this point. Perhaps this is because it is hard to see how culture and ways of life could be good in themselves.

However, even if one could do this, and therefore be morally justified in placing the representatives of peoples in the international original positions, it is still possible the representatives would select a global difference principle focused on persons. We have already seen that in actual political practice there is support for social and economic rights that are similar to a global difference principle. Another reason for thinking that the representatives of peoples might select a cosmopolitan principle similar to the global difference principle is Rawls has already argued for the representatives selecting a cosmopolitan principle, viz. the human rights principle.

Human Rights and the Global Difference Principle

According to Rawls, the human rights principle in the Law of Peoples covers a relatively narrow set of rights among which are:

> [T]he right to life (to the means of subsistence and security); to liberty (to freedom from slavery, serfdom, and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought); to property (personal property); and to formal equality as expressed by the rules of natural justice (that is, that similar cases be treated similarly).[189]

As one would expect out of a cosmopolitan principle, the human rights principle focuses on persons and is universal in scope. One might think that this scope is inappropriate because the

[186] The difficulty in seeing what these qualities could be leads Pogge to ask, "Why, after all, do liberals want the law of peoples to be supportive of the internal justice of all societies, if not for the sake of the persons living in them?" Pogge, 'An Egalitarian Law of Peoples', p. 210.
[187] As Rawls asks:

> Why does the Law of Peoples use an original position at the second level that is fair to peoples and not to individual persons? What is it about peoples that gives them the status of the (moral) actors in the Law of Peoples?

Rawls, *LoP*, § 1.3, n. 9. Rawls argues it is the reasonableness of both types of peoples, liberal and decent. However, in this thesis I will bring into question the reasonableness of decent peoples. Rawls's argument can be found in § 11 of *LoP*.
[188] Ibid, § 7.3, p. 61.
[189] Ibid, § 8.2, p. 65.

Law of Peoples should only govern relations between peoples and not the other types of polities identified by Rawls, but Rawls thinks:

> The list of human rights honoured by both liberal and decent hierarchical regimes should be understood as universal rights in the following sense: they are intrinsic to the Law of Peoples and have a political (moral) effect whether or not they are supported locally. That is, their political (moral) force extends to all societies, and they are binding on all peoples and societies, including outlaw states.[190]

Rawls's argument in favour of human rights, including their universality, contrasts with most arguments for human rights, like Jack Donnelly's argument, which depend on some account of human nature.[191] Human rights theorists also generally view no person having more human rights than another does. Given this, and Rawls's previous work, one might have expected Rawls would have justified human rights on the basis that virtually all humans have the potential to develop the two moral powers. However, in this case, Rawls rules out using a, "moral conception of the nature of the human person", which is what he now takes the two moral powers to be, with Rawls appearing to think that facts do not dictate this "moral conception." This means, according to Rawls, other cultures can and do reasonably reject the idea of persons possessing the two moral powers.[192]

Instead, Rawls simply says human rights are, "a proper subset of the rights possessed by citizens in a liberal constitutional regime, or the rights of the members of a decent consultation hierarchical society."[193] Rawls tries to justify the enforcement of human rights by liberal and decent peoples on regimes that are neither liberal nor decent, by saying that

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[190] Ibid, § 10.3, pp. 80-81. One could describe the right "to liberty (to freedom from slavery, serfdom, and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought)" as a limited global liberty principle.

[191] Jack Donnelly, 'Cultural Relativism and Universal Human Rights', in *Human Rights Quarterly*, Vol. 6, No. 4, (November 1984), pp. 400-419, Stable URL: http://www.jstor.org/stable/762182.

[192] Rawls, *LoP*, § 10.3, p. 81. Rawls contrasting a factual conception with a moral conception of a person can be seen in the revised edition of *ToJ* where he writes:

> Unhappily that account [of primary goods in the original edition of *ToJ*] left it ambiguous whether something's being a primary good depends solely on the natural facts of human psychology or whether it also depends on a moral conception of the person that embodies a certain ideal. This ambiguity is to be resolved in favor of the latter: persons are to be viewed as having two moral powers (those mentioned above) and as having higher-order interests in developing and exercising those powers.

ToJ, Preface to the revised edition, p. xiii.

[193] Rawls, *LoP*, § 10.3, p. 81.

such enforcement, "is a consequence of liberalism and decency."[194] This sounds more like a statement about the nature of certain regimes than a moral justification.[195]

Rawls also appeals to the self-interest of peoples to justify the universal enforcement of human rights. In doing so, he suggests states that abuse human rights (outlaw states) are a threat to peoples, but this does not cover the possibility of a non-aggressive outlaw state, a possibility Rawls does not rule out. Indeed, as mentioned in the previous chapter, Rawls says if these non-aggressive outlaw states gravely violated the human rights of their inhabitants, liberal and decent regimes would be morally justified in intervening militarily.[196]

A defender of Rawls could concede that the universal scope of the human rights principle means it is a cosmopolitan principle, and that the representatives of peoples in their international original positions would select this principle, but point out that realizing the human rights principle is in some respects a more modest goal than realizing a global difference principle. The defender of Rawls would point out that human rights, as defined by Rawls, when it comes to questions of distributive justice only require peoples to ensure, "the right to life (to the means of subsistence and security)", which will generally require less redistribution than a global difference principle. The defender of Rawls maintains that this shows, while the representatives adopt a human rights principle, they will not adopt a global difference principle. In response, we can note that a global difference principle may not be demanding as it first appears because, as is argued in the next chapter, it is constrained by the duty of assistance and the just savings principle. We can also argue that even if the global difference principle is demanding, this does not mean it is not a defensible principle of justice.

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[194] Ibid.

[195] In a footnote to this discussion, Rawls writes, "We must at some point face the question of interfering with outlaw states simply for their violation of human rights, even when these states are not dangerous and aggressive, but indeed quite weak. I come back to this serious question in §§14-15, in my discussion of nonideal theory." Ibid, n. 26. However, Rawls does not directly address the question in these sections, and only refers to it directly in a footnote in § 13. Here he simply says:

> Earlier I said that we must at some point ask the question whether it is ever legitimate to interfere with outlaw states simply because they violate human rights, even though they are not dangerous and aggressive toward other states, and indeed may be quite weak. Certainly there is a prima facie case for intervention of some kind[.]

Ibid, p. 93, n. 6. The last sentence is question begging. Rawls should have justified this intervention with an argument that makes some use of an account of human nature.

[196] Ibid.

However, even if one of our arguments works, it does not mean we have defeated the critic. She can appeal to other Rawlsian ideas and other facts to show how the global difference principle is morally unacceptable and/or impossible to realize. The first of these arguments we will look at, and consider at some length, is what I will call "the International Reasonable Pluralism Argument".[197]

International Reasonable Pluralism

Rawls's first description in *LoP* of reasonable pluralism involves persons in a liberal society. In this case, Rawls describes reasonable pluralism as, "a plurality of conflicting reasonable comprehensive doctrines, both religious and nonreligious (or secular)."[198] As Rawls further explains in *PL*, comprehensive doctrines cover, "the major religious, philosophical, and moral aspects of human life in a more or less consistent and coherent manner."[199]

We have reasonable pluralism because persons face the burdens of judgment. These burdens are a reflection of the fact:

> To some extent (how great we cannot tell) the way we assess evidence and weigh moral and political values is shaped by our total experience [.] Thus, in a modern society with its numerous offices and positions, its various divisions of labor, its many social groups and their ethnic variety, citizens' total experiences are disparate enough for their judgments to diverge … on many if not most cases of any significant complexity.[200]

Furthermore, since a plurality of comprehensive doctrines is the normal result of a liberal culture and liberal institutions, we cannot expect this reasonable pluralism to end as long as this culture and institutions are present. In addition, since the doctrines are reasonable, Rawls argues that it would be wrong to suppress them in the name of creating a just society.

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[197] It is difficult to find an argument of this exact type in the literature. However, Menno R. Kamminga interprets Rawls's position on reasonable pluralism in the international realm (a position he endorses) as being, "that international political theory must regard a 'reasonable pluralism' of cultures and traditions of thought as a permanent fact of international life." This means, "global egalitarian distributive justice [of which the global difference principle is an example] fails as a conception of international political theory." 'Why Global Distributive Justice Cannot Work', in *Acta Politica*, Vol. 41, No. 1, (2006), pp. 22, 28, DOI: 10.1057/palgrave.ap.5500136. Later in this section, we will see Wilfried Hinsch also believes in international reasonable pluralism.

[198] Rawls, *LoP*, § 18.1, p. 124.

[199] Rawls, *PL*, Lecture II, 'Powers of Citizens and Their Representation', § 3, p. 59.

[200] Ibid, § 2, pp. 56-57.

For Rawls, the major difference between *ToJ* and *PL* was *ToJ* failed to recognise the fact of a reasonable pluralism of comprehensive doctrines in a liberal society.[201] Instead, according to Rawls, in *ToJ* he presents his theory of justice, which Rawls often describes as "justice as fairness", as a comprehensive doctrine affirmed by all citizens in a liberal culture with liberal institutions. Since the later Rawls also believed that a variety of comprehensive doctrines is the normal result of a liberal culture and liberal institutions, he thought his theory of justice in *ToJ* contained a contradiction.[202] However, this assessment by the late Rawls of the early Rawls is incorrect because the early Rawls does not present justice as fairness as a comprehensive doctrine. It is true that the early Rawls raises the possibility one could extend his theory beyond "justice as fairness" which covers justicial relationships, to "rightness as fairness" which covers all human relationships, and this may sound like making his theory a comprehensive doctrine.[203] However, Rawls goes on to write:

> But even this wider theory fails to embrace all moral relationships, since it would seem to include only our relations with other persons and to leave out of account how we are to conduct ourselves toward animals and the rest of nature.[204]

One of the reasons why the theory would seem to apply only to humans is because it would seem to cover only entities with the potential to develop the two moral powers.

Rawls correctly thinks that how we treat animals and the rest of nature are moral questions of "first importance".[205] This means Rawls's theory, as he presents it in *ToJ*, even when he extends it to rightness as fairness, does not cover all major moral questions never mind all major philosophical and religious questions, as the later Rawls says comprehensive doctrines do. Therefore, even though in the society portrayed in *ToJ* there is widespread agreement on justice as fairness, there could still be a wide range of comprehensive doctrines, which means there could be the reasonable pluralism the later Rawls thinks is the normal result of a liberal culture and its associated institutions.

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[201] Rawls, 'The Idea of Public Reason Revisited', in *The University of Chicago Law Review*, Vol. 64, No. 3, (Summer 1997), pp. 806-807, Stable URL: http://www.jstor.org/stable/1600311.
[202] Ibid. Given the putative fact of reasonable pluralism, one might think there could no agreement within society on questions of justice, but the later Rawls argues there can be an overlapping consensus on a political conception of justice. Rawls writes a political conception of justice, "is a conception framed in the first instance solely for the special case of the basic structure." 'The Idea of an Overlapping Consensus', in the *Oxford Journal of Legal Studies*, Vol. 7, No. 1 (Spring 1987), p. 3, Stable URL: http://www.jstor.org/stable/764257.
[203] Rawls, *ToJ*, § 4, p. 17/15.
[204] Ibid.
[205] Ibid.

Along with being mistaken about the possibility of reasonable pluralism in the society described in *ToJ*, Rawls is also mistaken about the extent of international reasonable pluralism.

We can start to see Rawls's mistake in his discussion of the parallel between reasonable pluralism in a domestic setting, and, "the diversity among reasonable peoples with their different cultures and traditions of thought both religious and non-religious".[206] In this discussion, Rawls does not mention the burdens of judgment, which helps to explain the absence in the literature of a discussion of these burdens in an international context. Rawls should think that there are international burdens of judgment, because without them there could be no international analogue to reasonable pluralism. This is because Rawls argues domestic and international reasonable pluralism are analogous, and the burdens of judgment in a domestic setting are the sources of disagreement between reasonable persons that lead to reasonable pluralism.

In an international context, the burdens of judgment would apply to peoples. When talking of these burdens, one could talk of the different experiences of peoples whose position in the international system is different, whose members typically do different types of labour when compared to the members of other peoples, and whose ethnic composition differs to that of other peoples. Given these differences, this line of argument suggests that when it comes to the complex case of what international and global institutions there should be, we should not be surprised that different peoples come to different conclusions, and that the difference between these conclusions put limits on what international and global institutions there could be.

However, the complexity of the question is not the only cause that leads different peoples to different conclusions about what sort of international and global institutions there should be. Peoples also come to these conclusions due to their differences in opinion over the nature of the person. Decent peoples do not think persons are equal. This position rules out institutions that help to realize a global difference principle because the principle expresses the view that persons are equal. We have already seen it is questionable whether actual non-liberal societies would be as opposed to the global difference principle as this argument suggests, but for the sake of argument let us concede this point.

[206] Rawls, *LoP*, § 1.1, p. 11.

Then we can argue that the analogies Rawls makes between the difference in opinion between liberal and decent peoples, and the difference in opinion between persons in a liberal domestic society, do not work. In doing so, we can point out that it is more likely that a person's opinion will be reasonable if a person forms that opinion freely, and then argue that the same is true of a people's opinion. In order to work out if a people formed an opinion freely we would start by noting that the opinion of a people would be a reflection of the opinions of its individual members. While in a liberal society persons would generally freely form their opinions thanks in part to the presence of liberal institutions, this would not be true in a decent society. A defender of Rawls might object that Rawls imagines his decent consultation hierarchies would have, "a sufficient measure of liberty of conscience to ensure freedom of religion and thought".[207] However, Rawls also says, "these freedoms are not as extensive or as equal for all members of the decent society as they are in liberal societies."[208] This brings into question whether one can say all of the members of decent peoples freely form their opinions, which brings into question the likelihood of the peoples' opinion being reasonable. We bring the freedom of the process of opinion formation in non-liberal societies into further question when we look at actual non-liberal societies, where we find the view of the state is often more a reflection of the dominance of certain social groups than a reflection of the different experiences of different peoples.

For a notable example, when a non-liberal society exhibits a view that persons are not of equal moral worth, it is more accurate to say that this equality is unacceptable to the hierarchies that run these societies, than to say that this view of persons reflects the freely formed opinions of the persons who make up this society. This brings into question if the difference in opinion between liberal and non-liberal societies on the nature of the person can be characterised as an example of international reasonable pluralism; and this makes the views expressed by non-liberal societies on the nature of the person more open to moral questioning.[209]

Even if we conceded that most of the members of hierarchical societies are opposed to the idea persons are morally equal, and therefore opposed to the global difference principle, and that these opinions were formed freely, it can still be questioned whether these opinions are reasonable, and are therefore an example of international reasonable pluralism. In an

[207] Ibid, § 9.3, p. 74.
[208] Ibid.
[209] I owe this clearer discussion of reasonable opinion to my examiners.

attempt to defend persons with this inegalitarian view, a believer in international reasonable pluralism, Wilfried Hinsch, writes, tentatively:

> On the basis of their shared comprehensive doctrines, perhaps, the members of nonliberal societies may hold different views as regards the nature of domestic social cooperation. In particular, they may see it for religious or other reasons as, at least in some respect, a form of cooperation among unequals. Thus, they may accord a less-than-equal status to women in the sphere of political decision making, as is the case in many Islamic countries.[210]

Are we to say these views are reasonable? I would say no because of, *inter alia*, the previous arguments made in favour of the moral equality of persons. If Hinsch says something slightly more modest like, the views are reasonable in their society, or these views while not fully reasonable are still reasonable; is this enough to say a principle, which runs counter to these "reasonable" views, is morally unacceptable? I would again say no.

However, one can make a different argument against the global difference principle. One making this argument suggests that while the global difference principle may be morally acceptable, it is a practical impossibility because it targets a non-existent group.

Targeting

Someone making the argument points out that in applying a global difference principle we try to identify and target the globally worst-off representative group of persons.[211] In doing so, we would look for individuals who, among other things, were particularly poor. We would find such persons in various countries some of which might not be particularly poor. These persons would have many differences including different roles in their various societies. Therefore, the person making this argument would argue that these persons could not be viewed, let alone function, as a social group, and since a difference principle should target a social group, this shows a global difference principle cannot work.

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[210] Wilfried Hinsch, 'Global Distributive Justice', in *Metaphilosophy*, Vol. 32, No. 1 and 2, (January 2001), p. 63, DOI: 10.1111/1467-9973.00175.

[211] Arguments in this exact form are difficult to find in the literature. However, the argument is similar to, and arguably entailed in, a number of anti-global difference principle arguments. For example, in making his anti-global difference principle argument, Freeman writes:

> There is no global political authority to apply the difference principle; nor is there a global legal system or global system of property to apply it to. So a global difference principle would be without both agency and object – no legal person to implement it, and no legal system to which it is applicable.

'Distributive Justice and *The Law of Peoples*', in *Rawls's Law of Peoples: A Realistic Utopia?*, p. 253.

In response, we can draw parallels between the global and domestic case. We have seen in the domestic case that Rawls defines the least advantaged group as faring poorly in terms of family and class, natural endowments (as realized), fortune and luck, and social primary goods. Rawls suggests that for ease of identification, rather than using a criterion that includes all the listed characteristics, we could use the criterion of "all persons with less than half of the median [income]".[212] This criterion could work because it, "would appear to cover those most disfavored by the various contingencies".[213] The persons identified by this criteria, due to their diversity, may not act as a group, or even see themselves as a group, but a state will often treat a collection of persons similar to them as a group. For example, the poor and unemployed, even though they are a diverse group, are sometimes eligible for an unemployment benefit. We cannot say the same for how global society treats the globally least advantaged. Still, there are attempts to identify a group similar to the least advantaged in ways similar to the one suggested by Rawls to identify the domestically least advantaged. However, in the global case international institutions tend to use absolute rather than relative measures. For example, there is the much talked about 1 dollar a day measure used by the World Bank (WB).[214] Interestingly and coincidentally from a Rawlsian point of view, a relatively recent study suggests that the world median income was close to double this dollar a day level.[215]

In a parallel to the domestic case, we can expect the globally least advantaged to be among those living at or below this dollar a day level because those living below this level

[212] Rawls, *ToJ*, § 16, p. 98/84.
[213] Ibid. At this point Rawls also suggests identifying the least advantaged as unskilled workers. However, Rawls says identifying the least advantaged as those who have half the median income has the benefit of capturing the distance between the least advantaged and the average citizen. However, this clashes with what he says earlier in *ToJ*, namely, "It does not matter how much worse off this [least advantaged] representative individual is than the others." Ibid, § 15, p. 91/79. Rawls does not explicitly explain why this does not matter. Presumably, he means that the least advantaged should be the target of the difference principle even if they are not considerably worse off than the others are, because even under these circumstances we still need the difference principle to ensure we treat the least advantaged as equals. Rawls may have thought that it was good that the income criteria suggested distance between the least advantaged and the average citizen because at the time of writing there was this distance, a distance that continues to this day.
[214] The WB has raised its 1 dollar a day to the less catchy, $1.25 a day. Of course, not everyone's currency is in dollars. Strictly speaking, the $1.25 is $1.25 Purchasing Power Parity (PPP). Martin Ravallion, 'World Bank's $1.25/day poverty measure – countering the latest criticisms', (January 2010), URL: http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/0,,contentMDK:22510787~pagePK:64165401~piPK:64165026~theSitePK:469382,00.html, (accessed 9 December 2014).
[215] Yuri Dikhanov estimates, "$700 in 1999 PPP terms approximately corresponds to the $1-a-day cut-off used by the World bank [sic], when adjusted for 1985-99 inflation and the differences between the Personal Consumption Expenditures (PCE) and expenditures recorded in household surveys." He goes on to estimate the global median income in 2000 was $1,700. *Trends in Global Income Distribution, 1970-2000, and Scenarios for 2015*, Human Development Report Office, Occasional Paper, (2005), p. 34, URL: http://siteresources.worldbank.org/ICPINT/Resources/hdR2005_Dikhanov_Yuri_8.pdf , (accessed 9 December 2014).

will have generally fared poorly in terms of family and class, natural endowments (as realized), fortune and luck, and social primary goods. This means, despite their diversity, within a Rawlsian framework there is justification in viewing them as a group.

Still, even with yet another anti-global difference principle argument dealt with, the opponent of the global difference principle can raise a different concern. She can point out that by identifying both a domestic least advantaged group and a globally least advantaged group we have created a problem for ourselves, the problem of different difference principles.

Different Difference Principles

Freeman says we cannot have a global difference principle and a domestic difference principle because, "we can seek to maximize the position of the globally least advantaged, or the domestically least advantaged, but not both, for we can maximize only one thing."[216] We can expand on Freeman's point by noting that if we have a principle that targets the globe's least advantaged group of persons, it will say social and economic inequalities should be arranged to the benefit of this group, which we can call group A. The domestic difference principle in a wealthy country shall say that social and economic inequalities should be redistributed to the least advantaged in this society, which we can call group B. Group A and group B may share no members. Therefore, it appears as though we have two principles that demand mutually incompatible actions.[217]

The early Beitz launched an attempt to avoid this problem by arguing, "due to the rise of global economic interdependence … principles of distributive justice must apply in the first instance to the world as a whole, and derivatively to nation-states." Beitz goes on to claim, "The appropriate global principle [for distributive justice] is Rawls's difference principle, perhaps modified by some provision for intranational redistribution in relatively wealthy states once a threshold level of international redistributive obligations has been met."[218] Beitz does not go into detail about what this threshold would be, or explain who the "relatively wealthy states" are, but he does consider the possibility that a domestic difference

[216] Samuel Freeman, 'The Law of Peoples, Social Cooperation, Human Rights, and Distributive Justice', in *Social Philosophy and Policy*, Vol. 23, No. 1, (Winter 2006), p. 63, DOI: http://dx.doi.org/10.1017/S026505250606002X.
[217] Rawls entertains the possibility we could have a global difference principle covering two societies both of which have a domestic difference principle; but he does not say how we would accomplish this. He simply writes of a, "global redistribution that would allow both societies to continue to satisfy the two principles of justice internally". Rawls, *LoP*, § 16.3, p. 120.
[218] Beitz, *Political Theory and International Relations*, p. 170.

principle could be justified due to, "the greater intensity of social cooperation inside as compared to across national boundaries".[219] This was before he concluded that the moral powers rather than social cooperation justified the difference principle. I agreed with the later Beitz position on moral powers. Does this mean the later Beitz and I are unable to justify a domestic difference principle in wealthy states, because the only way left open to us would be to make the erroneous argument that those in wealthy states have greater moral powers than those in poorer states?

If the answer to this question were yes, this would not be a problem if it were the case that we should only have a global difference principle and no domestic difference principle. However, a serious problem for this position is the widespread belief that those involved in producing goods that occurs within a national society, have a right to a share in these goods greater than the share those who are not involved in this production do. This means suggesting only having a global difference principle is unrealistic.

Here I suggest the solution of having both difference principles, domestic and global, mainly justified by the two moral powers, but also finding justification and finding funding from the level of domestic and global cooperation, respectively. However, this solution is not without potential problems. If we were in a situation, where there was a low level of or no global cooperation, and a high level of domestic cooperation, the difficult question of how to distribute the benefits of this domestic cooperation between the globally least advantaged and the domestically least advantaged would confront us. However, as Beitz noted when he was still arguing any difference principle required a scheme of cooperation, there has been a rise in "global economic interdependence", a rise that continues to this day.

Even with this interdependence, there is still the problem of trying to work out what part of the social product is due to national factors, and what part is due to global factors, and then redistributing according to what the harmonised difference principles would dictate. There is also the issue that in both cases there would be a need to make sure this did not interfere with economic efficiency. Still, these problems do not appear to be insurmountable.

However, even if different difference principles can be harmonised, the critic of the difference principle can raise yet further objections. They can argue that a difference

[219] Ibid, p. 169.

principle requires a basic structure, but that in the global case there is no such structure, and therefore can be no global difference principle.

A Global Basic Structure

We can see this type of anti-global difference principle argument in Nagel's wider argument against cosmopolitanism. In particular where he endorses what he takes to be Rawls's view that the, "two principles of justice are [not] designed to regulate the international relations of societies to one another, but only the basic structure of separate nation-states".[220] In making this argument, Nagel implies that the principles do not apply to the relations between societies because these relations do not include a basic structure.

One way of responding to this argument is to start by noting that Rawls believes that there is something analogous to a global basic structure. Indeed, he sees this structure as being vital to the Law of Peoples, writing, "we may view that law [the Law of Peoples] as governing the basic structure of the relations between peoples."[221] In order to see if Rawls is correct in believing there is such a structure, let us examine what he has in mind.

When writing about this structure Rawls uses the term "the basic structure of the Society of Peoples".[222] It is not entirely clear what institutions would make up this basic structure, but at one point in *LoP* Rawls argues:

> In addition to agreeing to the principles that define the basic equality of all peoples [which are the Law of Peoples], the parties [in the international original positions] will formulate guidelines for setting up cooperative organizations and agree to standards of fairness for trade as well as certain provisions for mutual assistance.[223]

The institutions Rawls asks us to imagine are, "one framed to ensure fair trade among peoples; another to allow a people to borrow from a cooperative banking system; and the third similar to that of the United Nations".[224] In a footnote to this discussion, he asks us to, "Think of the first two organizations as in some ways analogous to GATT [General Agreement on Tariffs and Trade, the precursor to the World Trade Organization (WTO)] and the World Bank."[225] Rawls adds in another footnote that without these institutions there will

[220] Nagel, 'The Problem of Global Justice', p. 123.
[221] Rawls, *LoP*, § 3.2, p. 33.
[222] Ibid, § 16.1, p. 113.
[223] Ibid, § 4.5, p. 42. Rawls sees these conditions as helping to ensure, "Basic fairness among peoples". Ibid.
[224] Ibid.
[225] Ibid, n. 51.

not be, "fair background conditions" and that without these conditions, "market transactions will not remain fair, and unjustified inequalities among peoples will gradually develop." This means that these conditions and their associated institutions, "have a role analogous to that of the basic structure in domestic society."[226]

The critic of the global difference principle could argue that institutions similar to the United Nations (UN), the WTO, and the WB could not be part of a global basic structure. The critic could base their argument on the claim that the effects of the actual institutions are not "profound and present from the start" of persons' or peoples' lives, and that having these effects is part of what it means to be a basic structure. However, given growing global economic interdependence, this is a difficult position to maintain. Nagel, aware of this problem, takes a slight different approach by arguing:

> The societal rules determining [a sovereign state's] basic structure are coercively imposed: it is not a voluntary association. I submit that it is this complex fact—that we are both putative joint authors of the coercively imposed system, and subject to its norms, i.e., expected to accept their authority even when the collective decision diverges from our personal preferences—that creates the special presumption against arbitrary inequalities in our treatment by the system.[227]

Since countries can choose not to be part of international institutions like the WTO, Nagel would argue that we could not describe the institution as coercive, and therefore could not describe it as part of a global basic structure. However, as Laura Valentini argues, Nagel takes a too narrow view of coercion. While it is true that countries can choose not to join the WTO, the dominance of WTO standards means that this choice can result in the country experiencing, "virtually no trade."[228] For some countries, this would mean economic collapse. This brings into question whether we can describe countries as free to choose to join the WTO, and therefore describe the WTO as a voluntary association. This lack of voluntariness makes it more plausible to view the WTO as coercive and as part of a global basic structure.

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[226] Ibid, n. 52.

[227] Nagel, 'The Problem of Global Justice', pp. 128-129. Nagel also sees the legal nature of this coercively imposed order being important. He claims that Rawls argues that we need the difference principle to arrange inequalities because these inequalities are objectionable, and, "What is objectionable is that we should be fellow participants in a collective enterprise of coercively imposed legal and political institutions that generates such arbitrary inequalities." Ibid, p. 128. Clearly, the issue of legality and coercion are closely related. As Rawls notes in *ToJ*, "A legal system is a coercive order of public rules addressed to rational persons for the purpose of regulating their conduct and providing the framework for social cooperation." *ToJ*, § 38 p. 235/207.
I thank my examiner Stephen Winter for pointing out the role legality plays in Rawls's thinking.

[228] Laura Valentini, 'Coercion and (Global) Justice', in *American Political Science Review*, Vol. 105, No. 1, (February 2011), p. 218, DOI: 10.1017/S0003055410000559.

While not arguing from a Rawlsian viewpoint, Valentini gives us further reason to take a broader view of the global basic structure by arguing agricultural subsidies in the:

> United States and the European Union foreseeably and avoidably place nontrivial constraints on the freedom of farmers in developing countries who are forced to undervalue their products, relative to their own costs of production, to compete on the market. Because the result for these farmers is often poverty and destitution, the subsidies certainly qualify as coercive.[229]

While these subsidies take place in states or confederations of states, rather than in global institutions, if they have the profound global effects which Valentini argues they do, we can view them as part of a global structure that is sometimes coercive. I will discuss these subsidies further in the eighth chapter, where we will see some argue that these subsidies do not have these profound effects. However, even if one could show that these policies and the aforementioned institutions do not have these profound effects, and therefore there is currently no global basic structure, it is not be fatal to the argument for a global difference principle. This is because of the different role basic structures play in the domestic and international original positions.

We have seen Rawls talks of those in the international original position agreeing to the setting up of cooperative organizations and institutions; this suggests building up a global basic structure. This contrasts with the domestic situation where those in the original position alter an already existent basic structure. The idea of setting up a global basic structure is congruent with the idea that the two moral powers justify global principles of justice. This is because these powers are present even if there is no global basic structure.

This consideration of the global basic structure brings us to the end of the body this chapter.

Conclusion

We started this chapter by seeing how when we extend Rawlsian theory to the world it should include cosmopolitan principles. Even Rawls appeared to appreciate this point when he argued that his international principles of justice should include a human rights principle. Rawls also appreciated that many commentators would see a global difference principle as a natural extension of his theory, but he and others came up with a number of arguments for why these commentators were mistaken. We explored a number of these arguments, but

[229] Ibid.

found them unconvincing. However, in the next chapter we will examine a different and more positive argument against the global difference principle.

The argument comes from Rawls. This is the argument that the duty of assistance plays a role similar to the global difference principle, but is superior.

Chapter 5: The Global Difference Principle and the Duty of Assistance

Introduction

As we saw in the third chapter, the duty of assistance is the duty of liberal and decent peoples, "to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime."[230] Rawls bases much of his argument against the global difference principle on the alleged superiority of this duty. As might have been expected, some commentators, like Shmuel Nili[231], have found Rawls's argument convincing, while others, like Pogge[232], have not. However, this difference in opinion, and how Rawls frames the debate, should not lead us to think, like Nili[233], that the Rawlsian must choose between a duty of assistance and the global difference principle. Instead, in this brief chapter I will argue, in agreement with Hinsch[234], that we can have both principles, and indicate how they can work together.

In examining Rawls's argument a number of issues will be analysed some of them exegetical in nature. The chapter will start by arguing that Rawls's preference for the duty of assistance in the international arena did not just reflect a non-egalitarian view of international inequality, but also reflected a change in his view of domestic inequality, even though he did not acknowledge this change.[235]

After this exegetical exercise, we will consider Rawls's argument that the global difference principle would have unacceptable consequences while the duty of assistance would not. In trying to show this, Rawls describes two scenarios. These scenarios depend on the notion of deserved inequalities, a notion Rawls does not directly discuss in *LoP* or *ToJ*.

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[230] Rawls, *LoP*, § 4.1, p. 37. It would have been better if Rawls had said "polities" because the duty of assistance is about assisting polities that are not well-ordered enough to be described as "peoples", to become peoples.
[231] Shmuel Nili, 'A Poggean passport for fairness? Why Rawls' Theory of Justice did not become global', in *Ethics and Global Politics*, Vol. 3 No. 4, (September 2010), pp. 289-291, also available at URL: http://www.ethicsandglobalpolitics.net/index.php/egp/article/view/5385, (accessed 9 December 2014).
[232] Thomas Pogge, '"Assisting" the global poor', in Deen K. Chatterjee ed., *The Ethics of Assistance: Morality and the Distant Needy*, (Cambridge: Cambridge University Press, 2004), p. 261.
[233] Nili, 'A Poggean passport for fairness', pp. 289-291.
[234] Hinsch, 'Global Distributive Justice', p. 69.
[235] Rawls may have always had an inegalitarian view of international inequality. Evidence in favour of this proposition comes from his support in *ToJ* for the familiar principles of international relations.

However, this notion is important because, like the duty of assistance and the just savings principle, it acts as a constraint on the global difference principle.

I will argue that Rawls's scenarios do not work because in the scenarios the global difference principle and the duty of assistance have the same consequences, viz. no redistribution of wealth; but the chapter will not argue this means the principle and the duty are identical.

The differences between the duty and principle will be highlighted by showing how the duty of assistance constrains the global difference principle at the global level of social organization in a manner similar to how the just savings principle constrains the difference principle at the domestic level of social organization.

This demonstration will take place in a discussion of the just savings principle, a principle that commentators in the literature have largely neglected. In this discussion it will also be pointed out that the just savings principle also constrains the global difference principle.

Rawls's Changing View of Inequality

Rawls, in the original and revised editions of *ToJ*, states, "Injustice … is simply inequalities that are not to the benefit of all."[236] In contrast, in *LoP*, Rawls mentions two views on the topic of justice and equality:

> One holds that equality is just … in itself. The Law of Peoples, on the other hand, holds that inequalities are not always unjust, and that when they are it is because of their unjust effects on the basic structure of the Society of Peoples, and on relations among peoples and among their members.[237]

One might argue that Rawls's stance on inequality has not changed from the publication of *ToJ* to *LoP*, since here in *LoP* he is talking about peoples not persons. In this regard, one also might point out that in *ToJ* Rawls says, "the correct regulative principle for anything depends upon the nature of that thing",[238] and then argue that the different nature of persons and peoples justifies treating them differently when it comes to inequality. However,

[236] Rawls, *ToJ*, § 11, p. 62 /54.
[237] Rawls, *LoP*, § 16.1, p. 113.
[238] Rawls, *ToJ*, § 6, p. 29/25.

if we inspect the issue more closely we find that the later Rawls appears to have changed his view of inequality in the domestic realm. We can see this in *LoP* where Rawls claims that in a domestic society, "In itself, it doesn't matter how great the gap between rich and poor may be. What matters are the consequences."[239] Someone trying to show that Rawls's views on domestic inequality had not changed might suggest this was always Rawls's view.[240] Furthermore, this person could argue, Rawls always maintained that if inequalities have the consequence of benefiting the least advantaged, then they are just. This person could then argue that Rawls always maintained that when it comes to inequality what matters are the consequences. However, these arguments are a misreading of the early Rawls. One should interpret the early Rawls's statement that injustice is "inequalities that are not to the benefit all" as meaning inequalities need to be to the benefit of all in order to defeat their *prima facie* injustice and to override the initial presumption in favour of social and economic equality due to the equal moral worth of persons.

As if to emphasise how his view of inequality between persons has changed, in *LoP* Rawls goes on to give the example of a liberal domestic society where the least advantaged, "have sufficient all-purpose means to make intelligent and effective use of their freedoms and to lead reasonable and worthwhile lives."[241] He says that this society has no need to reduce the gap between the rich and the poor, and then says how this is similar to the international arena where there is no need to reduce the gap between rich and poor peoples once the duty of assistance has been satisfied. This comparison suggests Rawls, perhaps unconsciously[242], partly based his rejection of the global difference principle on a rejection of a domestic difference principle.[243]

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[239] Rawls, *LoP*, § 16.1, p. 113.

[240] In support of this view, the defender of Rawls might point out that in *ToJ* Rawls said, "It does not matter how much worse off this [least advantaged] representative individual is than the others." Rawls, *ToJ*, § 15, p. 91/79. However, here Rawls is emphasising that we are to judge the social system from the position of the least advantaged even when the least advantaged are not much worse off than others are. He is not claiming that only the consequences of inequality matter.

[241] Rawls, *LoP*, § 16.1, p. 114.

[242] Rawls maintained that he had not changed his views on domestic inequality. In *LoP* he writes, "In a *Theory of Justice* and *Political Liberalism* I sketched the more reasonable conceptions of justice for a liberal democratic regime and presented a candidate for the most reasonable." Ibid, § 18.3, p. 128. The reference to "a candidate for the most reasonable" is a reference to the two principles, which, of course, includes the difference principle. This is in keeping with Rawls's claim in *PL* that there is no reason to think, "working out the ideas of political liberalism [as Rawls does in *PL*] meant giving up the egalitarian conception of *Theory*." Rawls, *PL*, Lecture I, 'Fundamental Ideas', § 1, p. 7, n. 6.

[243] This comparison also suggests that Rawls has adopted both a global and domestic form of sufficientarianism. Others have noted the sufficientarian nature of *LoP*. For example, Chris Armstrong says, "Advocates of global

To justify further his inegalitarian conception of the international realm, Rawls comes up with scenarios, which he hopes show how the global difference principle has unacceptable consequences while the duty of assistance does not. As we will see, these scenarios fail because, ironically, they do not show an appreciation for the Rawlsian notion of deserved inequalities.

Rawls's Scenarios and Deserved Inequalities

In the first scenario Rawls describes, there are two peoples, one decides to industrialize and save while the other one does not. The peoples make these decisions in line with their social values. These different decisions lead to economic inequality between the two peoples, with the people that industrialized and saved eventually being twice as wealthy as the people who did not. Rawls then asks, "Assuming, as we do, that both societies are liberal or decent, and their peoples free and responsible, and able to make their own decisions, should the industrializing country be taxed to give funds to the second [as would be required by the global difference principle]?"[244] Rawls hopes we answer no, and will then favour the

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sufficientarianism constitute a major camp within debates on global distributive justice—think of Miller, or Rawls, for example". 'Global justice, positional goods, and international political inequality', in *Ethics & Global Politics*, Vol. 6, No. 2, (2013), p. 110, DOI: http://dx.doi.org/10.3402/egp.v6i2.21313.
I thank my examiner Stephen Winter for noting the need to mention sufficientarianism.

[244] Rawls, *LoP*, § 16.2, p. 117. This emphasis on responsibility contrasts with how Rawls in *ToJ* sometimes treats individual responsibility. For example, at one point he not only questions the related idea that individuals deserve their superior talents, but also argues:

> The assertion that a man [or woman] deserves the superior character that enables him [or her] to make the effort to cultivate his [or her] abilities is equally problematic; for his [or her] character depends in large part upon fortunate family and social circumstances for which he [or her] can claim no credit. The notion of desert seems not to apply to these cases.

Rawls, *ToJ*, § 17, p. 104/89 (wording slightly changed in revised edition).This quote appears to question all notions of desert. Indeed, Alan Zaitchik was not alone in thinking that Rawls had put forward, "a completely general argument which alleges that no desert theory could be true for the simple reason that no one ever deserves anything." 'On Deserving to Deserve', in *Philosophy & Public Affairs*, Vol. 6, No. 4 (Summer 1977), p. 371.
A reason for thinking that no one deserves anything is thinking that no one is responsible for any of their actions. One might think that no one is responsible for their actions because actions flow from character, and no one is responsible for that character.
In regards to the responsibility of peoples, one can question how Rawls could view them as responsible if he has this general sceptical view of individual responsibility. However, if we look back at Rawls's quote we see that he leaves himself some wiggle room by saying, "such character depends in good part" on environmental factors. This leaves room for the notion of responsibility, a notion that he makes use of a number of times in *ToJ*. For example, when arguing that each individual has to decide whether civil disobedience is justified, and accept the consequences if she makes the wrong decision, he writes, "We cannot divest ourselves of our responsibility and transfer the burden of blame to others." *ToJ*, § 59, p. 389/341. I thank my examiner David Reidy for making me aware of this point.

duty of assistance because it would not require a tax because both polities are already either decent or liberal peoples.

In the second scenario once again there are two peoples, one people, in line with its social values, decides to reduce its population growth. The other people, "because of its religious and social values, freely held by its women, does not reduce the rate of population growth and it remains rather high."[245] Once again, this difference in policy eventually results in the first society becoming twice as wealthy as the second society. Once again, Rawls says that because both polities involved are already either liberal or decent peoples, the duty of assistance would require no tax, and that this seems right, while the global difference principle would require a tax, and that this seems wrong. In describing both scenarios, Rawls is correct when it comes to what the duty of assistance would require, but I will now argue that he is wrong in a number of ways when it comes to the global difference principle.

One of the things Rawls gets wrong is that he does not simply say there would be a tax but says, "there would always be a flow of taxes as long as the wealth of one people was less than that of the other."[246] This is misleading because a global difference principle would only require there to be a flow of taxes from the wealthy people to the less wealthy people if the wealth of the wealthy people did not contribute to the wealth of the less wealthy people. Discussions of the difference principle in its domestic and global forms generally presuppose that there are economic links between either persons or peoples, and that via these links economic and social inequalities can be to the advantage of the less wealthy. Indeed, in his final statement of the difference principle in *ToJ*, Rawls states that the difference principle mandates we should arrange social and economic inequalities so they are to the benefit of the least advantaged. He does not state that we are to eliminate social and economic inequalities.

One might try to defend Rawls's claim about the extent of the taxation required by the global difference principle, by arguing that he presupposes there are no economic links between the two peoples. This means the economic inequalities between the two peoples cannot be to the benefit of the less wealthy people, and therefore an egalitarian principle like the difference principle would demand that we eliminate the inequalities. One can give this view some support by noting that Rawls precedes his discussion of the two scenarios by

[245] Ibid, p. 118.
[246] Ibid, p. 117.

discussing Beitz's two redistribution principles, one of which applies to an autarkic situation, and one that applies to a situation of international economic cooperation.[247] However, when discussing the two scenarios, Rawls has moved on from discussing the principle applying to the autarkic situation. Rawls also, in *LoP*, generally assumes economic links in the form of trade between peoples. We have already seen that Rawls thinks those in the international original positions would, "agree to standards of fairness for trade".[248] It would also not be realistic to imagine a scenario where there are no economic links between peoples given the increasing trade links between societies. So it would be strange and in need of justification for the scenarios to be presented with autarkic peoples.[249]

However, some Rawlsians might think that if we remove Rawls's claim about how far the taxation would go, the scenarios still show how the global difference principle is objectionable. Those making this claim might argue that we should not tax the wealthy peoples in the scenarios at all. This is because the less wealthy people freely chose policies that led to them being less wealthy; they could have chosen the same policy as the other people and been just as wealthy as the other people are, but they chose not to.

The problem with this defence of Rawls is that a global difference principle would take the same view of inequalities that were the result of free decisions. It would view these inequalities as deserved inequalities, which means, even though the inequalities are not to the benefit of the least advantaged, they do not require redistribution. Making this claim might seem wrongheaded because the phrase "deserved inequalities" does not appear in either *ToJ* or *LoP*. However, in *ToJ* Rawls discusses the idea of undeserved inequality when he writes:

> [W]e may observe that the difference principle gives some weight to the considerations singled out by the principle of redress. This is the principle that undeserved inequalities call for redress; and since inequalities of birth and natural endowment are undeserved, these inequalities are to be somehow compensated for. Thus the principle holds that in order to treat all persons equally, to provide genuine equality of opportunity, society must give more attention to those with fewer native assets and to those born into the less favorable social positions. The idea is to redress the bias of contingencies in the direction of equality.[250]

[247] Ibid, p. 116.
[248] Ibid, § 4.5, p. 42.
[249] Hinsch argues that the peoples presented in the scenarios are autarkic, but only does this to then argue, "our intuitive responses [to the scenarios] are not very telling as regards the acceptability of a global difference principle in a world like ours, with an abundance of positive and negative intersocietal externalities and ever increasing international economic cooperation." Hinsch, 'Global Distributive Justice', p. 72.
[250] Rawls, *ToJ*, § 17, pp. 100-101/86. This quote adds the question of how much weight we should give to the principle of redress. In relation to this, Rawls writes, "Now the difference principle is not of course the principle of redress. It does not require society to try to even out handicaps as if all were expected to compete on a fair

Now on a Rawlsian basis we can draw a distinction between undeserved inequalities, which cover inequalities due to natural endowments and starting social position, and deserved inequalities, which are due to free actions made by persons. The latter type of inequalities seems to be what Rawls is discussing in *ToJ* when he notes that in a society where the difference principle is realized, "inequalities are allowed to arise from men's [and women's] voluntary actions".[251] Hinsch notes that Rawls finds the idea of redistribution in his scenarios unacceptable because the inequality was the result of, "conscientious and reasonable collective decisions and efforts in one country that could have been affected in the other country as well."[252] However, as Hinsch argues, a cosmopolitan, including those who take inspiration from Rawls, can avoid this unacceptability by recognising that the wealthier people in the scenarios deserve their wealth due to the choices that they made, even though these choices lead to inequality. [253] This means in both scenarios neither the duty of assistance or the global difference principle requires redistribution.

Having seen how in these scenarios the duty of assistance and the global difference principle lead to the same consequences, one might think that the two principles are the same. This is not the case. We can see this by considering how the just savings principle works with the domestic difference principle, and how this is similar to how the duty of assistance works with the global difference principle.

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basis in the same race." Ibid, p. 101/86. While Rawls does not spell out why the difference principle does not require this, one obvious reason is that this would unlikely to be in everyone's interests.

[251] Ibid, § 16, p. 96/82.

[252] Hinsch, 'Global Distributive Justice', p. 73.

[253] A similar point is made by Simon Caney when he writes:

> A proponent of a global difference principle can reason as follows: we should design a global set of institutions and rules so that, given the predictable choices of individuals, firms and states that operate within this framework, this global set of institutions and rules will promote the condition of the global least advantaged. Within this fair framework, agents (including states) should take some responsibility for their decisions but the global framework is structured so as to maximize the position of the least advantaged.

'Cosmopolitanism and Justice' in *Contemporary Debates in Political Philosophy*, Thomas Christiano and John Christman (eds.), (West Sussex: Blackwell Publishing Ltd, 2009), p. 400. I thank my examiner Stephen Winter for making me aware of Caney's work in this area.

The Just Savings Principle

Steven Wall notes, "The subject of just savings presents an important, and for the most part unappreciated, part of Rawls's theory of distributive justice."[254] The lack of appreciation is surprising given the amount of attention given to the difference principle, and that Rawls says, "the complete statement of the difference principle includes the savings principle as a constraint."[255]

Rawls also thinks that we are led to the just savings principle by thinking about the implications of the domestic difference principle. Rawls writes that we might think the domestic difference principle leads to the least advantaged being raised to a high point with, "the greater wealth of those better off … [being] scaled down until eventually everyone has nearly the same income."[256] However, Rawls maintains that this will generally not be the case. One reason for this that is obvious, but as we have already seen in this chapter is sometimes overlooked, is that the difference principle is based on the idea that inequalities can be arranged to the benefit of the least advantaged.[257] Rawls argues that another reason for why there will not be extreme social levelling is because, "The appropriate expectation in applying the difference principle is that of the long-term prospects of the least favoured extending over future generations", and that these prospects may diverge from the prospects of the current generation of the least advantage.[258] Rawls does not fully explain why the intergenerational viewpoint is the appropriate one. However, his stance would appear to be that what generation one belongs to is a morally arbitrary factor; this means that Rawls keeps knowledge of this position behind the veil of ignorance, which means those in the original position take an intergenerational viewpoint of the least advantaged.

The interest of the intergenerational least advantaged and the current least advantaged may diverge because raising the prospect of the current least advantaged to a high point

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[254] Steven Wall 'Just Savings and the Difference Principle', in *Philosophical Studies*, Vol. 116, No. 1, (October 2003), p. 79, Stable URL: http://www.jstor.org/stable/4321414. However, as Wall notes in a footnote, there is significant work on the topic of Rawls's just savings principle. He gives the example of Jane English's 'Justice between Generations', in *Philosophical Studies*, Vol. 31, No. 2, (February 1977), pp. 91-104, Stable URL: http://www.jstor.org/stable/4319117. Rawls would modify his treatment of the principle in light of English's article. I have done the same. Rawls, *PL*, § 3 'The Idea of a Society as a Fair System of Cooperation', p. 20.
[255] Rawls, *ToJ*, § 44, p. 292/258.
[256] Ibid, p. 285/252.
[257] There is nothing in the statement of the difference principle that deems large inequalities must be unjust. In the final analysis, large inequalities are only unjust if it turns out that they do not benefit the least advantaged.
[258] Ibid.

would endanger our ability to maintain just institutions which protect the liberties of future generations of the least advantaged. So instead, we must constrain the difference principle with the need to set aside some funds in order to maintain these institutions.

Now Rawls said it was by thinking about the long term implications of the difference principle that we are led to this establishing and maintaining just institutions principle (the just savings principle), but he goes on to argue that the difference principle is not an appropriate principle to cover savings. He comes to think this by first believing that the difference principle would mandate us to improve the expectations of the least fortunate generation, and that this generation would be the first generation of a society. He then notes, "There is no way for later generations to improve the situation of the least fortunate first generation." Therefore, "The [difference] principle is inapplicable because it would seem to imply, if anything, that there be no saving at all."[259]

Perhaps because he thinks it is obvious, Rawls does not explain why he thinks the difference principle applied to justice between generations would mandate us to improve the expectations of the least fortunate generation, and why he assumes this generation will be the first generation of a society. Admittedly, the logic that leads Rawls to this conclusion could be simple. We are talking about generations, the difference principle is about helping the least advantaged, so if we apply the principle to the question of intergenerational saving it will, arguably, tell us to save for the least advantaged generation. Many, including social contract theorists, think that those living without society are worse off. Therefore, we can expect that the first generation of a society, which will be emerging from a non-societal state, will have the lowest expectations of any generation and therefore be the least advantaged generation. Rawls also appears to assume that generally expectations improve from one generation to the next. With these assumptions in place, the difference principle, as Rawls presents it, asks us to do something we cannot do, save in order to benefit the first generation of society. We can interpret this as asking us to save nothing.

[259] Ibid, § 44, original edition, p. 291. In the revised edition of *ToJ*, Rawls presents his argument slightly differently. Rawls writes, "There is no way for later generations to help the situation of the least fortunate earlier generation." In this reworded sentence, there is no assumption that the first generation will be the least fortunate generation, but there still appears to be the assumption that the least fortunate generation will be in the past. Ibid, revised edition, p. 254. Rawls also changed his mind on what the difference principle might entail regarding savings. In the revised edition of *ToJ*, Rawls raises the possibility that the difference principle would mandate some saving, but, "not enough saving to improve social circumstances sufficiently so that all equal liberties can be effectively exercised." Ibid. This leads Rawls to conclude, "the difference principle does not hold for the question of justice between generations and the problem of saving must be treated in some other manner." Ibid.

However, if we interpret the difference principle as applying to an intergenerational least favoured group, that is always present in society, the principle could apply to the question of savings. A defender of Rawls may point out the some of this group will lie in the past[260], so we will not be able to raise the expectations of all of the members of this group. However, Rawls's main objection was that the difference principle would not mandate any savings, and this interpretation of the difference principle avoids this problem.

Since we can apply a modified difference principle to savings, the just savings principle would appear to be superfluous since we brought it in because of the difference principle's putative inability to deal with this problem. However, we should remember that while Rawls at this point misunderstands how the difference principle applies to savings, at another point he did say that the complete statement of the difference principle includes the just savings principle. On this interpretation, we can view the just savings principle as part of the difference principle. This part makes us view the least advantaged as an intergenerational group who are benefitted by saving to preserve just institutions which ensure that the basic liberties are realized, not just a group in the current generation who could benefit by economic redistribution and consequent consumption.

We can transfer these comments about the just savings principle to the duty of assistance. We might think that a global difference principle would only require a redistribution of wealth, which the globally least advantaged would immediately spend. But once we think of the globally least advantaged as an intergenerational group that can benefit by the creation and maintenance of just institutions, we can see that transfers to the globally least advantaged should also be put towards creating and maintaining just institutions, which will require savings. When we have done this, we have realized the duty of assistance, which means, as is the case when we have realized the just savings principle, we have been able, "to secure a social world that makes possible a worthwhile life for all its [a polity's] citizens."[261]

However, these comments do not show how the just savings principle would act as a constraint on the demandingness of transfers from wealthy states to poor states, with the demandingness not being altered by the transfers being used to save to establish and preserve

[260] It is only likely, rather than certain, that some of this group will lie in the past because if we take the viewpoint of the original position, we do not know which generation is our generation, so our generation may be the first generation of society. Still, since the least advantaged group will still include the first generation of society, it will still include a generation that we cannot leave any savings.
[261] Rawls, *LoP*, § 15.2, p. 107.

just institutions rather than being spent on consumption. What does constrain the demandingness is the requirement to balance the need to create and preserve the material base of institutions in poor states with the need to preserve the material base of these institutions in the wealthy states. As I argued in the previous chapter regarding the need to balance a domestic difference principle with a global difference principle, this balancing act would be accomplished by identifying which parts of the social product was produced by domestic cooperation and which part was produced by international cooperation. In this instance, we would use a part of the social product due to domestic cooperation in wealthy states to preserve institutions in these states, while we would use a part of the social product due to international cooperation to create and preserve institutions in poor states.

Conclusion

This chapter looked at Rawls's argument that a duty of assistance is preferable to a global difference principle, but found that Rawls built this argument on a mischaracterisation of the global difference principle. We also found that we could have both the global difference principle and the duty of assistance, as in the domestic case where we have the difference principle and the just savings principle. We also saw how the duty of assistance and the just savings principle act as constraints on the global difference principle.

Rawls, however, has not exhausted his arguments against the global difference principle. In the next chapter, we will look at an argument that was doing some work in the scenarios considered in this chapter. In these scenarios, Rawls was holding peoples, and the persons who make up these peoples, responsible for the economic performance of their nation. The next chapter will question this position and the related position that we can hold nations, and the persons that make up these nations, responsible for whether these nations are well-ordered or not.

The next chapter also sees a shift from the first part of the thesis that focused on Rawlsian theory and cosmopolitanism, to the second part of the thesis that looks at the more empirical questions that surround the issue of realizing principles of global justice, most notably the global difference principle.

This second part of the thesis starts with Rawls's idea, explanatory nationalism, which, if true, would undermine the idea that the duty of assistance and the global difference principle are realizable.

Part 2: Realizing Principles of Global Justice

Chapter 6: Explanatory Nationalism

Introduction

In *LoP* Rawls claims:

> [T]he causes of the wealth of a people and the forms it takes lie in their political culture and in the religious, philosophical, and moral traditions that support the basic structure of their political and social institutions, as well as in the industriousness and cooperative talents of its members, all supported by their political virtues.[262]

Pogge labels this belief about economics, "explanatory nationalism", and notes that entailed in this belief is, "the idea that the causes of severe poverty and of other human deprivations are domestic to the societies in which they occur".[263] This economic version of explanatory nationalism undermines the idea that the global difference principle is a realizable principle of global justice because, if true, it means international factors could not have much of a role in reducing poverty.

While Pogge focuses on Rawls's economic thesis, at times Rawls has a broader notion of explanatory nationalism in mind that includes well-orderliness. For example, he follows up his statement about economics by saying, "I would further conjecture that there is no society anywhere in the world—except for marginal cases—with resources so scarce that it could not, were it reasonable and rationally organized and governed, become well-ordered."[264]

This clashes with what Rawls says at another point in *LoP*. As we have already seen in the third chapter, at this other point in *LoP* Rawls identified burdened societies as ones, which, "lack the political and cultural traditions, the human capital and know-how, and, often, the material and technological resources needed to be well-ordered".[265] At this point Rawls also believed international factors, most notably assistance from well-ordered societies, could help these societies become well-ordered. This chapter will argue that this latter position is correct, which means the duty of assistance is a realizable principle of justice.

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[262] Rawls, *LoP*, § 15.3, p. 108.
[263] Pogge, 'Do Rawls's Two Theories of Justice Fit Together?', p. 217.
[264] Rawls, *LoP*, § 15.3, p. 108.
[265] Ibid, § 15.1, p. 106.

Along with arguing this, the first section of this chapter will argue Rawls is incorrect when he argues international factors have little effect on economic performance, and therefore implies the global difference principle is not a realizable principle of justice. For example, this chapter will argue, in agreement with Pogge, that the way governments sell and buy natural resources on the international market can undermine the economic performance of nations with natural resources.

One of the striking things about Rawls's statements on economic performance is that they attribute causal power to things we often take to be to a certain extent under the control of societies. These things are "political culture", "religious, philosophical, and moral traditions", and "the industriousness and cooperative talents of its [a society's] members". This is important because, as David Miller points out, showing national factors can explain economic performance does not fully justify Rawls's conservative view that includes a moral critique of societies that perform poorly in this area. In order to justify this critique, one would also have to show there was justification in holding societies and the persons who make up these societies responsible for the factors that led to their nation's poor economic performance. In the second section of this chapter, I will argue that Miller is largely incorrect in thinking non-liberal societies and the persons who make up these societies have this responsibility.

The Connected Questions of Economic Performance and Well-Orderliness

What makes one country wealthy and another country poor? Many, unlike Rawls, have thought that a large part of the explanation is natural resources, with countries with natural resources likely to be wealthy, and those without likely to be poor. There appears to be empirical support for this view since there are wealthy countries like Australia, which people often label "The Lucky Country",[266] which have plentiful natural resources.[267]

[266] The phrase, which is a reference to Australia's natural resources, originates with social commentator Donald Horne's *The Lucky Country: Australia in the sixties*, (Harmondsworth, Middlesex: Penguin, 1964).
[267] The CIA lists Australia's natural resources as, "bauxite, coal, iron ore, copper, tin, gold, silver, uranium, nickel, tungsten, rare earth elements, mineral sands, lead, zinc, diamonds, natural gas, petroleum" and adds, "Australia is the world's largest net exporter of coal accounting for 29% of global coal exports." *The World Factbook*, 'Field Listing, Natural Resources', https://www.cia.gov/library/publications/the-world-factbook/fields/2111.html, (accessed 9 December 2014). This figure clashes slightly with the OECD's International Energy Agency (IEA) figures for 2013 that show Australia second to Indonesia in the net

Rawls notes Beitz has this view.[268] Since, according to this view, the distribution of resources and therefore wealth between countries is arbitrary, Beitz argues for a significant global redistribution of wealth. In order to rebut this view, Rawls gives Japan as an example of a resource poor country[269] that has been successful, and Argentina as an example of a resource rich country[270] that has been unsuccessful.[271] Since this comment follows a discussion of economic growth and well-orderliness, by "successful" Rawls appears to have both in mind. To explain the success of Japan and the failure of Argentina, Rawls suggests, "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."[272] However, at this point, Rawls does not consider the possibility we could explain Japan's success and Argentina's failure by Japan having few natural resources and Argentina having abundant natural resources.

This is counterintuitive, but, as is often the case, our intuition may not be a good guide to answers to empirical questions. Argentina is not alone in being a resource rich country with low economic growth. Resource rich countries tend to have lower economic growth. Economists refer to this phenomenon as the "resource curse".[273] Rawls was aware of

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exporting of coal. *2014 Key World Energy Statistics*, (Paris: International Energy Agency, 2014), p. 15, also available at URL: http://www.iea.org/publications/freepublications/publication/KeyWorld2014.pdf, (accessed 9 December 2014).

[268] Rawls, *LoP*, § 16.2, p. 116.

[269] Ibid, § 15.3, p. 108. The CIA lists Japan's natural resources as, "negligible mineral resources, fish" and adds, "with virtually no energy natural resources, Japan is the world's largest importer of coal and liquefied natural gas, as well as the second largest importer of oil." 'Field Listing, Natural Resources'. This comes close to according with figures from the IEA, which records Japan in 2013 as fourth in the net importation of coal, first in the net importation of natural gas, and fourth in the net importation of oil. However, in this last case, China in second place is safely ahead of Japan, while the first placed United States is well ahead of China. *2014 Key World Energy Statistics*, pp. 15, 1, 11.

[270] Rawls, *LoP*, § 15.3, p. 108. The CIA lists Argentina's natural resources as, "fertile plains of the pampas, lead, zinc, tin, copper, iron ore, manganese, petroleum, [and] uranium". *The World Factbook*, 'Field Listing, Natural Resources'.

[271] Argentina's GDP growth rate has been variable over the years. Recently it has been positive, with OECD figures showing growth from 2003 to 2012. This contrasts with Japan's recent lack of economic growth. Rawls might say this is likely to reflect a change in the countries' political culture. However, we should note that Japan's GDP per capita is still considerably larger than Argentina's, which suggests we might be able to explain differences in growth rates by the countries being at different stages of economic development. OECD, *Stat Extracts*, 'Quarterly Growth Rates of real GDP', URL: https://stats.oecd.org/index.aspx?queryid=350, (accessed 9 December 2014). OECD, *Stat Extracts*, 'Level of GDP per capita and productivity', URL: http://stats.oecd.org/Index.aspx, (accessed 9 December 2014).

[272] Rawls, *LoP*, § 15.3, p. 108.

[273] There is disagreement among economists on the significance of the resource curse. Even supporters of the hypothesis see the curse as a tendency not an iron law; but certain critics of the thesis also admit resources can have a negative effect on economic growth. For the origin of and an argument for the thesis, see: Richard M. Auty, *Sustainable Development in Mineral Economies: The resource curse thesis*, (London: Routledge, 1993). For a measured critique of the thesis see, C. N. Brunnschweiler and E. H. Bulte, 'Linking Natural Resources to

similar ideas. In a footnote in *LoP*, he appears to endorse economic historian David Landes's claim that the discovery of oil in the Middle East has turned out to be a, "monumental misfortune" for the Arab world.[274] Nevertheless, Rawls's position, along with Landes's position, would appear to be that natural resources are only a curse when there is something wrong with one or more of the culture, institutions, individuals, and virtues of a country. In supporting this position, Rawls might point out resource rich countries like Australia and the United States, which have been successful.[275] These examples show there is no such thing as resource determinism, but they do not disprove the resource curse hypothesis, a hypothesis that merely claims that having natural resources has a tendency to lead to bad economic outcomes. This highlights the fact that the resource curse thesis and explanatory nationalism are to a certain extent compatible.

Indeed, a high profile advocate of the resource curse thesis, economist Richard Auty, (he coined the term) takes a position similar to Rawls. Auty argues that bad policy along with natural resources leads to bad outcomes. In support of his argument, Auty notes a number of countries, among them Peru, where natural resources paired with bad policy led to bad outcomes, but he also commends the resource rich Chile for taking an orthodox and pragmatic policy approach which led to good outcomes.[276] Auty's criticism is limited to

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Slow Growth and More Conflict', in *Science*, Vol. 320, No. 5876, (2 May 2008), pp. 616-617, also available at URL: http://www.ees.rochester.edu/ees101/PDFs/616.pdf, (accessed 9 December 2013).

[274] Rawls, *LoP*, § 16.2, p. 117. Rawls actually gives this footnote in support of his idea that it is "political culture" and "not the level of its resources" which explains a country's success or lack thereof. Rawls also notes Landes is in agreement with him, but Rawls thinks Landes sometimes argues for this cultural causation idea, "a little too strongly". Landes writes that when it comes to the money from the sale of oil:

> It has intoxicated rulers, henchmen, and purveyors, who have slept on piles of money, wasted it on largely worthless projects, and managed to exceed their figuratively (but not literally) limitless resources. Even Saudi Arabia cannot balance its books. In the process these spoilers have infuriated the Muslim poor, who in turn have sought an outlet for their rage and outrage in fundamentalist doctrine.

The Wealth and Poverty of Nations, (London: Little, Brown and Company, 1998), p. 414. A critic like Pogge would point out the willingness of those in developed countries to buy oil from the leaders of the Arab world, and that leaders of developed countries have shown a willingness to support dictators and help overthrow democratically elected governments in oil rich nations, most notably in Iran. National Public Radio (NPR), (United States), 'Declassified Documents Reveal CIA Role In 1953 Iranian Coup', (1 September 2013), http://www.npr.org/2013/09/01/217976304/declassified-documents-reveal-cia-role-in-1953-iranian-coup, (accessed 9 December 2014). Rawls does note America's role in Iran, but this is only to show the flaws of democratic regimes. Rawls, *LoP*, § 5.4, p. 53.

[275] The CIA lists the United States natural resources as, "coal, copper, lead, molybdenum, phosphates, rare earth elements, uranium, bauxite, gold, iron, mercury, nickel, potash, silver, tungsten, zinc, petroleum, natural gas, timber" and adds, "the US has the world's largest coal reserves with 491 billion short tons accounting for 27% of the world's total." *The World Factbook*, 'Field Listing, Natural Resources'.

[276] Auty, *Sustainable Development in Mineral Economies: The resource curse thesis*, pp. 249-251, 257-258. During this period, Chile was a military dictatorship, which means it would have probably qualified as an outlaw state.

mineral rich countries but the tenor of his message, at least when it comes to moral criticism, is similar to Rawls, in that he thinks we can look to the persons in minerally rich countries in order to explain their economic performance. If national governments of resource rich countries adopt the right policies, they can expect good outcomes. This means, presuming, among other things, that resource rich countries are free in regards to policy choice and that virtually all the persons in a country have an influence over this choice, virtually all the persons in resource rich countries are culpable if the country adopts the wrong policy. Countries are not doomed to bad outcomes if they are rich in minerals, even if the term "resource curse" might suggest otherwise.

Pogge would likely agree on the latter point, but likely argue both Auty and Rawls fail to see how international factors combine to make it more likely that countries with natural resources will perform poorly economically. The international factor Pogge has in mind is what he calls the "international resource privilege".[277] This privilege is the internationally recognised right of whoever rules a country to dispose of that country's resources as they see fit. Pogge believes that this privilege can help to explain the resource curse because the privilege encourages such economically detrimental things as coups and civil wars in developing countries that have natural resources. Pogge argues this resource privilege is part of, "the current global order we [the developed world] uphold [that] shapes the national culture and policies of the poorer and weaker countries."[278] While I will argue in this chapter that the international resource privilege does have the effects identified by Pogge, I am less convinced that the developed world can take all the blame for upholding the privilege. One reason why I think this is that UN resolution 1803 (XVII) on "Permanent sovereignty over natural resources", which was passed on 14 December 1962, had the support of 87 nations, many of them from the developing world. Only two nations, France and South Africa, voted against, while twelve nations, mainly communist ones, abstained.[279]

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[277] Pogge writes, "The incentives arising from the international resource privilege help explain what economists have long observed and found puzzling: the significant *negative* correlation between resource wealth (relative to GDP) and economic performance [italics original]." '"Assisting" the global poor', p. 271.

[278] Thomas Pogge, 'Priorities of Global Justice', in *Metaphilosophy*, Vol. 32, Nos. 1-2 (January 2001), p.21, DOI: 10.1111/1467-9973.00172. I thank my examiner Greta Snyder for making me aware of this work.

[279] UN voting record for resolution 1803, 14 December 1962, (XVII), URL: http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=1L577G2H08219.221033&menu=search&aspect=power&npp=50&ipp=20&spp=20&profile=voting&ri=&index=.VM&term=1803&matchopt=0%7C0&oper=AND&x=8&y=8&aspect=power&index=.AD&term=19621214+&matchopt=0%7C0&oper=AND&index=.AD&term=&matchopt=0%7C0&oper=AND&index=BIB&term=&matchopt=0%7C0&ultype=&uloper=%3D&ullimit=&ultype=&uloper=%3D&ullimit=&sort=, (accessed 9 December 2014). This comment is in response to a comment made by my examiner Greta Snyder.

Pogge argues that the privilege means coup plotters and those launching civil wars will know that if they are successful, they will be able to sell their country's resources, and use these resources as collateral when taking out loans.[280] The lack of other sources of revenue in developing countries heightens these incentives. The incentives also discourage policies that lead to economic growth. Pogge's analysis is similar to that offered by World-System theorist Christopher Chase-Dunn. Chase-Dunn and other World-System theorists argue that, *inter alia*, the world economy is set up to facilitate the extraction of natural resources from peripheral countries (developing countries) to core countries (developed countries). This extraction will include core countries investing money in peripheral countries, but these theorists argue that this investment does not lead to countrywide economic development in the peripheral countries. This is in keeping with Chase-Dunn's finding that while investment by core countries in mining in peripheral countries, "increases production in mining" it leads to, "negative effects on aggregate economic development".[281] However, as I noted in the previous paragraph, this analysis has to explain the support this system has among a variety of countries.

Pogge's analysis of how the incentives created by the privilege lead to low economic growth starts by noting that the first concern of leaders who capture power by force will be maintaining the loyalty of those who helped them forcefully remove the previous leaders, and who might be able to remove them. In the case of a military coup, this group may be military officers. If the government can maintain this group's loyalty by substantially increasing their pay via the sale of natural resources, then the government will do this even though such a policy is bad for economic growth.

A military coup will also result in a reduced level of democracy, which means a reduced level in one of the forms of well-orderliness identified by Rawls. This means, in this scenario, the presence of natural resources also helps to explain low levels of well-orderliness and economic performance.

Pogge could point to the work of Auty and others as evidence to back up his plausible account when it comes to the negative relationship between natural resources and economic

[280] Pogge, '"Assisting" the global poor', p. 270.
[281] Christopher Chase-Dunn, 'The Effects of International Economic Dependence on Development and Inequality: A Cross National Study' in *American Sociological Review*, Vol. 40, No. 6, (December 1975), p. 735, Stable URL: http://www.jstor.org/stable/2094176. My examiner Greta Snyder alerted me to the significance of the work of World-System theorists.

performance. Can we do the same when it comes to natural resources and well-orderliness? Yes, and in doing so we can use some of Pogge's sources. Pogge cites the work of economist Leonard Wantchekon whose analysis of the empirical data leads him to conclude there is a negative relationship between resource dependence and the level of democracy a country experiences.[282] However, as Wantchekon notes, there are resource dependent countries with high levels of democracy, notably Norway. What explains this? Wantchekon believes one of the main explanations is the high level of transparency of the Norwegian government, with there being, "special courts and public access to documents" and an ombudsmen which makes, "arbitrary [and illegal] intervention by political leaders in public administration very difficult."[283] This leads him to recommend resource dependent countries to be more transparent, especially when it comes to allocating revenue. Pogge would not necessarily object to this recommendation, but he would probably argue Wantchekon is failing to consider that international factors, in particular the international resource privilege, play a role in explaining why resource dependent countries are unlikely to do this. Since those in power in these countries can sell their natural resources whether or not they are transparent about how they spend the money they receive, they have no international incentive to set up the costly institutions needed to ensure transparency. Norway avoided this problem because it had a number of these institutions already in place when it discovered oil resources.[284]

However, other empirical researchers disagree with Wantchekon and Pogge's idea that resource dependence can lead to low levels of democracy, arguing that this view presents the causal relationship backwards. For example, Stephen Haber argues that when there are low levels of democracy, or to put it in other words, "when dictators have unconstrained authority and discretion", then, "investment tends to cluster in enterprises that are difficult to expropriate because running them requires proprietary knowledge of markets and

[282] Leonard Wantchekon, 'Why do Resource Dependent Countries Have Authoritarian Governments?', (12 December 1999), p. 19, URL http://www.yale.edu/leitner/resources/docs/1999-11.pdf, (accessed 9 December 2014).
[283] Ibid, p. 13.
[284] Some commentators trace Norway's democratic tradition back to its 1814 Constitution. Norway discovered the first of its large oil reserves much later, in the late 1960s. Øyvind Østerud and Per Selle, 'Power and Democracy in Norway: The Transformation of Norwegian Politics', in *Scandinavian Political Studies*, Vol. 29, No. 1, (2006), p. 27, DOI: 10.1111/j.1467-9477.2006.00140.x. Norway Ministry of Petroleum and Energy, 'Norway's Oil History in 5 minutes', (last updated 9 October 2013), URL: http://www.regjeringen.no/en/dep/oed/Subject/oil-and-gas/norways-oil-history-in-5-minutes.html?id=440538, (accessed 9 December 2014).

technologies—such as petroleum and mineral extraction." Furthermore, Haber claims that this occurs, "independent of the extent of the country's natural resource endowment."[285]

What would Pogge make of these claims? If they are true (Wantchekon's work shows the empirical debate is far from settled) it would mean Pogge's explanation of how the international resource privilege leads to low levels of democracy was mistaken, but Pogge would be able to maintain his criticism of the international resource privilege, albeit in an altered form. He could argue that while governments with low levels of democracy cannot afford to expropriate totally enterprises from investors because investors bring expertise needed to run these enterprises, they can still afford to tax revenue from these enterprises. Pogge could then argue that if we somehow replace the international resource privilege with a rule that only democratically elected governments could sell a country's resources; then there would be little or no investment in countries where previously, due to their dictatorial nature, investment had focused on such things as petroleum and mineral extraction. This might encourage the rulers of these countries to move in a democratic direction.

To the defenders of explanatory nationalism who do not think the facts support this argument, we can point out that in order to defend explanatory nationalism its defenders have to do more than show their account regarding empirical outcomes is correct. They also have to show we can justifiably hold nations responsible for the national factors that lead to these empirical outcomes.

The Question of Responsibility

The idea of national responsibility is one version of the complicated notion of collective responsibility, which Miller notes includes the claim, "that … cultural and political features … are … features for which peoples can properly be held responsible."[286] This would only be plausible if the peoples involved chose these features.

In the previous chapter, we investigated Rawls's scenarios, which he thought showed we could hold peoples responsible for pursuing certain policies. In the scenarios, the peoples could be a liberal people with its concomitant democracy, or a decent people with its

[285] Stephen Haber, 'Authoritarian Government', in Barry Weingast and Donald Wittman (eds.), *The Oxford Handbook of Political Economy*, (Oxford: Oxford University Press, 2006), p. 704.
[286] Miller, 'Collective Responsibility and International Inequality', in *Rawls's Law of Peoples: A Realistic Utopia?*, p. 198.

concomitant meaningful consultation between the social groups that make up their society. In both his scenarios, Rawls believes we can say the people as a whole made the decision to pursue certain policies, and therefore we can hold nearly all[287] the persons who make up this people responsible and expect them to deal with the consequences of these decisions, which in these cases were different levels of wealth. While we found problems with Rawls's argument, Miller develops it, so let us see if Miller avoids these problems.

Miller points out that along with having a consultation hierarchy, decent peoples have members who converge on a common good idea of justice. Miller also points out that Rawls says there is a democratic element in decent consultation hierarchies with there being voting members of the various groups that make up society. In casting their vote, these members, "take into account the broader interests of political life."[288] Miller thinks this means that often policies adopted by governments in decent societies will be, "informed by principles on which there is agreement, and taken according to procedures that citizens accept". When this is the case, Miller thinks the members of decent societies are, "reasonably implicated in collective responsibility."[289]

However, those members lower down in the social hierarchy of a decent people could legitimately claim reduced responsibility. They may have opposed the policy under consideration, and expressed this opposition. While those higher up in the social hierarchy would have listened to them and taken into consideration their views, they would deny their views equal status. This means a majority, even a large majority, could oppose a policy or set of policies, but those higher up in the social hierarchy could still choose to pursue the policy. Of course, we could say the same thing about a liberal people, but the presence of democratic elections increases the likelihood of the majority of members of a liberal people agreeing with the policy direction of the government, while in the case of a decent people this may often not be the case. Miller is aware of objections of this type. He notes the further objection that it, "is naïve to think that 'consultation hierarchies' which don't treat citizens as equals can properly embody a shared view of the common good." Miller's response is to say:

> But Rawls says explicitly that he is trying to describe a 'realistic utopia' – a world different from ours but one that nevertheless stays within the realms of the possible. Given that aim, his

[287] Rawls would exempt those who have severe health problems which preclude them from participating in the decision making process.
[288] Rawls, *LoP*, § 9.2, p. 73.
[289] Miller, 'Collective Responsibility and International Inequality', p. 199.

> general assumption about the collective responsibility of liberal and decent peoples is reasonable.[290]

In response, we can admit the possibility of a decent people where, despite no elections, the opinion of all significant social groups is taken into consideration, the opinion of these social groups reflect the opinions of its members, and therefore nearly all the persons who make up this people can be held responsible for the decision made by this people. But we can question what the significance of this possibility amounts to if actual non-liberal societies are quite different. To help answer this question we can look at Rawls's discussion of the imagined Islamic people, Kazanistan.

Rawls opens his exploration of Kazanistan by writing in a vein similar to the previous quote from Miller:

> The Law of Peoples does not presuppose the existence of actual decent hierarchical peoples any more than it presupposes the existence of actual reasonably just constitutional democratic peoples. If we set the standards very high, neither exists. In the case of democratic peoples, the most we can say is that some are closer than others to a reasonably just constitutional regime. The case of decent hierarchical peoples is even less clear. Can we coherently describe its basic social institutions and political virtues?[291]

However, when discussing Kazanistan, along with showing the idea of a decent consultation hierarchy is coherent, Rawls wants to suggest that a Society of Peoples, where all polities are either liberal or decent peoples, is possible in our social world.[292] Rawls is trying to describe a realistic utopia, not just a coherent utopia. In this regard, Rawls writes, "Kazanistan is the best we can realistically—and coherently—hope for."[293] In defence of the realism of Kazanistan, Rawls says he does, "not think it is unreasonable that a society like Kazanistan

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[290] Miller, 'Collective Responsibility and International Inequality', p. 200.

[291] Rawls, *LoP*, § 9.3, p. 75. This passage shows how Rawls sometimes presents liberal and decent peoples as ideals polities can never fully reach, or sometimes as empirical entities that approximate an ideal. We can see this in his portrayal of Kazanistan when he refers to it as idealised *and* as not without precedent in the real world. At another point in *LoP* Rawls suggests that neither liberal nor decent peoples exist. He writes:

> The idea of a reasonably just society of well-ordered peoples will not have an important place in a theory of international politics until such peoples exist and have learned to coordinate the actions of their governments in wider forms of political, economic, and social cooperation.

Ibid, § 1.3, p. 19. However, he then goes on to describe a situation of peace which he thinks already holds between democratic societies.

[292] This analysis is similar to Pettit's analysis. He views the division between peoples and the other polities Rawls identifies not as a division between purely idealised polities and actual polities. Instead, he views it, "as an empirical division among societies between those that are well ordered and those that are not." Pettit, "Rawls's Peoples", p. 45.

[293] Rawls, *LoP*, § 9.3, p. 78.

might exist, especially as it is not without precedent in the real world".[294] In support of this claim, Rawls refers to an earlier footnote, but this note only claims, "The spiritual interpretation of *jihad* was once common in Islamic countries [italics original]".[295] In the footnote before this, however, Rawls does say, "The doctrine [of toleration] I have attributed to the rulers of Kazanistan was similar to one found in Islam some centuries ago [The Ottoman Empire tolerated Jews and Christians]".[296] Rawls, however, does not appear to be asserting that the Ottoman Empire was a decent people and therefore the persons who made up the Ottoman Empire could be held responsible for its economic performance and its well-orderliness, and even if he is, it is not credible to do so due to the highly hierarchical nature of the Empire.

With Rawls unable to cite a real world example of a nonliberal society the member of which we can hold collectively responsible for its economic performance and well-orderliness, the realism of the idea of a decent people is undermined.

What this brief discussion of responsibility has done is to show that the number of polities who we can hold responsible for their economic performance and well-orderliness is smaller than Miller's analysis suggests. While we might be justified in holding the leaders of non-liberal states responsible, the majority of persons who make up these polities are not. It is only when there is democratic decision making that it is plausible to hold the persons who make up a society responsible for its economic performance and well-orderliness.

Conclusion

We have seen that there are a number of problems with explanatory nationalism. Along with making false responsibility claims, explanatory nationalism also makes the questionable empirical claim that economic performance and well-orderliness are due mainly to national factors. In this chapter some evidence was gathered which ran counter to this claim. Although the next chapter discusses another topic, it also continues the questioning of the economic version of explanatory nationalism by arguing that an international factor, ODA, can have an effect on economic performance, and via this and other channels, can help to realize a global difference principle.

[294] Ibid.
[295] Ibid, p. 76, n. 18.
[296] Rawls, *LoP*, § 9.3, p. 76, n. 17.

Chapter 7: The Effectiveness of ODA

Introduction

This chapter will investigate the effectiveness of ODA at being a step towards realizing a global difference principle. It is worth noting that fully realizing a global difference principle would require maximising the expectations of the globally least advantaged, and this is likely to require more than ODA programmes, which have the humanitarian goals of reducing poverty, and providing basic health and education services.[297] Indeed, in the next chapter I argue that trade can have a role in this process.

When it comes to ODA, we can start by noting that its official purpose was and largely continues to be to assist with economic development in the developing world and thereby reduce poverty. This result relates to the goal of realizing a global difference principle because a reduction in poverty in the developing world would see the globally least advantaged making gains in income and wealth, one of the social primary goods. The chapter will also look at how ODA has led to improvements in health and education, and how these improvements can help to realize a global difference principle.

While economist William Easterly admits ODA has led to improvements in health and education, he thinks ODA has generally been a failure due to certain obstacles. Among these obstacles are: governments in developed countries not knowing where to allocate resources so that they can help poor people in developing countries, and these governments also tending to allocate ODA to serve their own interests rather than the needs of recipients. The chapter will conclude that while these are real obstacles, they do not justify a general scepticism about ODA's effectiveness. When it comes to the obstacle of donors allocating ODA to further their own interests, I will gather evidence that will show that although this sometimes occurs, at other times, governments allocate ODA to meet recipient need, and ODA is sometimes effective in meeting these needs. When it comes to knowledge obstacles, I will note we can sometimes overcome these by channelling ODA via developing country governments.

[297] I owe this note of clarification to my examiner David Reidy.

Finally, the chapter argues we can see ODA is effective by using randomized evaluations similar to randomized controlled trials used in medicine. There is the problem of scaling up from randomized evaluations that researchers carry out on a small scale to programmes that are much larger and therefore may have different effects and be harder to evaluate. Nevertheless, the chapter will argue that the results from randomized evaluations give us a reason to scale up programmes.

Is ODA a Failure or Success?

Economist William Easterly not only claims ODA is an abject failure when it comes to poverty reduction, he also claims it is a massive one. In support of this claim he notes, "Sixty years of countless reform schemes to aid agencies and dozens of different plans, and $2.3 trillion later, the aid industry is still failing to reach the beautiful goal [of making poverty history]."[298] There is no denying that 2.3 trillion dollars is a great deal of money, and it may seem like enough to solve the problem of poverty if those in charge of the money had spent it effectively; however, as economist Jeffrey Sachs points out, we have to compare 2.3 trillion dollars to the size of the problem of global poverty. In doing this perspective setting, Sachs mistakenly quotes Easterly as saying the developed world has given 2.3 trillion dollars over 50, instead of 60, years.[299] This mistake is understandable since ODA in its modern form only started to emerge in 1960,[300] and this mistake just makes the amount given sound even greater, and Sachs's attempt to show we should not have expected it to solve the problem of poverty, more difficult. Nevertheless, Sachs succeeds. Sachs starts by estimating that there have been roughly 3 billion people in low-income countries over the 50-year period when developed countries gave ODA. This means, based on developed countries giving 2.3 trillion dollars over 50 years, on average a person in a low-income country received 15 dollars a year in ODA.[301] This makes ODA's failure to end poverty much less of a condemnation of ODA. This is even truer when we consider that Easterly concedes ODA is likely to have led to significant health and education improvements in low-income

[298] William Easterly, *The White Man's Burden: Why the West's Efforts to Aid the Rest of the World Have Done So Much Ill and So Little Good*, (London: Penguin Books, 2006), p.11.
[299] Jeffrey Sachs, *Common Wealth: Economics for a Crowded Planet*, (London: Penguin Books: 2008), p. 47.
[300] An OECD report notes, "The establishment of DAG/DAC [Development Assistance Group/ Development Assistance Committee] in 1960 was part of an extraordinary upsurge of related institutional developments concentrated in the early 1960s, which laid the foundation of the current aid system." 'DAC in Dates: The History of OECD's Development Assistance Committee', (2006 edition), p. 8, URL: http://www.oecd.org/dataoecd/3/38/1896808.pdf, (accessed 9 December 2014).
[301] Sachs, *Common Wealth*, pp. 48-49.

countries.[302] This fact is relevant to realizing a global difference principle because both health and education can raise the expectations of the least advantaged. When it came to education, Rawls appreciated its role in realizing a difference principle. While in *ToJ* Rawls discusses the importance of education for realizing another aspect of his second principle of domestic justice, the equal opportunity principle[303], Rawls also notes, "the difference principle would allocate resources in education, say, so as to improve the long-term expectation of the least favored."[304]

Rawls largely avoided the issue of health and health care. In trying to justify this neglect of the sick Rawls wrote:

> The first problem of justice concerns the relations among those who in the everyday course of things are full and active participants in society and directly or indirectly associated together over the whole span of their life. Thus the difference principle is to apply to citizens engaged in social cooperation; if the principle fails for this case, it would seem to fail in general.[305]

This passage comes from a discussion of the least advantaged; this is no coincidence. We can generally expect this group to have more health problems than other representatives groups. Part of the quoted passage suggests the main question for whether Rawlsian principles cover someone is whether this person is engaged in a scheme of social cooperation, but we have already concluded that the main question is whether one has the potential to develop the two moral powers. This opens up the possibility that our version of Rawlsian theory can cover those in poor health because these individuals still have the potential or actually have the two moral powers. However, even if one were to concede that only the presence of cooperation could justify Rawlsian principles, one could point out that there are those with health problems who are still fully cooperating members of society. The later Rawls, at times, appreciated this point, writing in *PL*, "The aim [of spending on health] is to restore people by health care so that once again they are fully cooperating members of society."[306] This also helps to realize a difference principle because being such a member of society is also likely to improve one's expectations.

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[302] Ibid, p. 47.
[303] Rawls writes that in an attempt to realize equality of opportunity, "the government tries to insure equal chances of education and culture for persons similarly endowed and motivated either by subsidizing private schools or by establishing a public school system." *ToJ*, § 43, p. 275/243.
[304] Ibid, § 17, pp. 101/86-87.
[305] Ibid, § 16, p. 84 revised edition.
[306] Rawls, *PL*, Lecture V, 'Priority of Right and Ideas of the Good', § 3, p. 184.

This brief discussion of health and education shows that Easterly's admission that ODA has led to health and education improvements in low-income countries suggests ODA has been effective in helping to realize a global difference principle. However, Easterly emphasises that ODA has generally been a failure in poverty reduction.

In making an argument to explain this putative failure, Easterly points out ODA can involve large plans devised in developed countries, or as he puts it "the West". He then goes on to claim that when it comes to, "a big plan involving myriads of intended beneficiaries, planners in the West have no way to use the knowledge of the poor people themselves about their own needs and problems."[307] Easterly gives his argument the intellectual backing of F. A. Hayek who argued, ""The economic problem of society" is "a problem of how to secure the best use of resources known to any of the members of society, for ends whose relative importance only these individuals know."[308] The solution, for Hayek, to this problem is the price mechanism, which acts, "to coordinate the separate actions of different people".[309] Since with ODA there is no price mechanism in place, Easterly argues that governments in the developed world cannot know what resources poor people in the developing world want. Easterly believes this is problematic because he thinks these people know what resources they need to escape poverty. However, it is not clear how the price mechanism can help poor people, and help to solve this knowledge problem, since poor people do not have much money. Aware of this problem, Easterly speaks favourably of cash payments made by the Bangladeshi government to Bangladeshi families that are conditional on the families making sure that their daughters attend school.[310] However, this opens up the possibility of ODA being effective because developed country governments often channel ODA via governments in developing countries.

However, one might think governments in developed countries will generally not fund these sorts of educational programmes. In making this argument, Pogge claims, "The disbursement of conventional development assistance (ODA) is governed by political considerations. It tends to be spent for the benefit of agents capable of reciprocation: exporters in the donor country or strategically important "elite" constituencies in the recipient

[307] William Easterly, 'Introduction: Can't Take It Anymore?', *Reinventing Foreign Aid*, (Cambridge, Massachusetts: The MIT Press, 2008), p. 12.
[308] F. A. Hayek, 'The Use of Knowledge in Society', in *The American Economic Review*, Volume 35, No. 4, (September 1945), pp. 519-520, Stable URL: http://www.jstor.org/stable/1809376.
[309] Ibid, p. 526.
[310] Easterly, *The White Man's Burden*, p. 175.

countries."[311] In support of his claim, Pogge notes that in 2005 only $7.63 billion out of the $106.78 billion given in ODA, which is roughly 7%, went towards basic education and health services.[312]

One might think that further support for Pogge's claim comes from a point made in the previous chapter of this thesis, namely that non-democratic governments lack responsiveness to the will of their people. Given this, one might ask, why should we expect these governments to use ODA to benefit their population? This question identifies a real problem. ODA has been misused and this is sometimes because of the non-democratic nature of the governments receiving the ODA. However, pressure from democratically elected governments providing the ODA can lead non-democratically elected governments receiving ODA to use the ODA effectively. If the latter government resists this pressure, the ODA donor governments can distribute via other channels like Non-Governmental Organizations/Civil Society Organizations. Indeed, in 2011, ODA donor governments distributed 14.4% of ODA in this manner.[313]

However, some question whether donor governments would pressure receiving governments to spend ODA to benefit their population or channel ODA through NGOs that would do this. They base this questioning on an account of the motives of donor governments. Such accounts occur in development studies, much of which builds on the work of R. D. McKinlay and R. Little.[314]

McKinlay and Little identify two models that could explain why donors allocate aid, the "humanitarian needs of the recipient" model, and the "foreign policy interests of the donor" model.[315] McKinlay and Little believe in the validity of the latter model, which asserts, "the provision of aid enables the donor to form relations of commitment and dependency" and, "These in turn afford foreign policy utilities that can be used by the donor to promote

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[311] Pogge, *World Poverty and Human Rights*, § 8.3, p. 213.
[312] Ibid. Figures are in US dollars and come from the UN, Millennium Development Goals Indicators: 'Goal 8. Develop a Global Partnership for Development: ODA to basic social services US$', URL: http://mdgs.un.org/unsd/mdg/Data.aspx, (accessed 9 December 2014).
[313] OECD, *Aid at a Glance, Flows of official development assistance to and through civil society organisations in 2011*, (2013), http://www.oecd.org/dac/peer-reviews/Aid%20for%20CSOs%20Final%20for%20WEB.pdf, (accessed 9 December 2014). I owe my awareness of this potential problem to my examiner Greta Snyder.
[314] Eric Neumayer, 'Is the Allocation of Food Aid Free from Donor Interest Bias?', in *Journal of Development Studies*, Vol. 41, Issue 3, (April 2005), p. 394, DOI: 10.1080/0022038042000313309.
[315] R. D. McKinlay and R. Little, 'A Foreign Policy Model of U.S. Bilateral Aid Allocation', in *World Politics*, Vol. 30, No. 1, (October 1977), p. 58, Stable URL: http://www.jstor.org/stable/2010075.

and protect certain of its interests."[316] Since these interests are unlikely to coincide with the interests of the recipient of aid, who may be a member of the globally least advantaged, it suggests aid is unlikely to help realize a global difference principle.[317] In rebutting this view, I will now discuss studies that show things besides donor interest determine the allocation of aid.

While in their seminal paper McKinlay and Little focused on the United States' aid allocation, Eric Neumayer looked at a range of studies, which covered a number of countries' aid allocation. In doing so, Neumayer measured three variables that might explain aid allocation: Donor Interest (DI), Recipient Need (RN) and Good Governance (GG).[318] Along with discovering that recipient countries having GG did sometimes lead to them receiving ODA, Neumayer found, "Maybe not surprisingly, there is evidence that both DI *and* RN play some role in the aid allocation by most donors [italics original]."[319]

Neumayer's findings may appear to be at odds with the figures cited by Pogge, which showed the small amount of ODA going towards basic education and health services. The explanation for this apparent discrepancy is that Neumayer defines donor interest more broadly than simply basic education and health services. Pogge might argue this definition is too broad, and if we use this definition, we could deem ODA benefitting elite constituencies as meeting recipient interests. Pogge could further argue that this stands in contrast to what donor governments should do, which is direct ODA towards the urgent needs basic health and education services could satisfy. Pogge would also add that history shows donor governments will not do this. However, the recent shift in focus to the Millennium Development Goals (MDGs), which includes goals like the realization of basic education and health services, should see improvement in this area.[320] Indeed, figures from the same source

[316] Ibid, p. 80.
[317] One could argue, as Rawls does, that realizing the difference principle is in everyone's interests, but as we have seen, what Rawls means by this is not straightforward and requires justification.
[318] Neumayer defines good governance as, "the way in which policy makers are empowered to make decisions, the way in which policy decisions are formulated and implemented and the extent to which governmental intervention is allowed to encroach into the rights of citizens." Neumayer also writes, "GG respects the political, civil and human rights of citizens, is in accordance with the rule of law, provides effective and non-corrupted public services to the people and utilises public resources in an accountable and transparent way and with the aim of promoting the general social welfare." *The Pattern of Aid Giving: The impact of good governance on development assistance*, (London: Routledge, 2003), p. 8. From a Rawlsian point of view, one can argue an increase in GG represents an increase in well-orderliness and is a move towards becoming a decent or liberal people.
[319] Ibid, p. 20.
[320] UN, 'Millennium Development Goals', http://www.un.org/millenniumgoals/, (accessed 9 December 2014).

cited by Pogge show the percentage of ODA going towards basic social service had risen from roughly 7% in 2005 to roughly 11% in 2011.[321]

This evidence regarding ODA and basic social services, and other evidence presented in this section of the chapter, suggests we can sometimes overcome the obstacles of donor interest and governments in developed countries not knowing where to allocate ODA. However, even if governments allocate ODA to the right places, and afterwards we see positive effects, can we be sure ODA was the cause? In some instances, it is safe to say yes. Given the previous testing of the performance of antiretroviral drugs in the treatment of HIV/AIDS, we can safely attribute reduced death rates from HIV/AIDS to the increased availability of retroviral drugs, which is often due to ODA funding[322]; but what of other ODA sponsored programmes? Some suggest that in order to be sure these programmes have positive effects we should attempt to replicate the testing which showed antiretroviral and other drugs have positive effects. Researchers, following this advice, have used what they call "randomized evaluations", but these evaluations have some problems, which, along with other aspects of the evaluations, I will now briefly discuss.[323]

Randomized Evaluations and the Problem of Scaling Up

In doing a randomized evaluation of an aid programme, much like a medical researcher doing a randomized controlled trial of a medicine, an aid researcher randomly selects an experimental group and a control group from a population.[324] The experimental group receives aid while the control group does not. Since researchers selected the groups randomly, generally the main difference between the two groups will be that one received aid while the other did not. This means we can reasonably attribute any statistically significant differences between these two groups to the effects of aid.[325]

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[321] UN, Millennium Development Goals Indicators, 'Goal 8. Develop a Global Partnership for Development: ODA to basic social services US$.'

[322] The WHO estimates, "The scaling up of ART [Antiretroviral Treatment] averted an estimated 4.2 million deaths in low- and middle-income countries in 2002 – 2012." *Global Update on HIV Treatment 2013: Results, Impact and Opportunities*, (June 2013), p. 9, URL: http://apps.who.int/iris/bitstream/10665/85326/1/9789241505734_eng.pdf, (accessed 9 December 2014).

[323] Esther Duflo and Michael Kremer, 'Use of Randomization in the Evaluation of Development Effectiveness', in *Reinventing Foreign Aid*, pp. 93-120.

[324] One point of dissimilarity between the randomized evaluations of aid programmes and the randomized controlled trials of medicines is that it is not possible to use placebos in most randomized evaluations of aid work. Therefore, the knowledge one is, or is not, in an aid programme could produce an effect.

[325] Duflo and Kremer, 'Use of Randomization in the Evaluation of Development Effectiveness', p. 95.

However, two of the leading advocates of randomized evaluations, the economists Esther Duflo and Michael Kremer, admit randomized evaluations have some possible problems. In the context of a discussion of small-scale aid programmes that have focused on education, Duflo and Kremer write, "It is possible that if some educational programs were implemented on a large scale, the programs could affect the functioning of the school system and thus have a different impact."[326] Economists Abhijit Banerjee and Ruimin He, who, like Duflo and Kremer, advocate the use of randomized evaluations, identify a related problem when they write, "The problem [with trying to assess policies] is that once something is big enough ("currency boards," "democracy"), there is no way to know what would have happened in its absence."[327] Banerjee and He do not expand on what they mean, but had they, they would probably start by noting that small scale programmes can be tested with randomized trials because one can use small experimental and control groups which are basically the same except one receives the programme and the other does not. Then they would have pointed out that democracy and currency boards are nation-wide policies. The problem with nations is that one will not be able to identify, let alone select and then run an experiment on, an experimental nation and a control nation, that are sufficiently similar for us to have certainty that differences between the two groups are due to the presence of democracy and currency boards.

However, Banerjee and He's sceptical concern is overstated. If, for example, we repeatedly observe more economic growth variability in dictatorships than democracies, this gives us a reason, even if it does not give certainty, to think dictatorships are associated with variable economic growth. Returning to Duflo and Kremer's specific concern, while we cannot be sure programs which randomized evaluations have shown work on a small scale will work on a large scale, nevertheless, this tested small scale success does give us reason to think there will be success on a larger scale. After all, drugs that randomized controlled trials have shown work on a small scale do seem to have also worked on a large scale.

Banerjee and He note the use of randomized evaluations is rare in the study of the effectiveness of aid programmes.[328] However, they describe a number of education and health

[326] Ibid. Aid programmes can also have negative unintended consequences outside their target area. For instance, food aid to Ethiopia in 2000 contributed to the collapse of sorghum prices in Somalia. However, Christopher B. Barrett and Daniel G. Maxwell suggest that donors could have avoided this problem if they had targeted the food aid better. Christopher B. Barrett and Daniel G. Maxwell, *Food Aid After Fifty Years: Recasting its role*, (Abingdon, Oxon: Routledge, 2005), pp. 185-187.
[327] Abhijit Banerjee and Ruimin He, 'Making Aid Work', in *Reinventing Foreign Aid*, p. 59.
[328] Ibid, pp. 56-57.

programmes (some of them ODA sponsored), which have been subject to randomized evaluations, and have been successful in the various goals set for them.[329] This is another piece of evidence in favour of the effectiveness of ODA in realizing a global difference principle.

Conclusion

In this chapter of the thesis, we found that ODA could be effective in a number of ways in helping to realize a global difference principle. We noted how even one of the harshest critics of ODA, Easterly, admitted that ODA has helped with health and education services in low income countries, and we also noted how these services could help to realize a global difference principle. The chapter did admit that there are obstacles to ODA being effective, but cited evidence that showed we could sometimes overcome these obstacles.

We also learnt that by using randomized evaluation we could be relatively certain ODA was causing effects that lead to the realization of a global difference principle.

However, despite an economist who is one of ODA's harshest critics admitting ODA can be effective, there is not universal support for ODA among economists and others in development circles. Indeed, a long and common cry among these circles is trade, not aid.[330] This gives us a reason to investigate this policy in the next chapter, where we will consider both free trade and fair trade.

[329] Ibid, p. 66.
[330] For an early example of this, see H. W. Prentis Jr. 'Trade Not Aid', in *Challenge*, Vol. 1, No. 7, (April 1953), pp. 38-45, Stable URL: http://www.jstor.org/stable/40716603. For a more recent example see: Dambisa Moyo, *Dead Aid: Why Aid is not working and how there is a Better Way for Africa*, (Vancouver: Douglas & McIntyre, 2009).

Chapter 8: The Effectiveness of Trade

Introduction

The chapter will consider the argument that trade can best help to realize a global difference principle. While those arguing for trade rarely use Rawlsian terms, they do argue that trade can reduce poverty, which means it would be a step towards realizing a global difference principle.

Those arguing that trade leads to poverty reduction, generally advocate for free trade, so the chapter will investigate this type of trade first. The chapter will focus on the arguments made by law professors Fernando R. Tesón and Jonathan Klick because of their focus on global justice and the work of Rawls. Along with arguing free trade leads to poverty reduction, they argue free trade is morally preferable to ODA due to its non-coercive nature. In deciphering this aspect of the argument, we will consider Rawls's view of coercion and its similarities to Tesón and Klick's. The chapter will conclude that while there are reasons to believe that free trade can bring benefits to the world's poor, it cannot always do so in isolation, with ODA in some instances being able to assist free trade in this regard. The chapter will also note that coercion can be necessary to ensure free trade. These points suggest we should not view free trade as a panacea or as morally preferable because of its non-coercive nature.

The chapter will close by briefly discussing what opponents of free trade often give as an alternative, namely, fair trade. This discussion will note that fair trade is a social movement that lacks a theoretical underpinning, and suggest that we can make trade fair by making sure that trade benefits the globally least advantaged.

Free Trade

Unlike economists, those who write on the topic of global justice rarely discuss free trade.[331] This lack of discussion is surprising since, as Tesón and Klick note[332], most economists (whose opinion, given they are experts on economic matters, must be given some weight) believe free trade will lead to poverty reduction.[333] This is important from a Rawlsian perspective because the globally least advantaged are among the global poor, which means, if free trade is the best way to eliminate global poverty, then free trade may be part of the best way to realize a global difference principle.

Tesón and Klick go on to note that those writing on global justice have tended to see the solution to the problem of global poverty as occurring through the redistribution of wealth. On the contrary, Tesón and Klick argue, "in order to even start considering whether we should coercively redistribute wealth from the world's rich to the world's poor, we should first have free trade",[334] but why do Tesón and Klick think we should wait until this point? To help answer this question we can look to their views on coercion. In order to keep this discussion Rawlsian in nature, we can start by stating Rawls's view of coercion, and then compare it with the view of Tesón and Klick while also discussing the role of coercion in free trade and ODA.[335] This will lead into a discussion of free trade's possible benefits and the

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[331] Fernando R. Tesón and Jonathan Klick, 'Global Justice and Trade: A Puzzling Omission', FSU College of Law, Public Law Research Paper No. 285, FSU College of Law, Law and Economics Paper No. 07-24, (October 2007), pp. 54-55, URL: http://ssrn.com/abstract=1022996, (accessed 9 December 2014).

[332] Ibid, p. 4.

[333] Economist Paul Krugman writes, "Economists have a notorious, only partly deserved reputation for disagreeing about everything. One thing that almost all economists have almost always agreed about, however, is the desirability of free trade." 'The Narrow and Broad Arguments for Free Trade', in *The American Economic Review*, Vol. 83, No. 2, (May 1993), p. 362, Stable URL: http://www.jstor.org/stable/2117691. Part of the reason why most economists think free trade is desirable is because they think it improves welfare, including the welfare of the poorest.

[334] Tesón and Klick, 'Global Justice and Trade: A Puzzling Omission', p. 73.

[335] There is some affinity between the views of Tesón and Klick and those of Rawls on other issues. They speak favourably of Rawls's view that inequality is just if it leads to an improvement in the condition of the less fortunate. Ibid, p. 5.
Tesón and Klick suggest that Rawls was hostile to free trade, basing their belief on a passage from a letter Rawls sent to philosopher Philippe Van Parijs. While Rawls agreed to the publication of the passage, being a letter, it is questionable if it is his fully thought out view. In the letter, Rawls is also not entirely clear. He speaks critically of the, "large open market including all of Europe" but does not directly mention free trade. Part of his criticism is also of the idea of a United States of Europe. He is against this idea because Europe is culturally different from the United States where, according to Rawls, there is, "a common language of political discourse and a ready willingness to move from one state to another." John Rawls and Philippe Van Parijs, 'Three letters on The Law of Peoples and the European Union', originally published in French in *Revue de philosophie économique*, [Journal of Economic Philosophy] Vol. 7, (2003), pp. 7-20, also available at URL: http://www.ucl.eu/cps/ucl/doc/etes/documents/2003.RawlsVanParijs.R.Phil.Econ.pdf, (accessed 9 December 2014).

suggestion that compensation could help to overcome the opposition of those who suffer losses from the introduction of free trade.

Rawls views coercion as wrongful in itself because it is a denial of liberty. If this denial is a denial of a basic liberty, in order for it to be justified it must promote the system of basic liberties.[336] One way coercion can promote this system is by stabilizing cooperation that helps to realize greater liberty.[337] There would be instability without coercion because persons would be less willing to engage in social cooperation because they would not be reassured that others would not free ride on their efforts. This is true because, even though individuals have a sense of justice, and are aware others have a sense of justice, they are also self-interested, and are aware others are self-interested. Therefore, the state sometimes steps in coercively to prevent self-interested free riding, which reassures individuals and encourages them to engage in cooperative enterprises.

Analogously, in an international setting some coercion may be necessary to ensure free trade. If a country makes a judgment that it benefits from other countries following free trade agreements while it breaks them, the country may break these agreements due to the country's partly self-interested nature. This forms part of the justification for the World Trade Organization (WTO), the successor to the GATT, which can coercively punish countries if they break free trade agreements. However, Tesón and Klick are critical of the WTO in part because they think its existence is based on what they think is the false idea that a country could benefit from having other countries follow free trade agreements while it breaks them. Furthermore, they note governments tend to treat, "access to *their* markets as a bargaining "chip"", but they argue, "Because imports benefit consumers, the notion that granting access to one's markets is a *concession* to other countries is false: lowering one's tariffs helps one's citizens [italics original]."[338] However, even if Tesón and Klick are correct about all countries benefiting from free trade, it does not change the fact coercion is sometimes required to ensure free trade.

In general, it is difficult to make judgments about Rawls's view on free trade because he does not discuss free trade in much detail. However, in *ToJ* Rawls argues, "if free trade is desirable from the point of view of equal citizenship or of the least advantaged" then it, "is justified even though more specific interests temporarily suffer [from the introduction of free trade]", but does not say whether he thinks free trade actually improves the situation of the least advantaged. His main point in discussing free trade was to show how his two principles of justice were justified even if sometimes they were not in everyone's interests. Rawls, *ToJ*, § 16, p. 99/85.

[336] Rawls, *ToJ*, § 32, p. 204/179.

[337] Rawls writes, "The establishment of a coercive agency is rational only if these disadvantages [the cost of the agency, and the coercion the agency uses] are less than the loss of liberty from instability." Ibid, § 38, p. 241/211.

[338] Tesón and Klick, 'Global Justice and Trade', p. 13.

Coercion is only required to ensure cooperation in the domestic realm due to the selfish nature of persons. If we could expect persons to do their fair share in cooperative schemes, then coercion to ensure cooperation would be unnecessary. Tesón and Klick would insist coercion would be unnecessary in the international realm of trade if trade negotiators could see free trade was in their citizen's interests, and they acted in the interests of their citizens; but this may be as foolishly utopian as one expecting persons to be always ruled by fairness, and never selfishness.

When writing on international aid, Tesón and Klick note, "Most people are not saints: they will have to be forced to contribute to the global redistributive agency."[339] As far as the saintliness of most persons is concerned, we could apply Tesón and Klick's comments to domestic redistributive agencies. However, Tesón and Klick might argue that in the domestic sphere due to stronger communal bonds, persons would be more willing to contribute. Nevertheless, in the domestic case the coercive redistributive agencies exist, presumably because, despite an increased willingness to contribute, many would not contribute without the threat of coercion.

Tesón and Klick object to those who draw such analogies between the global and domestic case for redistribution. They argue, "One cannot transpose the arguments in favor of redistribution *within* society to argue in favor of global redistribution, simply because a central assumption of the arguments for domestic welfare is that *there are no internal barriers to trade* [italics original]."[340] This argument clarifies why Tesón and Klick think we should wait until there is global free trade before we consider giving aid. Many arguments in favour of giving aid do make an analogy between the domestic and global case, arguing that just as we redistribute wealth to the poor within our own country via social welfare, we should also redistribute wealth to the poor outside our own country via aid. Tesón and Klick say the former type of redistribution may be justified because we cannot blame domestic poverty on internal trade barriers. This means the non-coercive option of dropping trade barriers to eliminate poverty is not open to us. Therefore, we may choose to redistribute wealth coercively via taxes if we judge that the consequent gains in poverty reduction outweigh losses in freedom, and the costs involved. Coercively redistributing global wealth to reduce global poverty is not morally justified, Tesón and Klick argue, because we still have the non-coercive option of reducing global poverty by dropping trade barriers.

[339] Ibid.
[340] Ibid, p. 73.

However, if Tesón and Klick were consistent, they would have to admit that from their perspective domestic redistribution may not be justified either because domestic poverty may be due to external trade barriers. To show how the logic of their argument forces Tesón and Klick to do this, we can note again that they claim that in virtually every case, global free trade will improve "welfare in *each* trade partner [italics original]."[341] This means, according to Tesón and Klick, we can expect global free trade to improve welfare in developed countries, which means we could expect to see a reduction in poverty in developed countries. Therefore, if we follow Tesón and Klick's argument, it would seem that before we even consider domestic redistribution, we should await global free trade because this is a non-coercive way of eliminating domestic poverty.

But while Tesón and Klick believe every trade partner will benefit from free trade, they note, "some [economic models] ... suggest that free trade might leave a subset of *individuals* worse off *within* nations, at least in the short run, absent some domestic redistribution of the gains from trade [italics original]."[342] However, they argue, "Some people, including some poor individuals, would be left worse-off as a result of *any* economic policy" [italics original].[343] This means, according to Tesón and Klick, we should not argue for free trade on the basis that no one will be made worse off by free trade, according to them no policy can claim this. Rather, we should argue in favour of free trade on the basis that free trade would reduce the number of poor persons.

However, there is some evidence that simply allowing free trade between countries that have large numbers of poor persons and developed countries will not have much of an effect on reducing the number of poor persons. For example, despite growing global free trade, the amount of private resources flowing to the Least Developed Countries (LDCs) remains small.[344] Indeed, if we compare private and ODA flows to the poorest countries from 1960s onwards, ODA is always in the lead. For example, in 2009, 24331.7 million dollars in the form of ODA went to the LDCs, while only 5250.75 million dollars came via private flows.[345] There is also some evidence that free trade with LDCs may be more beneficial to

[341] Ibid, p. 14.
[342] Ibid, p. 19.
[343] Ibid, p. 10.
[344] As of 2014 there are 48 LDCs. 34 of these are in Africa, 13 are in the Asia Pacific region (9 in Asia, 4 in the Pacific), and one is in the Caribbean. UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS), 'About LDCs', URL: http://unohrlls.org/about-ldcs/, (accessed 9 December 2014). I will discuss the nature of the LDC concept further in the eleventh chapter.
[345] QWIDS.

the developed world than the LDCs, with some years the general flow of private resources being from the LDCs to Organization for Economic Co-operation and Development's (OECD's)[346] Development Assistance Committee (DAC) members.[347] Some years when this occurred were 1984-1987, 1989, 1991, 1994-1995, and 2002.[348] Furthermore, when we look at specific trade initiatives, whose goals include poverty reduction, it is not clear if they are successful.

For example, in an attempt to promote free trade, in 2000 the United States launched the African Growth and Opportunity Act (AGOA) initiative, which included allowing goods from certain African countries to enter the United States tariff free. The evidence for the effect of AGOA is mixed. Some researchers argue the impact of AGOA has been limited[349] while others argue AGOA has had a significant positive impact.[350] This and the previously mentioned small flows of private capital to LDCs, leads to scepticism about the idea that we should focus solely on trade liberalization as a way to reduce the number of the world's poor.

In response the advocates of trade liberalization may point out that trade liberalization does not just mean the elimination of tariffs. It also means the elimination of subsidies. If this happened, it would be a significant change, with agricultural subsidies in developed nations in 2012 being 259 billion US dollars[351], while in the same year developed nations gave 126 billion in ODA.[352] However, some economists are not convinced the removal of agricultural subsidies would have a positive effect on poor countries. Sachs claims:

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[346] The OECD was the successor to the Organization for European Economic Co-operation (OEEC), which had administered the Marshall Plan's reconstruction of Europe after World War II. The signing of the OECD convention took place on 14 December 1960. New Zealand joined the OECD on 29 May 1973. OECD, 'List of OECD Member countries – Ratification of the Convention on the OECD', URL: http://www.oecd.org/general/listofoecdmembercountries-ratificationoftheconventionontheoecd.htm, (accessed 9 December 2014).

[347] The Development Assistance Committee (DAC) originated in 1960, but then called itself the Development Assistant Group (DAG). It was renamed the DAC in 1961. In 1964, the members of the DAC were Belgium, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Norway, Portugal, the United Kingdom, the United States, and the European Commission. OECD, 'History', Permanent URL: www.oecd.org/history. OECD, 'DAC in Dates, pp. 11, 37. New Zealand would join in 1973. Ibid, p. 17

[348] Ibid.

[349] Paul Brenton and Mombert Hoppe, 'The African Growth and Opportunity Act, Exports, and Development in Sub-Saharan Africa', World Bank (WB) Policy Research Working Paper 3996, (1 August 2006), URL: http://ssrn.com/abstract=927139, (accessed 9 December 2014).

[350] Garth Frazer and Johannes Van Biesebroeck, 'Trade Growth under the African Growth and Opportunity Act', National Bureau of Economic Research (NBER), Working Paper No. 13222, (July 2007), URL: http://www.nber.org/papers/w13222, (accessed 9 December 2014).

[351] OECD, 'Agricultural policies and support: Producer and Consumer Support Estimates database', (September 2013), URL: http://www.oecd.org/agriculture/agricultural-policies/producerandconsumersupportestimatesdatabase.htm, (accessed 9 December 2014).

[352] QWIDS.

> If Europe cuts back on its subsidies for staple crops (wheat, maize), the results for Africa [where most of the LDCs are located] could well be negative, not positive, since Africa is a net food-importing region: consumers of food would pay higher prices for food, whereas farmers would benefit.[353]

However, economists Joseph Stiglitz and Andrew Charlton note the possibility that in Africa, "rural producers may be far poorer than the average person in society" and the possibility, "that those who buy *imported* food (say wheat) are far richer than those who live off locally grown crops, like millet [italics original]."[354] Therefore, while the net effect on Africa of removing agricultural subsidies in the developed world may be negative, it may be positive for those whom if we are Rawlsians we should focus on, the poorest of the poor, or in other words, the least advantaged, who in this case are farmers.[355]

While developed countries could boost trade from developing countries by cutting subsidies, some suggest developed countries could also boost trade via aid. This idea has gained institutional support, with the WTO in 2005 at its Sixth Ministerial Conference launching an Aid for Trade initiative. In doing so, the WTO declared, "Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to implement and benefit from WTO Agreements and more broadly to expand their trade."[356]

Another reason for thinking aid might sometimes be necessary for free trade is that the initial costs of freer trade can be much higher for developing countries' governments. This is in part because currently developing countries have higher tariff barriers, which for some of the countries are one of their government's few sources of tax revenue. This means aid to compensate for the removal of this tax revenue may be helpful.

Still, Aid for Trade has critics. In commenting on these critics, and their critiques of aid as compensation for those who lose out from free trade, economist Simon J. Evenett notes, "that, as an ethical matter, I suspect that many are … [un]willing to support compensation for

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[353] Jeffrey Sachs, *The End of Poverty: Economic Possibilities for Our Time*, (New York: The Penguin Press, 2005), p. 282.
[354] Joseph E. Stiglitz, and Andrew Charlton, *Fair Trade For All: How Trade Can Promote Development*, (Oxford: Oxford University Press, 2005), p. 230.
[355] New Zealand could not do much in this regard because its subsidies make up close to 0% of the value of gross farm receipts. However, in contrast to this are some countries in Asia and Europe where this figure sometimes exceeds 50%. OECD, 'Agricultural policies and support'. Kym Anderson, 'How Can Agricultural Trade Reform Reduce Poverty?', Centre for International Economic Studies, University of Adelaide, Discussion Paper 0321 (July 2003), p. 46, URL: http://www.adelaide.edu.au/cies/papers/0321.pdf, (accessed 9 December 2014).
[356] WTO, 'Ministerial Declaration', (22 December 2005), paragraph 57, URL: http://www.wto.org/english/thewto_e/minist_e/min05_e/final_text_e.htm, (accessed 9 December 2014).

rent loss";[357] Evenett does not explain where this unwillingness might come from. We might understand if we consider the condition of the rentiers. These persons are in protected industries; the protection comes in the form of tariffs. Tariffs increase the price of imported goods and services, and thereby enable producers and providers to collect rent by charging higher prices for their goods and services. From the point of view of a self-interested producer and/or provider, it makes sense to collect rent, but economists, like Gordon Tullock, have been almost unanimous in their verdict that, in terms of the collective welfare of society, the collection of rent is negative.[358] Consequently, it is natural for economists to believe that, as far as possible, we should eliminate rent and invest the former rent money in further production. One response to make to these economists is to point out that rentiers can be a powerful lobby group who could block reform, and, if we want trade liberalization, the pragmatic thing to do may be to pay off rentiers.[359]

This treatment of rent and other phenomena associated with free trade has shown free trade is not a straightforward solution to world poverty, and that free trade sometimes requires coercion, and may often require compensation. However, while Tesón and Klick are mistaken about some aspects of free trade, they are correct in noting commentators on global justice have generally not considered the potential benefits of free trade to the world's poor persons.

Fair Trade

Commentators on global justice have also had little to say on the topic of fair trade, with philosophy-influenced papers on the topic mainly coming from commentators on business ethics.[360] However, in *LoP*, Rawls only mentions fair trade. Unfortunately, he does

[357] Simon J. Evenett, 'Some Tough Love on "Aid for Trade', (28 November 2005), http://www.econstor.eu/bitstream/10419/41835/1/50453856X.pdf, (accessed 9 December 2014).
[358] In the seminal paper on rent seeking behaviour, Tullock compares the collection of rent to theft. 'The Welfare Costs of Tariffs, Monopolies, and Theft', in *Economic Inquiry*, Vol. 5, Issue 3, (June 1967), pp. 224-232, DOI: 10.1111/j.1465-7295.1967.tb01923.x. Tesón and Klick also object to the idea of compensating those who lose out due to governments removing trade barriers. They portray the erection of trade barriers as "the collusion of the government with local monopolies". They also think, "Trade barriers are attempts by politicians to undercut … [the] freedom of the poor, the freedom to exchange the goods he [or she] produces for cheaper and better imported goods. He [or she] needs this freedom to escape poverty." 'Global Justice and Trade: A Puzzling Omission', pp. 82, 64.
[359] Evenett notes compensating rentiers "may be necessary in some instances to assure the political viability of any trade accord." 'Some Tough Love on "Aid for Trade', p. 327.
[360] For example see Geoff Moore's 'The Fair Trade Movement: Parameters, issues and future research', in *Journal of Business Ethics*, Vol. 53, Issues 1-2, (August 2004), pp. 73-86, DOI: 10.1023/B:BUSI.0000039400.57827.c3.

not go into detail about what fair trade would require. He does give the GATT as an organization analogous to one that could ensure fair trade. The GATT promoted free trade, so, could Rawls be implying that fair trade is free trade applied to all peoples?[361] Rawls at least suggests compatibility between fair trade and free trade when he writes we need, "fair standards of trade to keep the market free and competitive".[362]

If we look for guidance on the nature of fair trade from commentators on global justice, we find Miller. Miller writes:

> [T]he main idea behind the growing Fair Trade movement is to guarantee the primary producers of products like coffee, cocoa and cotton a small, but still significant, proportion of the final selling price of these commodities – the movement is fuelled by the gross disproportion between the share they currently receive and the share taken by the companies that import and process the products, as well as by the absolute (low) level of their earnings. I shall not try to tackle here the difficulties involved in trying to formulate the relevant principle of justice more precisely and to make it operational – in particular problems in estimating the size of the benefit each party receives from co-operation. The principle has purchase where current practices distribute the material gains in such a grossly unequal way that according to any reasonable metric the outcome is unfair. And today's world offers plenty of instances that fit that description.[363]

This quote reminds us fair trade is not simply an idea but is also a social movement. Like a number of these movements, a feeling of injustice, unaccompanied by any theory, mainly underpins this movement. However, this movement, and Miller, focus on those directly involved in trade, or as Miller puts it "co-operation", and the benefits they receive. We have already concluded, based on the relevant principle of justice (the difference principle), that when looking at the distribution of benefits we should focus on the least advantaged, even if they are not involved in economic co-operation. However, we saw in the last section that those that might fit the category of the least advantaged (rural producers in Africa) were involved in economic co-operation and trade. We also saw that the benefits to the least advantaged from trade agreements was not clear, and in some instances could be negative.

We also concluded that some governments, product producers, and service providers might require compensation for lost tax revenues from the dropping of tariff barriers.

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[361] Rawls, *LoP*, § 4.5, pp. 42-43.
[362] Ibid, p. 43.
[363] David Miller, 'National responsibility and global justice', in *Critical Review of International Social and Political Philosophy*, Vol. 11, No. 4, (December 2008), p. 396, DOI: 10.1080/13698230802415862. Like Miller, Stiglitz and Charlton do not offer a precise definition of fair trade. However, they do suggest that fair trade would improve the, "well-being of the world's poorest." *Fair Trade For All*, p. ix.

However, I presented this as a pragmatic way of introducing free trade, rather than a way of ensuring justice. While Rawls had given up on the difference principle in *LoP*, which might help to explain why he did not address exactly what the standards of fair trade were, we have not done so. This means we can conclude that trade is fair when, *inter alia*, it improves the position of the least advantaged. If trade on its own does not accomplish this, then we should look to redistribute its benefits.

Conclusion

In this chapter, we considered how effective trade would be at helping to realize a global difference principle. We saw some evidence free trade could be effective, but there was evidence it could be more effective when pursued in tandem with ODA. We also concluded we could make trade fairer if we made sure the benefits of trade improved the position of the least advantaged.

When discussing the effectiveness of trade in realizing a global difference principle, we did not avoid other moral topics. Notably, we debated the topic of coercion. In the next chapter, we will debate the topic of promises, in order to see how it relates to commitments around ODA, and the issue of effectiveness.

Chapter 9: A Consideration beyond Effectiveness? ODA and Promises

Introduction

Previously I have argued that developed countries should give ODA because it would help to realize a global difference principle. In this chapter, I will argue that another reason why developed countries should give ODA is that they promised they would do so. While the early Rawls's account of promising received attention in the philosophical literature from the likes of Thomas Scanlon[364], there do not appear to be any papers that use this account to analyse commitments around ODA, but this chapter will add to the literature by showing we can do this. It will start doing this by looking at the long history of the majority of developed states committing to give a certain amount of ODA to developing states but failing to do so. Then there will be a Rawlsian analysis of promising which, along with showing the plausibility of Rawls's account, will show that the long history of commitments around ODA is similar to familiar cases of promise making, which means we can reach similar conclusions about both processes. The chapter will also conclude that the promise breaking around ODA cannot be morally justified.

A History of Broken Commitments around ODA

> Seven years after the launch of the MDGs, and after countless promises of increased financing from the donor countries, including a promise to double aid to Africa between 2005 and 2010, the commitments remain unfulfilled. Quite incredibly, debate reverts to first principles (Is aid effective?) even after financial promises have been repeatedly made and endlessly reconfirmed.[365]
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> Jeffrey Sachs, *Common Wealth*

[364] Thomas Scanlon, 'Promises and Practices', in *Philosophy & Public Affairs*, Vol. 19, No. 3, (Summer 1990), pp. 199-226, Stable URL: http://www.jstor.org/stable/2265394.

[365] Sachs, *Common Wealth*, p. 297. When mentioning a pledge to "double aid to Africa between 2005 to 2010", Sachs is referring to the Gleneagles agreement by the Group of 8 (G8) (Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States). Jeffrey D. Sachs, 'Four Easy Pieces', in *The New York Times*, (25 June 2005), also available at URL: http://www.nytimes.com/2005/06/25/opinion/25sachs.html?_r=0, (accessed 9 December 2014). When it comes to finding data to see if the G8 kept this agreement, it is difficult to find data on Russia, but OECD figures show ODA from the other members of the G8 to Africa rose from 18,571.52 million US dollars current prices in 2005 to 20,761.97 million dollars in 2010, which represents an increase of roughly 12%. QWIDS.

This quote from Sachs only hints at the long history of developed countries making commitments around ODA, which they have not met. We can trace this history back to one of the dates that heralded the start of aid in its modern form, 15 December 1960 when the UN General Assembly adopted, without a vote, resolution 1522. The resolution claimed, "development would be greatly aided by improving the nature and increasing the volume of the present flow of capital and the scope of technical assistance from the economically advanced countries to the under-developed countries."[366] The resolution went on to express, "*the hope* that … [this] flow of international assistance and capital should be increased substantially so as to reach as soon as possible approximately 1 per cent of combined national incomes of the economically advanced countries [italics original] [.]"[367] The resolution also said, "[T]he flow of capital and technical assistance to developing countries could be through public or private channels".[368] The resolution does not make it clear exactly which countries are "economically advanced" and which are "under-developed" or "developing countries". Nevertheless, the members of the OECD's DAC would adopt the target in 1964.[369] There were, however, a number of problems with the target.

Among the problems that the WB's Pearson Commission on International Development identified in its influential 1968 report was, "total resource flows [from DAC members to developing countries] actually did exceed 1 per cent of combined national income in the five years preceding the adoption of the target [in 1964] by the DAC."[370] This meant the 1% target did not represent, as the UN resolution suggests it does, a substantial increase in the transfer of resources. Despite this, and ironically, in the years from the setting of the target to the writing of the report, the DAC as a group did not meet the target.[371] The report also noted, "The 1 per cent aid target is not, strictly speaking, an *aid* target at all. It does not differentiate between commercial transactions and concessional aid [italics original]."[372] In response the writers of the report recommended, "*that each aid-giver*

[366] UN GA resolution 1522 (XV), 15 December 1960, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/1522(XV)&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).
[367] Ibid.
[368] Ibid.
[369] Commission on International Development, *Partners in Development*, (London: Pall Mall Press, 1970), p. 144. In official sources, there is disagreement over dates with the OECD's 'DAC in Dates' recording the DAC's adoption of the 1% goal as occurring in 1968.
[370] Commission on International Development, *Partners in Development*, p. 144. Lester B. Pearson, the former Prime Minister of Canada, was the only writer of the report who was not an economist.
[371] Ibid, p. 145.
[372] Ibid, p. 147.

increase commitments of official development assistance [concessional aid] *to the level for net disbursements to reach 0.70 per cent of its gross national product by 1975 or shortly thereafter, but in no case later than 1980* [italics original]."[373]

In 1970, the UN's General Assembly responded to the call, passing a resolution, which declared:

> Each economically advanced country will progressively increase its official development assistance to the developing countries and exert its best efforts to reach a minimum net amount of 0.7 % of its gross national product at market prices by the middle of the Decade.[374]

When the Assembly adopted the resolution, all the members of the DAC gave less than 0.7% of GNP in ODA, with the total average being 0.33%.[375] However, in the 1970s, while the total average remained roughly the same, the Netherlands, Denmark, Norway, and Sweden reached the 0.7% goal.[376]

The failure of most developed states to reach the goal helps to explain why in 1980 the General Assembly passed a resolution very similar to the 1970 resolution. The 1980 resolution declared:

> A rapid and substantial increase will be made in official development assistance by all developed countries, with a view to reaching and, where possible, surpassing the agreed international target of 0.7 per cent of the gross national product of developed countries. To this end, developed countries which have not yet reached the target should exert their best efforts to reach it by 1985, and in any case not later than in the second half of the Decade.[377]

However, during the 1980s the Netherlands, Denmark, Norway and Sweden remained the only countries that reached the 0.7% goal, while the DAC total average stayed in the 0.3% range.[378]

Another development in the 1980s was the adoption of UN resolution 38/195 on 20 December 1983, which included the goal of developed countries giving 0.15% of GNP in

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[373] Ibid, pp. 148-149.
[374] UN GA resolution 2626 (XXV), paragraph 43, 24 October 1970, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/2626(XXV)&Lang=E&Area=RESOLUTION, (accessed 9 December 2014). The adoption of the 0.7% target saw developed countries largely forget the 1% target. Since this time, developed countries have met the 1% target on a number of occasions, including 2012. OECD, *Stat Extracts*, Total flows by donor (ODA + OOF + Private) [DAC1], https://stats.oecd.org/Index.aspx?DataSetCode=TABLE1, (accessed 9 December 2014).
[375] QWIDS.
[376] Ibid.
[377] UN GA resolution 35/56, paragraph 98, 5 December 1980, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/35/56&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).
[378] QWIDS.

ODA to the LDCs, "by 1985 or as soon as possible thereafter".[379] This did not represent developed countries pledging to give more than 0.7% of GNP to developing countries, but rather represented a pledge on the targeting of this 0.7%.[380] By 1990, Denmark, Finland, France, the Netherlands, Norway, and Sweden were the only countries that reached this targeting goal.[381]

Therefore, during 1990 at the Second UN Conference on the Least Developed Countries, developed countries pledged to "seek to implement"[382] a number of goals around the percentage of GNP given to LDCs in the form of ODA. Countries that had reached the 0.15% goal but were not giving 0.2% (which during 1990 only included France) pledged to, ""undertake to reach"[383] this latter goal, while those who were already giving 0.2% (which during 1990 was Denmark, Finland, the Netherlands, Norway and Sweden) pledged to, "continue to do so and increase their efforts".[384] Those who had not reached the previously agreed to 0.15% goal, reaffirmed, "their commitment and undertake either to achieve the target within the next five years or to make their best efforts to accelerate their endeavours to reach the target".[385] The year 1990 also saw a continued focus on the 0.7% goal with UN General Assembly 45/199 declaring, "Donor countries should, in the 1990s, implement such undertakings as they have made to reach or surpass this [0.7%] target."[386] However, the 1990s turned out to be similar to the 1970s and the 1980s with the Netherlands, Denmark, Norway and Sweden once again the only countries to reach the 0.7% goal, and the DAC total average dropping into the 0.2% range.[387] The news was slightly better when it came to the

[379] UN GA resolution 38/195, 20 December 1983, URL: http://www.un.org/documents/ga/res/38/a38r195.htm, (accessed 9 December 2014).
[380] This is because the pledge of meeting the 0.15 per cent goal was, "within the overall context of … progress towards the 0.7 per cent target". Ibid.
[381] UN, 'Millennium Development Goals Indicators, Goal. 8 Develop a Global Partnership for Development, Net ODA to LDCs as percentage of OECD/DAC donors GNI', URL: http://mdgs.un.org/unsd/mdg/Data.aspx, (accessed 9 December 2014). This source does not give any pre-1990 figures.
[382] UN, 'Report of the Second United Nations Conference on the Least Developed Countries', Paris, 3-14 September 1990, , 'The Programme for Action', p. 17, paragraph 23, A/CONF.147/18, (New York: United Nations, 1991), also available at URL: http://www.un.org/wcm/webdav/site/ldc/shared/Outcome_%20document_Second_UN_Conference_%20LDCs.%20pdf.pdf, (accessed 9 December 2014).
[383] Ibid, subparagraph (b).
[384] Ibid, subparagraph (a).
[385] Ibid, subparagraph (c).
[386] UN GA resolution 45/199, paragraph 40, 21 December 1990, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/45/199&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).
[387] QWIDS.

0.15% goal, with the number of countries reaching this goal rising from six in 1990 to seven in 1999.[388]

This overall failure was one factor that led to the 2002 UN International Conference on Financing for Development, where the heads of government and state who attended stated:

> [W]e urge developed countries that have not done so to make concrete efforts towards the target of 0.7 per cent of gross national product (GNP) as ODA to developing countries [and to give] 0.15 to 0.20 per cent of GNP … to [the] least developed countries.[389]

Perhaps understandably given past behaviour, the heads of government and state did not mention any dates.

Over the next ten years, developed states would give about the same amount of ODA in percentage of GNP terms. The year 2013 was a typical year from this period with preliminary data showing the DAC total average was 0.3%. We can contrast this with the high point, which occurred in 1961, when DAC total average was 0.54%; and the low point of 0.21% in 2001.[390] If we return to what individual countries gave, we find preliminary data show that in 2013 Luxembourg and the United Kingdom have joined the familiar four of the Netherlands, Denmark, Norway, and Sweden in meeting the 0.7% target.[391] There was greater growth in the number of countries meeting the 0.15 percent goal, with this number rising from seven in 1999 to 10 in 2011, while the DAC total average in 2012 was 0.09.[392] Still, with the DAC currently having 28 country members, the current picture is of most DAC members not meeting either the 0.7% target or the 0.15% target individually or as a group.

Having had a detailed look at this long history of broken commitments, we can move on to the philosophical question of whether this long history amounts to a history of broken

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[388] UN, 'Net ODA to LDCs as percentage of OECD/DAC donors GNI'.
[389] UN, 'Monterrey Consensus on Financing for Development, 18-22 March 2002', (2003), p. 14, URL: http://www.un.org/esa/ffd/monterrey/MonterreyConsensus.pdf, (accessed 1 April 2014) [Dead link]. An archived copy of the page is available at The Internet Archive, https://web.archive.org/web/20140923003129/http://www.un.org/esa/ffd/monterrey/MonterreyConsensus.pdf, (accessed 9 December 2014). The pledge was also made at the Third Conference on the Least Developed Countries, which the UN held in 2001 in Brussels. UN General Assembly A/CONF.191/12, 2 July 2001, 'Brussels Declaration', URL: http://www.unctad.org/en/docs/aconf191d12.en.pdf, (accessed 9 December 2014).
[390] QWIDS.
[391] For Luxembourg, this represents a significant increase. In 1980 it gave 0.11%, by 2012 this had increased to 1%. Ibid.
[392] These countries were Belgium, Denmark, Finland, Ireland, Luxembourg, Netherlands, Norway, Portugal, Sweden, and the United Kingdom. UN, 'Net ODA to LDCs as percentage of OECD/DAC donors GNI'. OECD, Aid Statistics, Table 31, Aid from DAC Countries to Least Developed Countries, http://www.oecd.org/dac/stats/TAB31e.xls, (accessed 9 December 2014).

promises, and if it does, whether this promise breaking can be justified. In doing so, this section will also show promises can fit into a consequentialist framework.

Is this a History of Broken Promises?

Support for viewing the commitments around ODA as promises comes from Scanlon. He argues that for promising it is the setting up of expectations that is the important factor, rather than using the word "promise". He notes that by making promises we generally set up expectations in others that we will do what we promised we would do. Scanlon then argues it is not meeting those expectations, which explains the wrongness of promise breaking.[393] Based on this, one might argue that via their commitments, aid donors created the expectation amongst recipients of ODA that donors would give 0.7% of GNP in ODA, and in not meeting these expectations, donors acted wrongly, just as wrongly as if they had said, "We promise to give 0.7% of GNP in ODA" and had not done so.

However, an earlier account of promising by H. A. Prichard, which in *ToJ* Rawls says he largely follows[394], suggests something other than setting up expectations is involved when we make promises.[395] In making this argument, Prichard notes, "where I do what is called making a promise, I do not think that my obligation to do the action promised arises from my producing the expectation."[396] This is true. If I promise person A that I will do X, but unbeknownst to me person A is accustomed to people letting her down and so does not expect me to do X, it is not right to say this means I have no obligation to do X. The same would be true when it came to ODA commitments. Just because countries that receive ODA do not expect ODA donor countries to keep to their commitment of giving 0.7% of GNP as ODA, perhaps because in the past they have not done so, we would not say that ODA donors do not have any obligation to keep their commitments.[397] However, if setting up expectations is not necessary in order to make promises, what is?

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[393] Thomas Scanlon, *What We Owe to Each Other*, (Cambridge, Massachusetts: Harvard University Press, 1999), pp. 295-327.
[394] Rawls, *ToJ*, § 52, p. 347/305.
[395] H. A. Prichard, 'The Obligation to Keep a Promise', (c. 1940), in *Moral Writings*, Jim McAdams ed., (Oxford: Clarendon Press; New York: Oxford University Press, [1949] 2002), p. 259, DOI: 10.1093/0199250197.001.0001.
[396] Ibid.
[397] I thank my examiner David Reidy for noting the weakness in a previous version of this discussion of promising.

Prichard insists, "One thing is obvious. Promising requires the actual use of the word 'promise'".[398] This would count against the idea that the various UN resolutions cited amount to promises, since none of them include the word "promise". However, Prichard goes on to say that if equivalent words such as, "'undertake', 'agree', 'give you my word', or 'will' in 'I *will* [italics original]'"[399] are used, then this amounts to promise making. In the previous quote from a 1970 UN resolution there was the statement, "Each economically advanced country *will* progressively increase its official development assistance countries to the developing countries and exert its best efforts to reach a minimum net amount of 0.7 % of its gross national product at market prices by the middle of the Decade" [italics added].[400] Here the word "will" appears to be working in the same manner as it does in "I will". Despite this, most of the economically advanced countries did not reach the 0.7% goal, so if we accept Prichard's argument it would appear there is a basis for viewing this as promise breaking.

A defender of developed countries could concede this point, but then argue that developed countries only promised they would progressively increase their ODA; and when it came to the 0.7% goal, rather than promising to meet the goal, they promised to exert their best efforts to meet the goal. The defender would then point out that in monetary terms ODA has progressively increased[401], and then claim that developed countries had also made their best efforts to reach the 0.7% goal but, as often happens even when we make our best efforts, had failed.

There are a number of problems with this defence. Since the comment about progressively increasing ODA came within the context of a discussion of the amount of ODA given in percentage of GNP terms, the most reasonable interpretation of this comment is to interpret it in these terms. It is also hard to argue that all developed countries have exerted their best efforts to reach the 0.7% goal. One reason for thinking this is that some developed countries have reached this goal. It is true that most of these countries are among the wealthiest developed countries in GNP per capita terms, which might suggest it is unfair to compare them to other developed countries.[402] However, there are developed countries like Australia, Canada, and the United States, who are as wealthy as some of these countries are

[398] Ibid.
[399] Ibid.
[400] UN GA resolution 2626 (XXV), paragraph 43.
[401] From 1960, when the UN General Assembly adopted resolution 1522, to 2012, ODA in per annum monetary terms went from 4,675.67 million US dollars current prices to 126,880.54 million. QWIDS.
[402] WB, 'GNI per capita, PPP (current international$), URL: http://data.worldbank.org/indicator/NY.GNP.PCAP.PP.CD, (accessed 9 December 2014).

in GNP per capita terms, yet have not reached the goal.[403] There has also been significant economic growth in developed countries over the decades, which means most developed countries are wealthier than Denmark, the Netherlands, Norway, and Sweden were in the 1970s, when they had already met the 0.7% goal.[404] This suggests that other developed countries could reach the goal if they made their best efforts, and this, along with the analysis of promising that we have considered, suggests that in not doing so they have broken promises.

A defender of developed nations might concede this but argue that developed nations were right to break these promises because this was the only way to avoid some truly dreadful consequences. It is hard to argue with the common sense idea that we should break promises if this is the only way to avoid dreadful consequences, but in reply, we can question how often developed countries avoided dreadful consequences by breaking promises around ODA. The critic of ODA may agree, but change their approach and argue for breaking promises around ODA on the basis that each instance of promise breaking led to slightly or moderately better consequences.

The defence is, of course, a utilitarian one, but, even if we concede that breaking promises around ODA might lead to slightly, or moderately better consequences in the short-term, we can argue the defence still fails on utilitarian grounds. This is because breaking promises around ODA might mean others will not trust one when one on other occasions makes promises in other international agreements, like trade agreements, which would have led to better overall consequences in the long-term.[405]

However, is that the right way to view promise making around ODA? It leads to the view that we could analyse developed countries saying, "We promise to give 0.7% of ODA in GNP", as meaning, "We have assessed that giving a certain amount of ODA will bring about the best consequences, and therefore will give a certain amount of ODA." Some might insist something else is going on when we make promises. If the utilitarian agrees, she still

[403] Ibid. QWIDS.
[404] In 1980, Sweden's GNI per capita was 10,720 PPP (current international dollars), the Netherland's was 9,930; Denmark's was 9,890; and Norway's was 9,260. This is lower than all DAC members' GNI per capita in 2012. WB, 'GNI per capita, PPP (current international$).
[405] A few researchers have looked at what role promises have in international relations, but this work has focused on promises in the context of war and power politics. Two examples are; Michael Tomz, 'Domestic Audience Costs in International Relations: An Experimental Approach', in *International Organization*, No. 61, (Fall 2007), pp. 821-840, DOI: 10.10170S0020818307070282; and James W. Davis, Jr., *Threats and Promises: The Pursuit of International Influence*, (Baltimore: John Hopkins University Press, 2000).

can defend herself by coming up with a more sophisticated utilitarian analysis of promising. This is what a young Rawls did in his paper 'Two Concepts of Rules". In doing so, he describes a sophisticated form of rule utilitarianism.

The two concepts of rules Rawls identifies equate to two different types of rule utilitarianism. The first concept, the summary concept type, leads to a form of rule utilitarianism where, in order to decide what to do in situations of type A, one looks back to past instances of situation A to see what type of action in this type of situation tended to bring about the best consequences. If action B tended to lead to the best consequences, then one adopts the rule "In situation A, do action B." An example of a summary rule is "When asked by a beggar for money, always give them money."[406] There is the possibility that action B will not always lead to the best consequences in situation A, but the rule consequentialist argues it will be too difficult to ascertain when this is the case, so we should adopt the rule. This means these rules are not ethically fundamental but rather heuristic accommodations for our limited rationality.

Could the summary view give a good account of promises? This view suggests we come up with the rule "Keep promises" because we have observed that in the past keeping promises has led to the best consequences. The critic of utilitarianism is unlikely to find this a good analysis because to the critic there seems to be something inherently wrong with promise breaking which this analysis does not capture. The early Rawls agrees in a certain sense. He argues the summary concept view of promises is fundamentally misguided and that we can see this when we appreciate promises are what he calls practice rules.

While the actions endorsed by summary rules would occur in the absence of the rules, beggars would still ask for money and sometimes receive it even if no one adopted the rule of always giving them money; the same is not true of practice rules. Rawls gives the example of the rules of games, and points out that many of the actions that take place in games would not occur in the absence of the rules that make up the game. Rawls argues something similar is true of promises. In this regard, he writes:

> It is absurd to say … that the rule that promises should be kept could have arisen from its being found in past cases to be best on the whole to keep one's promise; for unless there were

[406] We will leave aside the question of whether this actually leads to the best consequences.

> already the understanding that one keeps one's promises as part of the practice itself there couldn't have been any cases of promising.[407]

Rawls argues the practice of promise making arose from the need to overcome assurance problems. He writes, "the point of the practice [of promising] is to abdicate one's title to act in accordance with utilitarian and prudential considerations in order that the future may be tied down and plans coordinated in advance."[408] Rawls's point is that parties may not engage in coordinated activity if at any point in the activity one of the parties engaged may pull out because they judge pulling out is justified either on utilitarian or prudential grounds. Rawls then goes on to note that having the ability to engage in co-ordinated activity will lead to better consequences. This means there is a utilitarian justification for not allowing individuals engaged in a coordinated activity to appeal to utilitarian reasons for pulling out of the activity. Rawls emphasises:

> There is nothing contradictory, or surprising, in this: utilitarian (or aesthetic) reasons might properly be given in arguing that the game of chess, or baseball, is satisfactory just as it is, or in arguing that it should be changed in various respects, but a player in a game cannot properly appeal to such considerations as reasons for his [or her] making one move rather than another.[409]

The player can also not break the practice rules of the game on the basis that doing so is justified on utilitarian grounds.

In *ToJ*, Rawls makes no use of the distinction between summary and practice rules, makes no reference to 'Two Concepts of Rules', and places his account of promising in his wider theory of justice.[410] However, there are a number of similarities between the two accounts. We can see some of these similarities in this quote from *ToJ*:

> [I believe] promising is an action defined by a public system of rules. These rules are, as in the case of institutions generally, a set of constitutive conventions. Just as the rules of games do, they specify certain activities and define certain actions. In the case of promising, the basic rule is that governing the use of the words "I promise to do X." It reads roughly as follows: if one says the words "I promise to do X" in the appropriate circumstances, one is to do X, unless certain excusing conditions obtain. This rule we may think of as the rule of promising; it may be taken as representing the practice as a whole.[411]

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[407] Rawls, 'Two Concepts of Rules', in *The Philosophical Review*, Vol. 64, No. 1, (January 1955), pp. 3-32, Stable URL: http://www.jstor.org/stable/2182230. p. 30.
[408] Ibid, p. 16.
[409] Ibid.
[410] Rawls discussion in *ToJ* of promising can be found in § 52, pp. 344-350/303-308.
[411] Ibid, pp. 344-345/303. I would add the proviso that the basic rule of promising also covers the use of words equivalent to "I promise to do X".

We can see Rawls placing this account of promising in his wider theory of justice when he goes on to write:

> In general, the circumstances giving rise to a promise and the excusing conditions must be defined so as to preserve the equal liberty of the parties and to make the practice a rational means whereby men [and women] can enter into and stabilize cooperative agreements for mutual advantage.[412]

When Rawls writes, "excusing conditions must be defined so as to preserve the equal liberty of the parties", he has in mind the circumstances under which someone makes a promise. He argues that if one party infringes the liberty of another party in the process of promise making, e.g. forces another to make a promise; then there is no moral obligation to keep the promise.[413]

If we take certain elements of the view of promising which Rawls explicates in *ToJ* and 'Two Concepts of Rules', and apply it to commitments around ODA, we can start by noting that no one forced developed countries to commit to giving 0.7% of GNP in ODA. We can also suggest that while one can question the practice of making commitments around ODA on utilitarian grounds, individual commitments around ODA should not be. Then we can argue that the practice of ODA can be justified on utilitarian grounds.

However, a critic of ODA that accepts this Rawlsian analysis of promising, and accepts that the practice of ODA can be justified on utilitarian grounds, still has an option open to them. The critic can argue that the practice of making commitments around ODA is not, as Rawls in *ToJ* argues promises should be, "a means whereby men [and women] can enter into and stabilize cooperative agreements for mutual advantage." This is because, the critic would argue, although the commitments may be beneficial to developing countries, and may therefore lead to the best overall consequences, they are simply a cost to developed countries, so cannot be considered as being advantageous to these countries. In response, we can say that by keeping their promises with regard to ODA, developed countries, by increasing trust in the international community, strengthen other commitments made in international relations, like trade agreements, that are to the benefit of developed countries. We can also suggest that if ODA assists developing countries with their economic development, it will likely mean increased trade links between countries, and this will benefit

[412] Ibid, p. 345/303-304.
[413] Ibid, p. 345/303.

developed countries. If none of these defences work, we can fall back on the priority Rawls gives to benefitting the least advantaged, and argue ODA does this.

Conclusion

In this chapter, we looked at the history of broken commitments made by developed countries around ODA. Then by looking at accounts of promising, including an account by the early Rawls that had some similarities to the account he gave in *ToJ*, we found commitments around ODA could be analysed as broken promises. Furthermore, we found that promises could fit into a consequentialist framework.

The next chapter sees a shift from this part of the thesis that looked at questions around the general issue of realizing principles of global justice, to the third part of the thesis that looks at a particular country's record, New Zealand, when it comes to certain principles of global justice. This part of the thesis also considers how New Zealand could perform in this regard in the future.

This third part of the thesis starts with the tenth chapter that considers how New Zealand's history of colonialism has and has not respected the freedom and independence of peoples' principle. On its own, this topic deserves investigation in a thesis on Rawlsian global justice that uses New Zealand as a case study. However, it will also lead into the eleventh chapter, whose subject is New Zealand's ODA programme, because New Zealand's history of colonialism has had a profound effect on the programme, with the programme being a relic of this history.

Part 3: Global Justice and New Zealand

Chapter 10: New Zealand's History of Colonialism and the Freedom and Independence of Peoples' Principle

Introduction

In this thesis, there has been a focus on the global difference principle, as well as other similar principles, like the duty of assistance, and how these principles apply to all countries. This chapter will see a shift to Rawls's first principle of international justice, which states, "Peoples are free and independent, and their freedom and independence are to be respected by other peoples", and how it applies to a particular developed country, New Zealand. I will call the principle "the freedom and independence of peoples' principle", and have a brief introduction to this principle in the first section of this chapter.

Discussing this principle from a cosmopolitan perspective might seem wrongheaded because the principle refers to peoples rather than persons, but we shall see in this chapter that this is not the case. This is in part because Rawls justifies the principle by claiming the freedom and independence of peoples is good for persons. We shall also see this cosmopolitan justification in international law for the similar principle of self-determination. However, as Allan Buchanan emphasises, Rawls's principle is narrow and therefore not able to deal with new types of political change,[414] which, as we will see later in the chapter, include the emergence of small polities some of which achieve statehood.

Another reason for discussing the freedom and independence of peoples' principle in this thesis is that New Zealand dishonoured it by colonising the Pacific nations of the Cook Islands, Niue, Samoa, and Tokelau. The second section of this chapter will investigate the history of each case of colonisation in detail, in order to see exactly how this occurred.

Making a judgment about the extent of New Zealand's disrespect for the freedom and independence of peoples' principle is difficult because we do not always best respect the principle, as Rawls suggests, by having polities reach full statehood. If Rawls were correct, currently the freedom and independence of the people of Samoa would be more respected than that of the Cook Islands, Niue, and Tokelau, because Samoa has full statehood while the Cook Islands and Niue are self-governing territories in free association with New Zealand, and Tokelau is a Non-Self-Governing Territory (NSGT) of New Zealand. The chapter will

[414] Buchanan, 'Rawls's Law of Peoples: Rules for a Vanished Westphalian World', p. 716.

explain the meaning of the terms "free association" and "Non-Self-Governing Territory" and show that the freedom and independence of peoples is compatible with these statuses.

The chapter will also look at what factors may have led some of these peoples to be open to entering into a constitutional relationship with New Zealand. Judging this openness will also require an investigation into the social structure of these nations, which will indicate how much the general population was involved in the colonisation process. This investigation will also provide evidence as to how we should classify these nations in a Rawlsian scheme, but I will directly address a classification issue raised by this review in the final section of this chapter.

This issue is how small polities, like Niue and Tokelau, which Rawls did not consider in any detail in *LoP*, could fit into a Rawlsian framework which includes the freedom and independence of peoples' principle. This investigation will require a deeper analysis of the Rawlsian concept of peoples, and will conclude that Niue and Tokelau are a type of people not envisioned by Rawls, namely semi-autonomous peoples with a right of access to liberal or decent institutions.

This chapter will naturally lead into the next chapter (a discussion of New Zealand's ODA programme) because New Zealand's constitutional and historical relationship with its former colonies heralded the start of its ODA programme and led to New Zealand having bilateral ODA programmes with all of these countries.

The Freedom and Independence of Peoples' Principle

We can start this brief introduction to the principle by noting that as is the case with all his international principles, Rawls would say one of the main justifications for this principle is that the representatives in the international original positions would select it. In this particular selection process, the representatives see that the principle is similar to one of the norms of international relations, the self-determination norm, and decide there is not sufficient reason to depart from this norm.

One reason Rawls could give for his representatives taking this stance is the norm's entrenchment in international relations and therefore would be difficult to remove. For example, UN General Assembly resolution 1514, the 'Declaration on the granting of independence to former colonial countries and peoples', which includes the declaration, "All

peoples have the right to self-determination"[415], was voted on in 1960 and had 89 votes in favour, no votes against, and nine abstentions.[416]

More utopian thinkers will find this reason for not departing from the norm unsatisfactory. They will want an explanation of why the freedom and independence principle is a good principle, which goes beyond noting how well established the principle is, and how difficult it would be to remove. The fourth chapter hinted at such an explanation when it noted this principle was partly about the need to tolerate different types of peoples. In what appears to be in part a response to the question of why we should respect different types of peoples with their variety of cultures, Rawls writes it is, "surely a good for individuals and associations to be attached to their particular culture and to take part in its common public and civic life."[417] Rawls goes on to claim, "This is no small thing. It argues for significant room for the idea of a people's self-determination."[418]

However, Buchanan argues that Rawls leaves little room for self-determination, writing the freedom and independence of peoples principle, "appears to address only one particular instance of self-determination—cases where a Rawlsian ''people'' has been unjustly incorporated into another state and seeks to recover its independence."[419] While I agree with Buchanan that Rawls's narrow scheme does not have room for groups, like small polities, that should have, "rights of limited self-government within the state"[420], I do not see why he claims Rawls thinks the right to self-determination only covers the case of a people trying to recover their independence. When discussing these issues, Rawls writes:

> The right to independence, and equally the right to self-determination, hold only within certain limits, yet to be specified by the Law of Peoples for the general case. Thus, no people has the right to self-determination, or a right to secession, at the expense of subjugating another people.[421]

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[415] UN GA resolution 1514 (XV), 14 December 1960, URL: http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/152/88/IMG/NR015288.pdf?OpenElement, (accessed 9 December 2014).
[416] UN, Voting record for resolution 1514 (XV), 14 December 1960, URL: http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=P3817P7293V69.1770&profile=voting&uri=full=3100023~!900002~!1&ri=2&aspect=power&menu=search&source=~!horizon, (accessed 9 December 2014).
[417] Rawls, *LoP*, § 7.3, p. 61
[418] Ibid.
[419] Buchanan, 'Rawls's Law of Peoples: Rules for a Vanished Westphalian World', p. 716.
[420] Ibid, p. 717.
[421] Rawls, *LoP*, § 4.2, p. 38.

To illustrate his meaning Rawls gives the example of the antebellum South, and writes that in regards to its right of secession, "it had no such right, since it seceded to perpetuate its domestic institution of slavery. This was as severe a violation of human rights as any, and it extended to nearly half the population."[422] Presumably, if the individuals that made up the antebellum South looked to secede so they could attach themselves to their particular culture and take part in its common public and civic life in a way that the North denied them, and this culture did not violate principles of justice, then these individuals would have had a right to secession. This would be Rawls's position even though the antebellum South was not a previously independent state that the North had unjustly incorporated.

This discussion of self-determination highlights that when Rawls justifies the freedom and independence of peoples' principle by saying it is good for individuals to attach themselves to a particular culture, he has in mind a particular type of culture. This culture comes with a particular set of institutions, namely a state, that help to define the culture's common public and civic life, and rules out other cultures that would require a different set of institutions.

Those opposed to Rawls's freedom and independence of peoples' principle could question whether it is good for individuals to attach themselves to their particular culture in such a way that requires a particular type of state, and will sometimes require secession from an already existing state. They, if they were a liberal, could argue that as long as a state is liberal, then it is good for individuals to have an attachment to this state, and that this makes secession unnecessary. A Rawlsian response is to say that we determine what is good for individuals by seeing what their rational desires are. This means that in this case we look to see if individuals desire to have an attachment to their culture in a fashion requiring a separate state, and if they do, if this desire fits into a rational long-term plan of life that does not violate principles of justice. If these conditions hold, then the satisfaction of this desire is good for those individuals.

If we look at the process of decolonisation and independence movements around the world, we do find instances where these conditions held for a majority of individuals who made up these nations, which means from a Rawlsian viewpoint it is good for these individuals in these instances to have an attachment to their culture in this fashion. However, when we look at the polities colonised by New Zealand, we find that the desire for self-

[422] Ibid, n. 45.

determination via full statehood was not always present among a majority of individuals who made up these nations. This does not mean, however, that in these instances the freedom and independence of peoples was not good for these individuals, rather in these instances the individuals involved chose a different type of freedom and independence for their people.

To see how this occurred in detail, in the next section we will have an investigation of New Zealand's history of colonialism. This investigation will also show how New Zealand did not respect the freedom and independence of peoples principle, and how New Zealand's history of colonialism can be criticised on other fronts, some of them Rawlsian.

However, before this investigation, I will consider the objection that using the Law of Peoples to judge New Zealand's history of colonialism is inappropriate because Rawls only meant the Law of Peoples to guide the current policies of liberal peoples.[423] In supporting this thought, one could point out that Rawls writes that the second original position, "is a model of representation, since it models what we would regard—you and I, here and now—as fair conditions under which the parties, this time the rational representatives of liberal peoples, are to specify the Law of Peoples, guided by appropriate reasons."[424] One could also note that Rawls adds in a footnote, "In this case "you and I" are citizens of some liberal democratic society, but not of the same one."[425]

However, Rawls in *LoP* spends a good deal of time looking back at past wars and making judgements about them. In this context, he writes:

> No matter what the initial circumstances of war (for instance, the assassination of the heir to the Austro-Hungarian throne, Archduke Ferdinand, by a Serbian nationalist in Sarajevo in June 1914; or the ethnic hatreds in the Balkans and elsewhere today), it is the leaders, and not the common civilians, of nations who finally initiate the war. In view of these principles, both the fire-bombing of Tokyo and other Japanese cities in the spring of 1945 and the atomic bombing of Hiroshima and Nagasaki, all primarily attacks on civilian populations, were very grave wrongs as they are now widely, though not generally, seen to have been.[426]

Admittedly, Rawls focuses on World War II, due to its impact and perhaps because he served in it, but as this quote hints at, his judgments go further back in time. Indeed, Rawls writes of the, "The outlaw states of modern Europe in the early modern period—Spain, France, and the Hapsburgs—or, more recently, Germany, all tried at one time to subject much of Europe to

[423] I owe this objection to my examiner David Reidy.
[424] Ibid, § 3.2, p. 32.
[425] Ibid, n. 35.
[426] Ibid, § 14.1, p. 95.

their will."[427] Still, it might be objected that while it is appropriate to talk of outlaw states in the distant past, it is not appropriate to talk of liberal and decent peoples and their freedom and independence in such a way because such peoples are a recent development. However, in the case of New Zealand's colonialism, I do not think this criticism works. By the time New Zealand started its colonial project, it was already approximating the liberal people ideal in having universal suffrage. In the case of the countries New Zealand was colonising, as I will argue later in this chapter, due to their moral nature and common sympathies, I think there is justification in describing them as peoples in a Rawlsian sense, with the right to freedom and independence, even if it is inappropriate to define them as liberal or decent peoples.

Having dealt with the objection that it is inappropriate to use the freedom and independence of peoples' principle to judge New Zealand's history of colonialism, we can now turn to this history.

New Zealand's History of Colonialism

From as early as the 1840s, leaders of New Zealand's government had visions of it being a colonial power, even though they envisioned New Zealand only governing colonies in the Pacific on behalf of Great Britain.[428] Indeed, New Zealand at this stage still referred to itself as a British colony.[429]

The islands that topped New Zealand's list of projected colonial projects were the large island groups of Fiji and Samoa.[430] However, Great Britain's officials in the Colonial Office repeatedly dismissed the idea, probably because they were interested in Great Britain having a more direct role in the governing of these islands. This appears to be confirmed by the fact that by 1889 Great Britain was ruling over Fiji; and as part of a tridominium, the other two parts being Germany and the United States, was administrating Samoa. In 1899, Great Britain went further in alienating New Zealand and committed what New Zealand's

[427] Ibid, § 15.1, pp. 105-106.
[428] NZMCH, 'New Zealand History online: New Zealand in the Pacific – capture of German Samoa', (last updated 20 December 2012), URL: http://www.nzhistory.net.nz/war/capture-of-samoa/background, (accessed 9 December 2014).
[429] New Zealand would refer to itself as a colony until 1907. NZMCH, *Te Ara: The Encyclopedia of New Zealand*, 'From Colony to Nation', URL: http://www.teara.govt.nz/en/nation-and-government/page-2, (accessed 9 December 2014).
[430] As we shall see, New Zealand would eventually gain control over Samoa. New Zealand also showed interest in Tonga. Instead, Tonga became a British protectorate, but, unlike other Polynesian nations, maintained its sovereignty.

Premier Richard Seddon described as a "great betrayal",[431] which was their decision to sign, along with Germany and the United States, the Tripartite Convention. The convention, which did not show much respect for the freedom and independence of the Samoan people, was an agreement to allow Germany to annex most of Samoa, with America annexing a smaller part, and Great Britain renouncing any rights to Samoa.[432] The convention occurred because the tridominium had broken down with the outbreak of a civil war in Samoa, which saw Germany backing one side and the Americans and British backing another. With neither side quickly gaining an upper hand, the colonial powers decided to promote peace, hoping the convention would help to end hostilities and prevent their recurrence, which it did.[433] The Germans, unsurprisingly, named the area they annexed German Samoa (or, to be more accurate, Deutsch-Samoa). The Americans gave the smaller part of Samoa they ruled over the equally unsurprising name it has to this day, American Samoa.

While the convention enraged Seddon, it would open the path for New Zealand's annexation of Niue by voiding another convention. In this previous convention, the Anglo-German Convention signed in 1886, Great Britain and Germany, in disregard for the freedom and independence of any peoples in the area, had agreed on their spheres of influence in the Western Pacific. Included in this convention was the clause that Niue would remain neutral.

In order to see how Niueans were involved in, and what they thought of, this change in their sovereignty, we can start by noting that despite generally having an egalitarian social structure[434] Niue in the late 1800s had a single man recognised as their leader, Fata-a-iki. He held the recently recreated position of *patu-iki*. In 1889, perhaps unaware of the Anglo-German Convention, and clearly under the influence of British missionaries, Fata-a-iki wrote to Queen Victoria in order to request, "Your Majesty and Your Majesty's Kingdom if it be your pleasure to stretch out towards us your mighty hand that Niue may hide herself in it and be safe." He did this because he was, "afraid lest some other powerful nation should come

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[431] NZMCH, 'Capture of German Samoa'.
[432] In return for Great Britain not having any rights over Samoa:

> Germany renounced in favour of Great Britain her rights in Tonga and Niue and ceded the German Solomon Islands east and south-east of Bougainville. A division of the neutral zone in West Africa, an agreement on West African tariffs, and a conditional renunciation of German extra-territorial rights in Zanzibar also formed part of the settlement.

W. P. Morrell, *Britain in the Pacific Islands*, (Oxford: Clarendon Press, 1960), p. 309.
[433] Ibid, p. 306.
[434] Anthropologist Thomas Felix Ryan's thesis on Niue focuses on its egalitarian social structure. *Prehistoric Niue: An Egalitarian Polynesian Society*, MA Thesis, (Auckland: Auckland University Press, 1977).

and trouble us, and take possession of our island, in the way that some islands in this quarter of the world had been taken by great nations."[435] Whether Fata-a-iki's opinion reflected the general opinion of Niueans is not clear, so let us take a closer look at the position of the *patu-iki* to see if this was likely to occur.

Despite the British labelling the position a kingship, the *patu-iki* was not a hereditary monarch; instead, a chiefly council (*fono*) elected the *patu-iki*. Still, this does not amount to democratic decision making, and this thesis has already questioned whether we can describe decisions made in non-democratic societies as reflecting the will of the people. However, the request to place Niue under British sovereignty may have coincided with what most Niueans were in favour of because they had a fear of a practice known as blackbirding.[436]

This practice involved foreigners visiting Pacific Islands by ship looking for labourers. Their tactics varied from lying about the nature, place and term of employment in order to get individuals "voluntarily" on board, to simply forcing people on to the ships. The Niuean's fear of the practice was understandable. During the height of the blackbirding period, 1862 to 1863, four blackbirding ships from Peru visited Niue (during this time blackbirding was a largely Peruvian practice).[437] In one instance, the Peruvians forcefully took Niueans on to their ship. Some of the Niueans succeeded in escaping, but only after the Peruvians fired upon them, with some escapees receiving gunshot wounds.[438] Similar events occurred on other Pacific Islands, including the Cook Islands and Tokelau.[439] Peruvian blackbirding did not last long, with the Peruvian government banning the practice due to in

[435] Basil C. Thomson, *Savage Island: An Account of a Sojourn in Niue and Tonga*, (Auckland: R. McMillan, 1984 [1902]), p. 1, URL: http://nzetc.victoria.ac.nz/tm/scholarly/tei-ThoSava-t1-front-d1.html, (accessed 9 December 2014).
[436] Terry Chapman, *The Decolonisation of Niue*, (Wellington: Victoria University Press, 1976), p. 5.
[437] Historian Henry Evans Maude also identifies Chileans, Spaniards, and Australians involved in the practice. *Slavers in Paradise: The Peruvian Slave Trade in Polynesia, 1862-1864*, (Canberra: Australian National University Press, 1981), p. xxi.
[438] Ibid, pp. 55-59.
[439] According to Maude, the only inhabited Polynesian island not visited by blackbirders was Hawaii, which is easily the most northerly point of Polynesia. Ibid, p. xxi. Clearly, blackbirders visited New Zealand's future colonies, the Cook Islands, Samoa and Tokelau. Indeed, Peruvian blackbirding possibly began with a visit to the Cook Islands' Tongareva. However, this visit was unusual in that the Peruvians did not use force or deceit. In other trips to the Cooks, blackbirders mainly depended on a policy of lies. On some of the islands, based on the warnings and orders from missionaries and chiefs, few or none of the inhabitants agreed to leave, but on other islands, there was significant depopulation. Ibid, pp. 5-11, 43-54, 188, 192. The blackbirders had virtually no success in Samoa because the indigenous population was large, had more contacts with Europeans, and therefore knew more about blackbirders. Ibid, pp. 59-62. The largest negative impact was in Tokelau, where Peruvians forcefully took nearly half the population, including most of the male population, to mine for guano and work on farms on offshore and coastal Peruvian islands. Hardly any of those kidnapped would return. Peter McQuarrie, *Tokelau: People, Atolls and History*, (Wellington: Peter McQuarrie, 2007), pp. 88-92. Maude estimates that Peruvians took close to 100% of the able-bodied males. Maude also notes that many of the men on board the blackbirding ships died of dysentery. *Slavers in Paradise*, pp. 63-73.

part to French and British diplomatic complaints over Peruvians tricking or forcefully taking Polynesians from French and British protected islands. However, Queenslanders continued the practice, albeit in a less brutal form, into the early part of the 20th century.[440]

Given Britain's role in ending Peruvian blackbirding, and the rosy picture of Britain painted by British missionaries, many Niueans may have thought being under British sovereignty would protect them from the practice. Given the impact the practice had on the Cook Islands and Tokelau, this may also explain these nations' being to a certain extent open to the idea.

Niueans, however, had to wait until 1900 after the Tripartite Convention had been signed, by which time Fata-a-iki had died and been succeeded by Togia[441], to become a British protectorate.[442] This was only to be a temporary measure with the British quickly passing sovereignty to New Zealand. While the Governor of New Zealand was asked by the Colonial Office to discover what the people of Niue thought of New Zealand having sovereignty over them[443], researchers Ofa Tafatu and Ianeta Joylyn Tukuitoga claim that Niueans were not consulted about the shift in sovereignty and also not informed of it when it happened.[444]

During the time Niue was in the process of becoming a New Zealand colony, the Cook Islands was also undergoing this process, but it took longer for this process to come to fruition. New Zealand had been prodding Britain to rule the Cook Islands, which the British were reluctant to do in part because they did not want to anger the French who ruled the Society Islands to the East. It was a petition from Makea Takau, a female *ariki* (high chief) of Rarotonga (the largest and most populous of the Cook Islands) to the British Foreign Office in 1888 that appears to have swayed British opinion. In the petition, she expressed concern over the possibility of a French invasion.[445] Apparently taking these concerns seriously, and

[440] Edward Wybergh Docker, *The Blackbirders: The Recruiting of South Seas Labour for Queensland, 1863-1907*, (Sydney: Angus & Robertson Ltd, 1970).
[441] Togia followed his predecessor's lead in requesting Great Britain to, "preside over the Government of the island [Niue]". Tafatu and Tukuitoga, 'Developments to Annexation' in *Niue: A History of the Island*, (Suva, Fiji; Alofi, Niue: Institute of Pacific Affairs; University of the South Pacific, 1982), p. 125. Togia may have regretted Great Britain granting this request because it eventually led to New Zealand having sovereignty over Niue, and him losing most of his power. Leslie Rex and Young Vivian, 'The New Zealand Period', in *Niue: A History of the Island*, p. 127. Togia's loss of power might explain why he was the last of the *patu-iki*.
[442] Chapman, *The Decolonisation of Niue*, p. 5.
[443] Richard Gilson, in Ron Crocombe ed., *The Cook Islands 1820-1950*, (Wellington: Victoria University Press, 1991), p. 100.
[444] Tafatu and Tukuitoga, 'Developments to Annexation', p. 126.
[445] Gilson, *The Cook Islands 1820-1950*, p. 59.

having become less concerned about offending the French, the British decided to extend protectorate status to the Cook Islands.

Despite do this, the British government did not view the Cook Islands as particularly important.[446] This view opened the way for New Zealand annexing the islands. However, this shift in sovereignty had to await a 1900 visit by Seddon. On this visit, he rejected a petition requesting annexation signed by 39 residents who were mainly not indigenous Cook Islanders (27 were European and five were Chinese). Historian Dick Scott suggests that this may have been unfair considering those coming up with the petition were responding to a speech Seddon had given where he suggested, "New Zealand was prepared to extend its boundaries 'so as to include the Cook Islands.'" [447] After rejecting the petition, Seddon then proceeded on the path of annexation by making proposals designed to appeal to the indigenous *arikis*. According to Seddon, a relationship with New Zealand would bring better harbours, health and education services, as well as limiting the sale of liquor and the arrival of "Orientals".[448] Seddon then left the islands, and left it to the British Resident, W. E. Gudgeon, a New Zealander who was aiding Seddon in his goal to annex the islands, to finalise the annexation process. In doing so, Gudgeon called a meeting of Rarotongan *arikis* and put forward a petition he designed to appeal to them.[449] The petition included the clause that the Cook Islands group was to be "annexed to Great Britain and federated with New Zealand."[450] This hid the ultimate goal of New Zealand annexing the islands.

Gudgeon claimed that the *arikis* of Rarotonga, Atiu, Mauke and Mitiaro (islands from the Southern group of the Cook Islands) signed the petition. He also claimed, "the Mataiapos [chiefs] and Rangatiras [low chiefs] have endorsed the action of the arikis, and, therefore, the

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[446] The Colonial Office dismissed Niue and the Cook Islands together as "a remote and worthless group". NZMCH, 'Capture of German Samoa'.
[447] Dick Scott, *Years of the Pooh-Bah: A Cook Islands History*, (Rarotonga: Cook Islands Trading Corporation Limited, 1991), p. 80.
[448] Gilson, *The Cook Islands 1820-1950*, pp. 99-100.
[449] The petition included five stipulations:

> (1)That the federal Parliament should be abolished and a Council of Arikis should take its place;(2) The land rights of the people should be held sacred;(3) Northern Islands to be annexed to the group;(4) Appointments to the Public Service to be subject to the approval of arikis;(5) [and the Cook Islands] To be annexed to Great Britain and federated with New Zealand.

Scott, *Years of the Pooh-Bah*, pp. 82-83.
[450] Ibid, p. 83.

inhabitants of this island may be said to be absolutely unanimous in their desire for annexation."[451] Scott, however, says that there:

> [W]as no evidence to show that a single mataiapo or rangatira had endorsed the petition (or been consulted), Makea's husband, Ngamaru, was the sole signatory for [the southern islands] Atiu, Mauke and Mitiaro, and Mangaia [another southern island] had not been asked to sign at all.[452]

When it came to those below the *rangatira* in the Cook Islands' power structure, Gudgeon made the condescending and contradictory claim:

> The inferior peoples have not, of course, been asked their opinion on this question; but I am in the position to say that they are more in favour of annexation than any other class, since they hope to benefit by the change.[453]

Here Gudgeon is suggesting the unlikely scenario that "The inferior peoples", despite not being consulted, were aware of changes he intended to make, that the *ariki* were unaware of, namely to reduce the power of the *arikis*. Even if these "inferior peoples", who were the majority of the population, were in favour of the British passing sovereignty to New Zealand, as we will see shortly, Gudgeon would give them reason for regretting it.

Initially, New Zealand treated the Cook Islands and Niue as one entity, with the proclamation declaring them part of the Colony of New Zealand not even mentioning Niue. When a number of Niueans made it clear they did not view themselves as a Cook Island people, New Zealand agreed to administer Niue separately.[454]

New Zealand's administrator in Niue, the Resident Commissioner, would work with the *patu-iki* and *fono*, but he increasingly became the person who had power in the Niuean government. Emblematic of this process was the failed push in 1904 by Togia and certain councillors for a pay increase. Researchers Leslie Rex and Young Vivian write, "After this defeat, the Council seemed to have resigned itself to being what Niueans would call "Tau

[451] Ibid.
[452] Ibid.
[453] Gilson, *The Cook Islands*, p. 101.
[454] Tafatu and Tukuitoga, 'Developments to Annexation', p. 126. However, the Cook Islanders and Niueans do have a shared history. For example, Jon Tikivanotau M. Jonassen notes that according to certain oral histories, Cook Islanders and Niueans at a certain point fought alongside one another. 'Cook Islands', in Steven Levine ed., *Pacific Ways: Government and Politics in the Pacific Islands*, (Wellington: Victoria University Press, 2009), pp. 35-36, 45, n. 1.

tagata gaki" ("yes" men)."[455] Still, the relationship between the Resident Commissioner and the Niuean people was relatively cordial.[456]

There was some justification in treating the isolated single atoll Niue as a political unit with one people. There was less justification for treating the Cook Islands in this fashion given they are 15 disparate land masses whose inhabitants did not traditionally view themselves as one political unit or single people.[457]

New Zealand matched, at least initially, its attempts to make the Cooks function as one political unit, with an attempt to exert greater control. The now Resident Commissioner Gudgeon promoted this increased control as introducing a more egalitarian system. In 1908, he wrote of how he expected Cook Islanders to respond:

> The satisfaction felt by the people generally under European rule will not be shared by a few *arikis* and their friends, who for generations have lived on the labour of the people and have treated them most cruelly. Such men cannot be expected to appreciate a rule that sternly informs an *ariki* that when before the Court he is only the equal of the meanest of his followers.[458]

Gudgeon's assessment of the level of hierarchy in pre-European contact Cook Islands' society may not be entirely accurate. Gudgeon implies there was a high level of hierarchy throughout the Cook Islands, but the Cook Islands are composed of islands and atolls. Anthropologist Marshall D. Sahlins argues that due to higher levels of productivity Pacific islands, like the Cook Islands' Mangaia, are associated with high levels of social stratification, while due to lower levels of productivity Pacific atolls, like the Cook Islands' Pukapuka, are associated with low levels of social stratification.[459]

We can also question Gudgeon's claim that he would introduce a more egalitarian system by pointing out his view of the general Cook Islands population as inferior persons who were not worthy of being consulted. Indeed, his earlier statement gives credence to historian Richard Gilson's claim that Gudgeon, "wanted to take the place of the paramount chiefs (the only islanders whom he thought capable of maintaining local self-government)

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[455] Rex and Vivian, 'The New Zealand Period' p. 128.
[456] Despite these good relations, escaped prisoners murdered a Resident Commissioner in 1953. Ibid, pp. 130-131.
[457] Richard Walter, 'Settlement Pattern Archaeology in the Southern Cook Islands: A Review', in *The Journal of the Polynesian Society*, Vol. 105, No. 1, (March 1996), p. 64, Stable URL: http://www.jstor.org/stable/20706646.
[458] Gilson, *The Cook Islands: 1820-1950*, p. 120.
[459] Marshall D. Sahlins, *Social Stratification in Polynesia*, (Seattle: University of Washington, 1958), pp. 59-64, 92-96.

rather than develop democratic leadership."[460] Gilson gives his claim more support by noting, "At the same time" Gudgeon was making claims about introducing a more egalitarian system "he said that the people would not respect a Resident Commissioner who did not have and use a high degree of power and authority."[461]

Gudgeon received the power he wanted, but in his case, unfortunately, it was a case of power corrupting. For example, Scott notes, "Gudgeon's fondness for dispatching prisoners to plantation labour on the island prison of Manuae was not unrelated to his investment in the company leasing the plantation."[462] New Zealand would remove Gudgeon as Resident Commissioner in 1909. The official reason was Gudgeon's age; he was 68. Others might have thought the real reason was his conflict of interests.[463]

New Zealand's colonial possessions would soon extend beyond the small Cook Islands and Niue, to include the relatively large Samoa. This was due to the outbreak of World War I in 1914, which placed Great Britain and Germany on opposite sides. This led to Great Britain requesting New Zealand to perform the, "great and urgent Imperial service" of capturing German Samoa.[464] The New Zealand government's enthusiasm for taking control of Samoa had waned with Seddon's death in office in 1906.[465] Nevertheless, New Zealand was not going to refuse a request from its former colonial master during a time of war; so, early in the month of August 1914, New Zealand navy troops set sail for German Samoa, and three weeks later on 29 August 1914, they landed. Though it might just have been luck that prevented German vessels in the South Pacific from intercepting the ships and sinking them, when the New Zealand navy arrived in German Samoa they faced no resistance from the small number of German sailors on the islands.[466] The local population also did not actively resist.

Subsequently, the leader of the New Zealand troops Lieutenant-Colonel Robert Logan informed an assembly of Samoans at Mulinu'u that government would continue along the

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[460] Gilson, *The Cook Islands 1820-1950*, p. 120.
[461] Ibid.
[462] Scott, *Years of the Pooh-Bah*, p. 94.
[463] Ibid, p. 100. Gudgeon put his dismissal down to the fact that he was a lapsed Catholic, and that the new Prime Minister Joseph Ward and some of his colleagues were, "irreconcilable Romanists". Ibid, p. 110.
[464] NZMCH, 'Capture of German Samoa'. Great Britain's strategic interest in Samoa was mainly due to it being home to a German radio station. J. W. Davidson, *Samoa mo Samoa* [Samoa for Samoa]*: the emergence of the independent state of Western Samoa*, (Oxford: Oxford University Press, 1967), p 90, Permanent URL: http://hdl.handle.net/2027/heb.03584.0001.001.
[465] Ibid, p. 92.
[466] NZMCH, 'Capture of German Samoa'. Shortly after New Zealand captured German Samoa, German warships visited but decided against an attempt at recapturing the island group. Michael J. Field, *Mau: Samoa's Struggle for Freedom*, (Auckland: Pasifika Press, 2008), pp. 13-16.

same lines established by the Germans.[467] The influential Samoans at the meeting were *matai*, the heads of households, generally male, who traditionally dominated decision-making in Samoa. This was reflective of a wider hierarchical chiefly system, which is the type of system Sahlins would say we should expect given Samoa is mainly composed of two relatively large islands.[468]

The occupying New Zealanders raised the British flag outside the Government building in the capital, Apia.[469] This was in keeping with New Zealand's status of administering Samoa on behalf of Great Britain.[470] While New Zealand did administer the islands in a manner similar to the Germans, this wartime administration did have its positive aspects, with New Zealand granting Samoans more freedom to perform certain traditional cultural practices.[471]

The end of the war saw Samoa officially renamed Western Samoa.[472] This period also saw New Zealand start to have a more independent foreign policy, with the Department of External Affairs created in 1919. The initial role of this department was largely to aid in the administration of Samoa.[473] Prior to this development, New Zealand's foreign policy was largely a joint exercise between New Zealand and Great Britain.

The creation of the department suggested New Zealand saw its administration of Samoa lasting for a long period. Another indication of this came in 1920 when the League of Nations, without consulting the indigenous population, granted New Zealand civilian administration over Western Samoa.[474] This made Western Samoa the third of New Zealand's colonial possessions.

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[467] Davidson, *Samoa mo Samoa*, p. 91.
[468] The two relatively large islands are Upolu (home to the capital, Apia) and Savai'i.
[469] NZMCH, 'Capture of German Samoa'.
[470] Davidson, *Samoa mo Samoa*, p. 92.
[471] NZMCH, 'Wartime administration – capture of German Samoa', (last updated 20 December 2012), URL: http://www.nzhistory.net.nz/war/capture-of-samoa/administration, (accessed 9 December 2014).
[472] Western Samoa would change its name to Samoa in 1997. MFAT, 'Foreign Relations > Samoa', (last updated 9 December 2013), URL: http://www.mfat.govt.nz/Countries/Pacific/Samoa.php, (accessed 9 December 2014).
[473] Michael Green. 'Foreign policy and diplomatic representation', (last updated 18 January 2013), in *Te Ara: the Encyclopedia of New Zealand*,
URL: http://www.teara.govt.nz/en/foreign-policy-and-diplomatic-representation/page-1, (accessed 9 December 2014).
[474] NZMCH, 'League of Nations Mandate for German Samoa', (last updated 15 July 2013), URL: http://www.nzhistory.net.nz/media/photo/league-nations-mandate-german-samoa, (accessed 9 December 2014).

The fourth and last of these possessions was Tokelau.[475] Tokelau is small even in comparison to the relatively small Cook Islands and Niue,[476] and like Niue has the low productivity and egalitarian social structure often found in atolls.[477] Tokelau's small size and lack of productivity may help to explain New Zealand's reluctance to take over administration of the atolls.

Tokelau had become a British protectorate in 1889[478], but by 1919, the British were eager for New Zealand to take over.[479] New Zealand resisted taking this responsibility until, in 1924, when Great Britain agreed to make Apia a port of entry to Tokelau. After this, Great Britain and New Zealand sought the consent of the *faipule* (elected administrator) of each atoll to New Zealand administrating Tokelau. All three *faipule* agreed.[480] Once it was administrating Tokelau, New Zealand requested further control over the atolls, the British agreed to the request, and Tokelau became part of the Dominion of New Zealand in 1926.

Neither New Zealand nor Great Britain appears to have sought the consent of the *faipule* or other Tokelauans on Tokelau becoming part of New Zealand. However, the Apia based New Zealand administrator of Tokelau, George S. Richardson, claimed:

> The Natives in each atoll express great pleasure at being brought under New Zealand, because that country governs the Maoris [sic], the Rarotongans, and the Samoans, all of whom belonged to the same race as themselves, and because they (the Tokelau-Islanders) originally came from Samoa, and they had long desired to be united with the Samoan people.[481]

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[475] New Zealand did officially administer Nauru along with Great Britain and Australia, but in practice, Australia was the administrator. However, New Zealand and Australia both benefitted from the extraction of phosphate from Nauru, which appears to be the main reason for their interest in the island nation. Barrie Macdonald, *In Pursuit of the Sacred Trust: Trusteeship and Independence in Nauru*, (Wellington: Victoria University, 1988).

[476] CIA, *The World Factbook*, 'Country Comparison: Area'. Tokelau is composed of three atolls, Atafu, Nukunonu, and Fakaofo. Prior to colonisation Tokelau included a fourth atoll, Olohega (aka Swains Island), which is now administered by American Samoa, but privately owned by an American family, the Jennings. Pacific Islands Benthic Habitat Mapping Center, 'American Samoa: Swains Island', (last updated 11 July 2011), URL: http://www.soest.hawaii.edu/pibhmc/pibhmc_amsamoa_swains.htm, (accessed 9 December 2014).

[477] Sahlins, *Social Stratification in Polynesia*, pp. 100-104.

[478] According to researcher Peter McQuarrie, the motivation of the British in making Tokelau a protectorate was the possibility this would be helpful in the laying of a trans-Pacific telegraph cable. The British did not realize this possibility. *Tokelau*, pp. 97-102.

[479] Ibid, pp. 99, 113.

[480] Ibid, p. 115.

[481] Appendices to the Journals of the House of Representatives, 'Report of the Administrator of Samoa to the Government of New Zealand on the Tokelau (Union) Islands (by Mr Richardson)', (Wellington: House of Representatives, 1926), I-A-04D, p. 12, also available at URL: http://atojs.natlib.govt.nz/cgi-bin/atojs?a=d&cl=search&d=AJHR1926-I.2.1.2.8&srpos=8&e=-------10--1---bySH---0-AJHR%5f1926%5fI%5fAZz-C-, (accessed 9 December 2014). The exact origins of the Tokelauan people is not clear but genetic analysis does show close linkages between Samoans, Cook Islanders and Tokelauans. S. S. W. Serjeantson, D. P. Ryan, and A. R. Thompson, 'The Colonization of the Pacific: The Story According to Human Leukocyte Antigens' in *American Journal of Human Genetics*, Vol. 34, No. 6, (1982), pp. 904-918, also

While we cannot be certain if Richardson's report is accurate, this may not matter much because life did not change significantly for Tokelauans with the shift in sovereignty. New Zealand in keeping with British practice did not send any administrators to the atolls.[482]

In 1926 there appeared to be little opposition to New Zealand's light-handed rule in Tokelau, but there was growing discontent in Western Samoa. Many Western Samoans were not pleased with how the New Zealand administrator, the former Lieutenant-Colonel, Robert Logan, had allowed the entry and spread of the deadly 1918 influenza strain.[483] There was also disquiet over moves by the New Zealand administration to change the system of land tenure.[484] These forces led to the formation of the *Mau* movement. The movement initially included indigenous Samoans and Europeans living in Western Samoa both pushing for more freedom and independence for Western Samoa. New Zealand government administrators tended to view the Europeans involved in the movement as creating baseless discontent amongst indigenous Western Samoans. This view led to the threat, sometimes fulfilled, of deportation for European *Mau* members. This resulted in increasing the indigeneity of the movement.

However, in the late 1920s there were still European members. A march on Saturday 28 December 1929 to welcome back one of these members, A. G. Smyth, who New Zealand authorities had exiled for two years, turned violent when authorities attempted to arrest *Mau* secretary, Mata'utia Karauna, for the non-payment of taxes.[485] The result of the violence was one police officer beaten to death and 11 *Mau* marchers shot dead in a day that Western Samoans refer to as "Black Saturday". The authority's reaction to the incident was to declare the *Mau* organization illegal. This resulted in a band of *Mau* members taking to the bush. The authorities responded by launching a military campaign against them. Commander Blake, head of the marines in this campaign, summed up the view of the New Zealand military:

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available at URL: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1685721/pdf/ajhg00360-0070.pdf, (accessed 9 December 2014).

[482] New Zealand continued to administer Tokelau from Apia after formal sovereignty passed to New Zealand with the Tokelau Act of 1948, which declares Tokelau to be part of New Zealand. New Zealand Parliamentary Counsel Office, New Zealand Legislation, Tokelau Act 1948, URL: http://www.legislation.govt.nz/act/public/1948/0024/latest/DLM247577.html, (accessed 9 December 2014).

[483] NZMCH, 'Influenza in Samoa', (last updated 20 December 2012), URL: http://www.nzhistory.net.nz/culture/1918-influenza-pandemic/samoa, (accessed 9 December 2014).

[484] Malama Meleisea, *The Making of Modern Samoa: Traditional Authority and Colonial Administration in the Modern History of Western Samoa*, (Suva, Fiji: Institute of Pacific Studies of the University of the South Pacific, 1987), p. 127.

[485] Davidson, *Samoa mo Samoa*, p. 138.

> It has been said—and it is true within certain limits—that the Samoan is very childlike and can be easily led. On the other hand, at the present moment he [or she] is in the position of a sulky and insubordinate child who has deliberately disobeyed his [or her] father, as the administrator is generally termed, and no peaceful persuasion will induce him [or her] to submit. There is no alternative, therefore, but to treat him [or her] roughly.[486]

The military campaign ended when the group of *Mau* members agreed to disperse.

The policy of arrest and deportation of *Mau* members continued until the election of the first Labour government in New Zealand in 1935. This government declared the *Mau* movement a legal organization. Subsequent elections in Western Samoa resulted in sweeping victories for the *Mau*, but true independence was still a distant goal.

Movement toward this goal came with the end of World War II and the formation of the UN. The UN Charter, signed on 26 June 1945, declares in its first article the UN's intention, "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples".[487] Of particular relevance to the decolonisation process in Western Samoa, was the chapter on the International Trusteeship System.

The objectives of the trusteeship system were to be, "in accordance with the Purposes of the United Nations laid down in Article 1". Amongst these objectives were:

> [T]heir [non self-governing territories'] progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement[.][488]

In this instance, the United Nations portrays self-government as something short of full independence.

The New Zealand government at the time, still the first Labour government, did not waste much time after the introduction of the trusteeship system, submitting a trusteeship agreement for Western Samoa on 12 December 1946.[489] The agreement only took up a few pages, and repeated much already contained in the relevant sections of the UN Charter,

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[486] Field, *Mau*, p. 179.
[487] The United Nations Charter, 26 June 1945, Article I, URL: http://treaties.un.org/doc/Publication/CTC/uncharter.pdf, (accessed 9 December 2014).
[488] Ibid, Article 76.
[489] UN, 'Trusteeship Agreement for the Mandated Territory of Western Samoa', Submitted by the Government of New Zealand to the General Assembly, First Session, Second Part, as Revised by the Assembly, Document A/160/Rev. 2, December 12, 1946, appears in *International Organization*, Vol. 1, Issue 01. February 1947, pp. 216-219, DOI: 10.1017/S0020818300007001.

including a reference to self-government and independence[490], but, as in the Charter, the agreement included the proviso that the movement towards self-government would, "be appropriate to the particular circumstances of each territory and its peoples".[491]

According to researcher Malama Meleisea, the submission of this agreement was done without consulting Western Samoans, so, "When Samoan leaders found out in 1946 that Samoa had been placed under United Nations Trusteeship … they were outraged … [and] made demands for self-government".[492] Here Meleisea portrays self-government as full independence without the mediation of the UN. While the New Zealand government was willing to make moves towards Western Samoa's full independence, it insisted Western Samoa do this under the auspices of the trusteeship system. The New Zealand government's opinion held sway.

A major move in the direction of full independence was the creation of Western Samoa's constitution, which Western Samoans drafted at two Constitutional Conventions held in 1954, and in 1960.[493] The Constitution agreed to, declared that Western Samoa, "should be an Independent State based on Christian principles and Samoan custom and tradition"[494], but also contained an article defending freedom of religion. The Constitution, however, did not make the extent of suffrage clear. The established practice of *matai* suffrage at the time represented voting rights for 5,030 individuals out of an adult population of roughly 94,000[495], and this type of suffrage would be used in elections in the newly independent Western Samoa, with universal suffrage not being introduced until 1991.[496]

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[490] Ibid, Article 4.
[491] Ibid.
[492] Meleisea, *The Making of Modern Samoa*, p. 209.
[493] The Constitutional Convention consisted of:

> [T]he *Fautua* [a position created by the former German authorities, which was populated by certain *tama'āiga* (influential Samoans)], the members of the Legislative Assembly [made up of 41 Samoan members elected by *matai* suffrage and five European members elected by universal suffrage[493]], Tuimaleali'ifano [a former *Fautua* and member of the *Mau*] (as a *tama'āiga* who would not otherwise have been included), three additional representatives of each Samoan constituency [there are 41 constituencies] and ten additional representatives of the European community.

Davidson, *Samoa mo Samoa*, p. 382.
[494] Constitution of the Independent State of Samoa, 1960, URL: http://www.paclii.org/cgi-bin/disp.pl/ws/legis/consol_act_2010/cotisos1960438/cotisos1960438.html?stem=0&synonyms=0&query=samoa%20and%20constitution, (accessed 9 December 2014).
[495] Davidson, *Samoa mo Samoa*, p. 336.
[496] Ioane Lafoa'i, 'Universal Suffrage in Western Samoa: A Political Review', in *The Journal of Pacific History*, Vol. 26, No. 3 (1991), pp. 67-73, Stable URL: http://www.jstor.org/stable/25169098.

However, everyone could vote a plebiscite held on 6 May 1961 under the supervision of the UN Plebiscite Commissioner. The plebiscite asked two questions, "Do you agree with the Constitution adopted by the Constitutional Convention on 28 October 1960?" and, "Do you agree that on 1 January 1962 Western Samoa should become an independent state on the basis of that Constitution?" Most Samoans answered both questions in the affirmative, with about 80% of the 37, 897 who voted, voting for independence.[497] This led to Western Samoa's first Prime Minister, Mata'afa Mulinu'u II, whose father New Zealand police wounded on Black Saturday, joining the New Zealand delegation to the UN to request that the UN's Fourth Committee (also known as the Special Political and Decolonization Committee) terminate the trusteeship agreement between New Zealand and Western Samoa. The committee agreed.[498] Subsequently:

> At midnight on 31 December [1961] church bells throughout Samoa rang out to mark the birth of a nation [.] … Next morning, at Mulinu'u, in the presence of representatives of New Zealand (including the Prime Minister and the Leader of the Opposition), of the member states of the South Pacific Commission, of Germany and of neighbouring Pacific countries, the New Zealand flag was lowered for the last time and the Samoan flag raised to fly, in future, alone. The first session of the Legislative Assembly of the Independent State of Western Samoa was opened by the Head of State. This was the beginning of a week of rejoicing and celebration.[499]

This, however, would not be the end of the close relationship between Western Samoa and New Zealand. In the year Western Samoa gained independence, the two countries signed a Friendship Treaty, which includes article IV that states:

> The two Governments shall continue to work together to promote the welfare of the people of Western Samoa. In particular the Government of New Zealand will consider sympathetically requests from the Government of Western Samoa for technical, administrative and other assistance.[500]

Unlike Western Samoa, New Zealand's other former colonies the Cook Islands, Niue and Tokelau have not gained independence via full statehood, but they have increased their autonomy.

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[497] Davidson, *Samoa mo Samoa*, p. 406.
[498] UN GA Resolution 1626 (XVI), 16 October 1961, http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/166/79/IMG/NR016679.pdf?OpenElement , (accessed 9 December 2014).
[499] Davidson, *Samoa mo Samoa*, p. 410.
[500] United Nations — Treaty Series, No. 6515, (1963), 'Treaty of Friendship between the Government of New Zealand and Government of Western Samoa', signed at Apia, on 1 August 1962, pp.5-6, URL: http://treaties.un.org/doc/Publication/UNTS/Volume%20453/volume-453-I-6515-English.pdf, (accessed 9 December 2014).

All three became NSGTs in the mid to late 1940s.[501] I will say more about the NSGT status when we discuss Tokelau, which is still an NSGT. In the Cook Islands' case and Niue's case, they have changed status, and become self-governing territories in free association with New Zealand. The UN introduced this status on 15 December 1960, when its General Assembly passed resolution 1541. This is a status for polities in between full independence and integration with an independent state, with the UN considering all three types of statuses a form of self-government.[502] The decision to enter into free association with a state was to be the result of, "informed and democratic processes, impartially conducted and based on universal adult suffrage".[503] To ensure this would happen, "The United Nations could, when it deems it necessary, supervise these processes."[504] The decision of a people for their territory to enter into free association with a state would not be a final decision; instead, the people retained, "the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes."[505] The UN also said individuals living in these territories should have, "equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms" and, "equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government."[506] Besides the Cook Islands and Niue, the only other territories in free association are the Marshall Islands, the Federate States of Micronesia, and Palau. All three are small Pacific Island territories that are in free association with the United States.[507]

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[501] Alison Quentin-Baxter, 'The Problems of Islands' in *The Victoria University of Wellington Law Review*, Vol. 31, (2000), p. 429, n. 2, available at URL: http://www.victoria.ac.nz/law/nzacl/PDFS/CLJP_JDCP/Vol%206,%202000/7-%20Quentin-Baxter.pdf, (accessed 9 December 2014). Baxter notes that in the relevant UN GA resolution, the assembly does not mention Niue. This revives the tradition of treating the Cook Islands and Niue as one entity. UN GA resolution 66 (I), 14 December 1946, URL: http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/033/17/IMG/NR003317.pdf?OpenElement, (accessed 9 December 2014).

[502] UN GA resolution 1541 (XV), Annex, Principle VII, 15 December 1960, Principle V, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/1541(XV)&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).

[503] Ibid, Principle IX.

[504] Ibid.

[505] Ibid, Principle VII.

[506] Ibid, Principle VIII.

[507] Roger S. Clark, 'Self-Determination and Free Association–Should the United Nations Terminate the Pacific Islands Trust?', in *Harvard International Law Journal*, Vol. 21, No. 1, (Winter 1980), pp. 1-86, also available at URL: http://heinonline.org/HOL/Page?handle=hein.journals/hilj21&div=7&g_sent=1&collection=journals#11, (accessed 9 December 2014).

There was no referendum on the free association issue in the Cook Islands, but there was a UN supervised election in 1965, where one of the main election issues was the question of what the constitutional relationship between New Zealand and the Cook Islands should be.[508] Most of the candidates in the election supported self-government in free association with New Zealand. When the elected members voted on a resolution that included the clauses, "that the Cook Islands shall be self-governing in free association with New Zealand" and, "that it requests New Zealand, in consultation with the Government of the Cook Islands, to discharge the responsibilities for external affairs and defence of the Cook Islands"; only two elected members voted no.[509]

Cook Islanders accompanied this shift in constitutional status, eventually, with a shift in power from the chiefs and missionaries to elected politicians.[510] Jon Tikivanotau M. Jonassen points out a number of other changes that have taken Cook Islands' politics in a more liberal direction even though there are still strong traditional elements. Parliament still has an *Are Ariki* (House of Hereditary Chiefs), and a *Koutu Nui* (Group of Sub-chiefs), but these groups have little influence on government policy. Cook Islanders often elect politicians based on religious and tribal affiliations, but female candidates are meeting with more success.[511]

Jonassen also notes, "The Cook Islands can make its own laws, while New Zealand cannot make laws for the country unless authorised by the Cook Islands government."[512] Moreover, of the free association he writes:

> This unique free association political arrangement gives the Cook Islands full control over its own destiny, endowing it with a legal international personality that allows it the capacity for full membership in international organisations and for undertaking treaty commitments. Indeed, the Cook Islands has become a member of numerous regional and international organisations, signing significant multilateral and bilateral treaties.[513]

It is questionable if one can say the Cook Islands, which still receives some financial support from New Zealand, is in "full control over its own destiny"; nevertheless, one cannot deny

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[508] The election came under the Cook Islands Constitution Act 1964. There was no mention in this Act of New Zealand continuing to provide the Cook Islands with economic assistance. Scott, *Years of the Pooh-Bah: A Cook Islands History*, pp. 295-298. New Zealand Parliamentary Counsel Office, New Zealand Legislation, Cook Islands Constitution Act 1964, URL: http://www.legislation.govt.nz/act/public/1964/0069/latest/096be8ed807e2744.pdf, (accessed 9 December 2014).
[509] Ibid, pp. 301-302.
[510] Jonassen, 'Cook Islands', p. 39.
[511] Ibid, pp. 38-39.
[512] Ibid, p. 39.
[513] Ibid.

Jonassen's claim that the Cook Islands' free association arrangement gives the Cook Islands' people the freedom and independence to join a number of international organizations and treaties.

In Niue's case of decolonisation, in the 1960s before becoming a free association, there was a shift in power, supported by the New Zealand government, from a Resident Commissioner appointed by the New Zealand government to politicians elected by Niueans.[514]

One of Niue's final steps towards free association was the passing of the Niue Constitution Act 1974, which gave Niue freedom to make its own laws.[515] The passing of the Act led to a UN supervised referendum on 2 September 1974, which asked, "Do you vote for self-government for Niue, in association with New Zealand, on the basis of the Constitution and the Niue Constitution Act, 1974?" Close to two thirds of the 1,384 who participated in the referendum voted yes.[516]

The system of government that has developed in Niue, like the one in the Cook Islands, has liberal and traditional elements, but perhaps due to its small size and lack of resources, certain traditional elements have a larger role. For example, Parliament is partly composed of one representative from each village, even though the villages vary greatly in terms of population.[517] However, we should note that Niue's small size and lack of resources have also contributed to a continued strong traditional element of egalitarianism. In addition, the Niuean parliament has introduced a new element, having six members elected to Parliament, hoping this will ensure decisions made by Parliament have a greater tendency to reflect the will of the majority of the population.[518]

Unlike Niue and the Cook Islands, Tokelau is not in free association with New Zealand. Instead, it continues to be a NSGT.[519] UN members introduced this status in the UN

[514] Terry Chapman, 'Modern Times', in *Niue: A History of the Island*, pp. 135-136.
[515] New Zealand Parliamentary Counsel Office, New Zealand Legislation, Niue Constitution Act 1974, URL: http://www.legislation.govt.nz/act/public/1974/0042/latest/DLM412778.html, (accessed 9 December 2014).
[516] UN and Decolonization, p. 33. URL: http://www.un.org/en/decolonization/pdf/decolonization/decon_num_19-2.pdf, (accessed 9 December 2014).
[517] Hima Takelesi, 'Niue' in *Pacific Ways*, p. 155.
[518] Ibid.
[519] Including Tokelau, there are currently 17 NSGTs. The other 16 NSGTs and their administrators are:

NSGT	Administrator
American Samoa, Guam, and the United States Virgin Islands	United States
French Polynesia and New Caledonia	France

Charter, where they defined NSGTs as, "territories whose peoples have not yet attained a full measure of self-government."[520] Furthermore, the charter declared:

> Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and to this end: … to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement[.][521]

This suggests a partly cosmopolitan justification, based on the well-being of individuals, for the principle of self-government and the related principle of self-determination.

The status of NSGT was not the status New Zealand envisioned Tokelau having as the process of decolonisation started to occur in the Pacific. After Western Samoa gained independence in 1962, the New Zealand government suggested that Tokelau could become part of Western Samoa while New Zealand would continue to pay for Tokelau's administrative costs. New Zealand also suggested that a similar scheme might work for amalgamating Tokelau with the Cook Islands. According to researcher Peter McQuarrie, neither move was popular with Tokelauans who he claims did not feel a great deal of cultural affinity with either Cook Islanders or Western Samoans.[522] McQuarrie's claim appears to clash with Richardson's claim that Tokelauans welcomed New Zealand administration in 1926 because at the time New Zealand also administered Western Samoa and, "they [the Tokelauans] had long desired to be united with the Samoan people."[523] McQuarrie does draw a distinction between being administrated from Western Samoa and actually being part of

Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, Pitcairn Island, St. Helena, the Turks and Caicos Islands	United Kingdom
Western Sahara	No administrator

UN, 'Non-Self-Governing Territories', URL: http://www.un.org/en/decolonization/nonselfgovterritories.shtml, (accessed 9 December 2014).

[520] UN Charter, Article 73.

[521] Ibid. This justification of self-determination contrasts with self-determination as a self-evident principle, which is how Beitz claims the UN has portrayed the principle in its resolutions. Beitz, *Political Theory and International Relations*, p. 94. In addition, some of the most seminal resolutions on the issue refer to the UN charter, so arguably make an appeal to this partly cosmopolitan justification. For example see, Resolution 1514 (XV).

[522] McQuarrie, *Tokelau*, pp. 170-171.

[523] Richardson, 'Report of the Administrator of Samoa', p. 12.

Western Samoa. This might partly explain the difference between his report and Richardson's report. McQuarrie also notes that an expectation by the Tokelauans that they would receive fewer resources might explain their reluctance to amalgamating with Western Samoa. Of course, Tokelauan opinion altering over time could explain the differences in the reports. Whatever was the explanation for Tokelau not wanting to become part of Western Samoa, it led to Tokelau becoming a NSGT of New Zealand in 1962.[524]

Tokelau's status as a NSGT should not make one think the New Zealand government controls life in Tokelau. While officially part of New Zealand, the laws of New Zealand only apply to Tokelau if the laws expressly state this. Law Professor Tony Angelo further notes, "A focus on the legal constitutional structure tends to emphasise the hierarchies and the apex of the colonial hierarchy in New Zealand." However, "The reality of day-to-day constitutional life for Tokelau … is in the functioning of the villages … the General Fono … the Council for the Ongoing Government … and the Law Commissioners."[525]

Furthermore, "The heart of the system, both culturally and in practice, is the villages."[526] Due to the small size of the three atolls that make up Tokelau, there is only one village on each atoll. Senior male members of families exert the most control over the village system. However, this should not make one think Tokelauan society is highly hierarchical. There are elections in each village for the *faipule* and *pulenuku* (whose role is similar to that of a mayor).[527] There is also a strong and traditional egalitarian element in the politics and lifestyle of Tokelauans.[528]

The control each village system exerts means life in Tokelau is quite different from life in New Zealand. Indeed, life can be quite different from atoll to atoll. In the Protestant

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[524] Tony Angelo and Talei Pasikale, *Tokelau: A History of Government: The constitutional history and legal development of Tokelau*, (Apia: Council for the Ongoing Government of Tokelau, 2008), p. 49, also available at URL: http://tokelau.org.nz/site/tokelau/files/Tokelau%20A%20History%20of%20Government%20FINAL.pdf, (accessed 9 December 2014).
[525] Tony Angelo, 'Tokelau' in *Pacific Ways*, p. 222.
[526] Ibid.
[527] Ibid, p. 223.
[528] One egalitarian aspect of life in Tokelau is the *inati* system. Under this system, the village distributes certain fish species equally among families. McQuarrie sees the *inati* system as, "an institutionalised way that Tokelauans express their belief in the equality of all people, women and men, children and adults." *Tokelau*, p. 64. Archaeologists, Rintaro Ono and David J. Addison suggest that the explanation for the *inati* system is the need to preserve certain taxa. They write, "In effect, the *inati* system deters the exploitation of these [scarce] taxa by reducing individual incentives for capturing certain animals." 'Ethnoecology and Tokelauan fishing lore from Atafu Atoll, Tokelau', SPC Traditional Marine Resource Management and Knowledge Information Bulletin, No. 26, December 2009, p. 13, also available at URL: http://www.spc.int/DigitalLibrary/Doc/FAME/InfoBull/TRAD/26/Trad26_03_Ono.pdf, (accessed 9 December 2014).

dominated Atafu and Fakaofo authorities strictly enforce a rule of no work on Sundays, while on the Catholic dominated Nukunonu, one is allowed to do what one wants on Sunday, *after* one has attended mass.[529]

Even with this level of independence from New Zealand, by the 21st century in Tokelau there was a desire for more, but not enough of a desire to change Tokelau's status as a NSGT. Tokelauans displayed this in a 2006 UN supervised referendum where they voted on the proposal, "That Tokelau become a self-governing state in free association with New Zealand on the basis of the Constitution and the Treaty".[530] This referendum just failed to get the two-thirds supermajority required to pass. A similar referendum in 2007 had a similar result.[531]

McQuarrie suggests that the New Zealand government was displeased with this outcome since, "as an independent state, it [Tokelau] would qualify for bilateral aid from other nations as well as the assistance of various United Nations agencies and aid donors such as the European Union."[532] This statement glosses over that becoming part of a free association is only one-step towards becoming an independent state, and nations can remain in free association for a long time. Notably, the Cook Islands and Niue have been a free association with New Zealand since 1965 and 1974, respectively. We shall also see in the next chapter that the amount of ODA received by the Cook Islands and Niue from New Zealand is similar to what New Zealand gives Tokelau. This suggests that a change in status from a NSGT of New Zealand to being in free association with New Zealand would probably not result in New Zealand giving less ODA to Tokelau.

In any case, Tokelau does not appear close to becoming a free association anytime soon, with, in 2012, the UN's General Assembly agreeing with the Tokelauan assembly that when it came to Tokelau's future:

> [A]ny future act of self-determination by Tokelau would be deferred and that New Zealand and Tokelau would devote renewed effort and attention to ensuring that essential services and

[529] McQuarrie, *Tokelau*, p. 224.
[530] Andrew Townend, 'Tokelau's 2006 Referendum on Self-government', in *New Zealand Journal of Public and International Law*, Vol. 5, (2007), p. 149, also available at URL: http://heinonline.org/HOL/Page?handle=hein.journals/nzjpubinl5&div=12&g_sent=1&collection=journals, (accessed 9 December 2014).
[531] The ACE Electoral Knowledge Network, 'Tokelau Referendum on Self-Government (2007)', URL: http://aceproject.org/today/feature-articles/tokelau-referendum-2007, (accessed 9 December 2014).
[532] McQuarrie, *Tokelau*, p. 229.

> infrastructure on the atolls of Tokelau were enhanced, thereby ensuring an enhanced quality of life for the people of Tokelau.[533]

In concluding this historical survey of New Zealand's colonialism, we can note that while Tokelau maintains the closest relationship to New Zealand, out of New Zealand's four former colonies, New Zealand's treatment of Tokelau appears to come closest to honouring Rawls's freedom and independence of peoples' principle. As we have seen, in the colonisation process, New Zealand consulted with elected Tokelauan leaders, although not all of the time, and New Zealand's rule over the atolls was light-handed. In contrast, New Zealand's initial colonisation of Niue did not involve consultation. Then New Zealand compounded its mistake by treating Niue as though it was part of the Cook Islands, but this particular mistake was quickly rectified, and after this, New Zealand rule in Niue was relatively benign even though for a period the New Zealand appointed Resident Commissioner dominated decision-making. In the Cook Islands' case, while some initial consultation took place, it was of a questionable character. Gudgeon's abuse of power also marred New Zealand's rule. However, New Zealand's worse case of disrespecting the freedom and independence of peoples involved Samoa, the only one of its four former colonies that is now an independent state. New Zealand intervened militarily in Samoa at the request of the great colonial power Great Britain. While Samoans did not actively resist, given the strong military nature of New Zealand's presence, it is difficult for us to say what attitude this reflected. Samoans were then told that rule under New Zealand was going to be much like rule under their former colonial masters the Germans. A number of poor policy choices marred New Zealand's rule, and when in response Samoans pushed for more freedom and independence, New Zealand cracked down using military force.

Some Rawlsians may object that whatever New Zealand's history of not respecting the freedom and independence of peoples of its former colonies may be, currently it respects the freedom and independence of Samoa more. This is because New Zealand aided Samoa in becoming an independent state while the Cook Islands, Niue, and Tokelau still have constitutional ties to New Zealand. This misguided objection reflects that Rawlsian theory as it stands does not know how to treat small polities like the Cook Islands, Niue, and Tokelau. This gives us reason to develop Rawlsian theory to accommodate this type of polity.

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[533] UN, GA/COL/3244, 'Special Committee on Decolonization concludes session with adoption of Resolutions on Tokelau, New Caledonia', 22 June 2012, URL: http://www.un.org/News/Press/docs/2012/gacol3244.doc.htm, (accessed 9 December 2014).

Small Polities and Rawlsian Theory

Rawls did not have in mind polities like the Cook Islands, Niue, and Tokelau when he was writing *LoP*. The closest he comes to mentioning polities that are similar in size and resources is in a footnote when he briefly discusses "marginal cases", which are polities whose low level of resources means they cannot become well-ordered by themselves. In regards to these cases Rawls writes, "Arctic Eskimos[534], for example, are rare enough, and need not affect our general approach. I assume their problems could be handled in an *ad hoc* way."[535] This comment has not received much attention in the literature, with what attention it has, not focusing on the issue of small polities like the Eskimos, but instead, like the work of John Tasioulas, focusing on the question of whether less marginal cases may also not be able to become well-ordered by themselves.[536]

Rawls does not give a reason why he assumes we should handle these marginal cases in an *ad hoc* way, and we may find that similarities between these small polities mean a different approach is appropriate.

To start to see what approach we should take to the small polities of the Cook Islands, Niue, and Tokelau we can investigate if they do not have enough productivity to become well-ordered and therefore are marginal cases. One way of doing this is by looking at their levels of productivity and comparing them with current states with the lowest levels of productivity. The assumptions behind this comparison being: that these latter polities are well-ordered,[537] are close to having the least amount of productivity needed to have the necessary institutions to become well-ordered, and that if a polity had less productivity than this it might be incapable of becoming well-ordered because it could not sustain the necessary institutions.

One gross indicator of productivity is, of course, Gross Domestic Product (GDP) per annum. When we look at this indicator in relation to Niue and Tokelau, we find both have a

[534] Many think using the word "Eskimo" is inappropriate, and that instead one should use the word "Inuit". However, the word "Eskimo" sometimes designates two peoples, the Inuit and the Yupik. Some think that in this context it is more appropriate to use the word "Eskimo". Lawrence Kaplan, 'Inuit or Eskimo: Which name to use?', URL: http://www.uaf.edu/anlc/resources/inuit-eskimo/, (accessed 9 December 2014).
[535] Rawls, *LoP*, § 15.3, p. 108, n. 34.
[536] John Tasioulas, 'Global Justice Without End?', in *Metaphilosophy*, Vol. 36, Nos. 1/2, (January 2005), p. 10, DOI: 10.1111/j.1467-9973.2005.00354.x.
[537] One of these latter polities is Kiribati. One piece of evidence in favour for regarding Kiribati as well-ordered is the think tank Freedom House giving Kiribati the highest rating for civil liberties and political rights. Freedom House, 'Freedom in the World 2012: Kiribati', http://www.freedomhouse.org/report/freedom-world/2012/kiribati, (accessed 9 December 2014).

lower GDP per annum than any UN member state.[538] However, when we look at this indicator in relation to the Cook Islands, we find that with a GDP per annum of 275 million (US dollars current prices) in 2011,[539] the Cook Islands have a greater GDP per annum than UN members Kiribati, São Tomé Príncipe, and Tuvalu.

In trying to make a determination about marginal cases, we could also make the same comparison using population, because there needs to be a certain number of persons to support the institutions needed for a polity to be well-ordered, and the least populous of current states may come close to this number. If we compare the Cook Islands, Niue, and Tokelau to current states we find Niue and Tokelau have smaller populations than any current state,[540] while the Cook Islands with a resident population of 14,974 in 2011[541] has a population greater than at least one[542] UN member state, Nauru.[543] This population is also relatively steady so depopulation leading to an inability to become well-ordered does not appear to be a serious concern.[544]

This data on GDP and population suggests that the Cook Islands might be able to become well-ordered, and so might not be difficult for Rawlsian theory as it stands to accommodate. However, this data also suggests it is unlikely Niue and Tokelau could support the complicated and costly structure including judges, corporations, estates, and various representatives groups needed to make up a decent people, or the institutions needed to support the constitutional democracy needed for a liberal people.

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[538] WB, 'GDP Ranking', (25 September 2013), URL: http://data.worldbank.org/data-catalog/GDP-ranking-table, (accessed 9 December 2014). Statistics Niue, 'Gross Domestic Product (GDP) Current Prices - Value in NZD', http://www.spc.int/prism/niue/index.php/component/docman/doc_download/4-niuestatsgdp, (accessed 9 December 2014). CIA, *The World Factbook*, 'Tokelau', (last updated 11 March 2014), URL: https://www.cia.gov/library/publications/the-world-factbook/geos/tl.html, (accessed 9 December 2014). As we will see in the next chapter, there is the complicating factor of New Zealand giving Niue and Tokelau ODA per annum that is greater than their GDP per annum.

[539] UN Statistics Division, 'Country Profile: Cook Islands'.

[540] CIA, *The World Factbook*, 'Country Comparison: Population', (2014), URL: https://www.cia.gov/library/publications/the-world-factbook/rankorder/2119rank.html, (accessed 9 December 2014).

[541] Cook Islands Statistics Office, 'Cook Islands 2011 Census', p. 4.

[542] CIA, *The World Factbook*, 'Country Comparison: Population'. The CIA records Tuvalu as having a larger population than the Cook Islands, but the Tuvaluan Central Statistics Division estimates Tuvalu's population in 2011 as being 11,206, which smaller than the Cook Islands' population. 'Homepage', (2013), URL: http://www.spc.int/prism/tuvalu/, (accessed 9 December 2014).

[543] One piece of evidence in favour of judging Nauru as well-ordered is international election observers judging Nauru's 2010 elections to be credible. Pacific Islands Forum Secretariat, *Report of the Pacific Islands Forum Election Observer Mission to the April 2010 Nauru General Elections*, (14 May 2010), URL: http://www.forumsec.org/resources/uploads/attachments/documents/Forum_Election_Observer_Report_Nauru_2010.pdf, (accessed 9 December 2014).

[544] The Cook Islands population, including visitors, reached a peak of 21, 322 in 1971. Since then, the population including visitors has ranged from 17,000 to 19,000. Cook Islands Statistics Office, 'Cook Islands 2011 Census', p. 39.

One might think that this does not make Niue and Tokelau difficult to accommodate for Rawlsian theory as it stands, because this theory has the burdened society category. However, Rawls defines burdened societies as being capable with assistance of becoming free and independent peoples, which for Rawls involved full statehood, while small polities like Niue and Tokelau even with assistance seem unlikely to be able to attain full statehood.

Suggesting they could belong in some other category provided by Rawls in *LoP* is also incorrect. Niue and Tokelau are not benevolent absolutisms because their small populations do have a meaningful role in decision-making. They are also not aggressive and expansionist, and do not egregiously violate their members' human rights, so cannot be categorised as outlaw states.

Nevertheless, before concluding Niue and Tokelau cannot fit into a Rawlsian scheme, we should recognise that they have some of the features Rawls identifies peoples as having, namely a moral nature and common sympathies.

Rawls says a people display their moral nature when they, "offer fair terms of co-operation to other peoples" and, "honor these terms when assured that other peoples will do so as well."[545] Of course, for Rawls what amounts to "fair terms of co-operation to other peoples" is the Law of Peoples, but we have seen reasons to question the limited nature of this law. We, however, can take the still Rawlsian view that peoples display their moral nature by their fairness, and that this fairness is the willingness to offer terms to another party that one would find acceptable if one were that other party. In the process of Niue coming into free association with New Zealand, and Tokelau becoming a NSGT of New Zealand, all sides sometimes displayed this type of fairness, and this suggests Niue and Tokelau, as well as New Zealand, have a moral nature. The same also appears to be true of Niue and Tokelau when we look at the issue of common sympathies.

Rawls says he takes the idea of common sympathies from John Stuart Mill. In a footnote, he gives this long quote from Mill on the topic:

> A portion of mankind [and womankind] may be said to constitute a nationality if they are united among themselves by common sympathies which do not exist between them and any others—which make them co-operate with each other more willingly than with other people, desire to be under the same government, and desire that it should be government by themselves, or a portion of themselves, exclusively. This feeling of nationality may have been generated by various causes. Sometimes it is the effect of identity of race and descent. Community of language and community of religion greatly contribute to it. Geographical limits are one of its causes. But the strongest of all is identity of political antecedents; the

[545] Ibid, § 2.1, p. 25.

> possession of a national history, and consequent community of recollections; collective pride and humiliation, pleasure and regret, connected with the same incidents in the past. None of these circumstances, however, are either indispensable or necessarily sufficient by themselves.[546]

Niueans' and Tokelauans' "desire that it [their government] should be government by themselves, or a portion of themselves, exclusively" may not be as strong as Mill describes but in other respects they would appear to have common sympathies.

Someone might still insist that it is incorrect to describe these Pacific Island nations as any type of Rawlsian peoples, because they lack the necessary institutions, and Rawlsians always focus on institutions. In response, we can note that due to closer connections of race, decent, and religion, Niueans and Tokelauans may actually be more willing to co-operate with each other, and have stronger common sympathies in this respect than those found among liberal peoples, and so in these respects be closer to the Rawlsian ideal.[547] We can also note that the importance of institutions to the Rawlsian view can be overstated. The Rawlsian view when it comes to burdened societies would appear to be that, due to their common sympathies and moral nature, they should have the institutions necessary to become a decent or liberal people.[548] To modify this view to accommodate small polities who, even with assistance, cannot develop the institutions necessary to become an independent and fully autonomous people with full statehood, we can say these small polities have the right of access to liberal or decent institutions as semi-autonomous peoples.[549] In some instances

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[546] Ibid, p. 23, n. 17. The source of the quote is Mill's *Considerations on Representative Government*, 1861, Chapter XVI, 'Of Nationality, as connected with Representative Government', also available at URL: http://www.gutenberg.org/files/5669/5669-h/5669-h.htm, (accessed 9 December 2014).

[547] In making a related point, WB economist Branko Milanović argues that Rawlsian theory is not in a good position to deal with multi-ethnic federations like Spain, Great Britain, Nigeria or Indonesia because the theory focuses on a single people who are of a single ethnicity and not in a federation. Milanović thinks that this focus explains why *LoP* does not discuss federalism even though it does focus on that bastion of federalism, the USA. 'Ethical case and economic feasibility of global transfers', World Bank Policy Research Working Paper No. 3775, (March 2007), http://ssrn.com/abstract=978696, (accessed 9 December 2014). I thank my examiner Greta Snyder for making me aware of this work.

[548] Indeed, Rawls places a great deal of importance on common sympathies stating, "the Law of Peoples starts with the need for common sympathies, no matter what their source may be." *LoP*, § 2.1, p. 24.

[549] If access to liberal or decent institutions includes access to a liberal or decent health system, then New Zealand appears to have failed Niueans in this regard. Waring notes:

> To be treated as a New Zealander in New Zealand … for the provision of health care, patients have to be 'ordinarily resident' in New Zealand. As a result there are frequently cases of Niueans who are referred to New Zealand for health care who then have to throw themselves on the mercy of their relatives and often don't remain in New Zealand for the follow up checks and return to the island too early after surgery.

Waring, 'Ministerial Review of Progress in Implementing 2001 Cabinet Recommendations Establishing NZAID', p. 80.

determining which particular set of liberal or decent institutions these semi-autonomous peoples have a right of access to might be difficult, but in Niue's case and Tokelau's case their historical relationship with New Zealand strongly suggests they have a right of access to New Zealand's institutions.

However, the critic of this view can point out that access to these institutions is a contributing factor to the depopulation of Niue, which brings into question the continued existence of Niueans as a people.

We must admit that the trend of falling population is perhaps the most telling feature of life in Niue since it entered free association with New Zealand in 1974. However, the issue emerged before this, in 1971 with the opening of an airport. Prior to this, Niue's population had been stable. When New Zealand gained sovereignty over Niue in 1901,[550] Niue's population was around 4,000.[551] Starting in the 1930s the population grew slowly, reaching around 5,000 in 1966.[552] There was then a slight dip in population before the opening of the airport. This opening appears to have led to a population drop of roughly 20% before Niue became a free association.[553] Being in free association with New Zealand, meant Niueans could now enter and stay in mainland New Zealand with relative ease. This saw the population continue to drop, but not as quickly as after the opening of the airport.[554] This long-term population decline led to 1,625 persons being in Niue on census night in 2006 with 1,538 of those reporting Niue as their usual place of residence. The number of persons in Niue on census night in 2011 was only slightly lower, with there being 1,611; however, the number reporting Niue as their usual place of residence dropped further, and was 1,460.[555]

The continual drop in Niue's population has led political scientist Steven Levine to suggest that Niue might not be able to maintain its status of being a self-governing territory in free association with New Zealand, and perhaps should have the same status as the Chatham Islands,[556] which New Zealand simply defines as a "territory".[557] New Zealand's 2013

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[550] Carl Walrond, 'Niueans – Migration', in *Te Ara: The Encyclopedia of New Zealand*, (last updated 13 July 2012),
URL: http://www.TeAra.govt.nz/en/niueans/page-1, (accessed 9 December 2014).
[551] PRISM, 'Niue Population Profile', p. 3.
[552] Ibid.
[553] Ibid.
[554] Ibid.
[555] PRISM, 'Niue Population and Household Census 2011', Person, P08A_Visitor, http://www.spc.int/prism/nada/index.php/ddibrowser/47/datacollection, (accessed 9 December 2014).
[556] Steven Levine, 'Niue' in *The Contemporary Pacific*, Vol. 12, No. 1, (Spring 2000), p. 234, DOI: 10.1353/cp.2000.0020. The suggestion Niue might become incapable of being a free association is given some support by all the other free associations (the Cook Islands, the Marshall Islands, the Federated States of

Census showed the Chatham Islands' population to be 600, which suggests, at least population wise, Niue could easily be a territory.[558] Another possibility is Niue reverting to NSGT status. Most of the NSGTs are small Pacific landmasses but have populations significantly larger than Niue.[559] There are two exceptions, Tokelau and Pitcairn Island. We have seen that currently Tokelau's population is slightly smaller than Niue's, and has historically been considerably smaller. Pitcairn supports a population of just 50. These facts suggest that, at least population wise, Niue is currently more than capable of being a NSGT.[560] However, if Niue's population eventually reached zero it would be no type of polity whatsoever, so what is the likelihood of this occurring?

There are historical examples of once populated Pacific landmasses becoming empty of people,[561] but in Niue's case, remittances from Niueans living in mainland New Zealand, and ODA from the New Zealand government, provide an incentive to stay on the atoll. However, the atoll faces the threat of becoming unliveable due to global warming. This is because, even though Niue reaches a height of 68 metres above sea level, global warming is a threat because raised sea levels would affect subterranean freshwater lenses, which are the source of most of Niue's drinkable water.[562] However, should this happen, there could still be a Niuean people.

This is because a large group of persons who live in New Zealand identify as Niuean. In 2006, these persons numbered 22,476; which is 15 times as many persons as who were recorded as living on Niue in 2011, which, as has been noted, was 1,460.[563] As long as this

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Micronesia, and Palau) having significantly larger populations than Niue. CIA, *The World Factbook*, 'Country Comparison: Population'.

[557] Quentin-Baxter, 'The Problems of Islands', pp. 427-437.

[558] Statistics New Zealand, '2013 Census Usually Resident Population Counts', (15 October 2013), URL: http://www.stats.govt.nz/browse_for_stats/population/census_counts/2013CensusUsuallyResidentPopulationCounts_HOTP2013Census.aspx , (accessed 9 December 2014).

[559] UN, 'Non-Self-Governing Territories'.

[560] Ibid.

[561] For example, part of territorial New Zealand, Raoul Island of the Kermadecs, is currently uninhabited but used to maintain a population. Atholl Anderson, 'The Archaeology of Raoul Island (Kermadecs) and Its Place in the Settlement History of Polynesia', in *Archaeology & Physical Anthropology in Oceania*, Vol. 15, No. 3 (October 1980), pp. 131-141, Stable URL: http://www.jstor.org/stable/40386383.

[562] Secretariat of the Pacific Community, Applied Geoscience and Technology Division, 'Niue', URL: http://www.sopac.org/index.php/member-countries/niue, (accessed 9 December 2014). Dr. Roger Blakeley, 'Global Warming: A Pacific Perspective', in *Transnational Law & Contemporary Problems*, Vol. 2, (Spring 1992), pp. 173-204, also available at URL: http://heinonline.org/HOL/Page?handle=hein.journals/tlcp2&div=12&g_sent=1&collection=journals#183, (accessed 9 December 2014).

[563] Statistics New Zealand, *Census 2006: Quick Stats about Culture and Identity*, (7 March 2006), URL: http://www.stats.govt.nz/Census/2006CensusHomePage/QuickStats/quickstats-about-a-subject/culture-and-identity.aspx, (accessed 9 December 2014). By 2013, the number of persons living in New Zealand who

New Zealand based group retained a moral nature and common sympathies, there would still be justification in us describing them as a Rawlsian people.

One might think that if depopulation is a problem for Niue, it would also be a problem for Tokelau given Niue and Tokelau's similarity in circumstances, but this is not the case. In 1926 when it became part of the Dominion of New Zealand, Tokelau's population was 1,033[564]; by 1960, it had reached 1,929.[565] While the population would remain stable during the first half of the 1960s[566], there was concern the atolls risked becoming overpopulated. This was one of the reasons given for the introduction in 1966 of a resettlement scheme placing Tokelauans in mainland New Zealand. There was some concern in Tokelau and mainland New Zealand that the ultimate goal of the New Zealand government in introducing this scheme was to relocate all Tokelauans. The New Zealand government reassured both groups that this was not the case.[567] This appears to be borne out by the scheme not greatly reducing the population in Tokelau, with 1,558 persons living in Tokelau in 1976. Recent years have not seen much change, either, with the population in 2011 being 1,411.[568]

However, Tokelau, like Niue, is vulnerable to the threat of global warming. In Tokelau's case, rising sea levels might not "just" mean Tokelau becomes unliveable. Tokelau's highpoint is 5 metres above sea level, which means rising sea levels due to a

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identified as Niueans went up to 23,883. I used the 2006 figure because no 2013 figures were available for Tokelau. Statistics New Zealand, *Census 2013: Quick Stats about Culture and Identity*, (April 2014), http://www.stats.govt.nz/~/media/Statistics/Census/2013%20Census/profile-and-summary-reports/quickstats-culture-identity/quickstats-culture-identity.pdf, (accessed 9 December 2014).

[564] Statistics New Zealand, *The New Zealand Official Yearbook, 1927*, http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1927/NZOYB_%201927.html, (accessed 9 December 2014).

[565] Statistics New Zealand, *The New Zealand Official Yearbook, 1961*, http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1961/NZOYB_%201961.html, (accessed 9 December 2014).

[566] Statistics New Zealand, *The New Zealand Official Yearbook, 1966*, http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1966/NZOYB_1966.html, (accessed 9 December 2014).

[567] McQuarrie, *Tokelau*, pp. 172-175.

[568] Statistics New Zealand, *Profile of Tokelau Ata o Tokelau: 2011 Tokelau Census of Population and Dwellings / Tuhiga Igoa a Tokelau 2011 mo te Faitau Aofaki o Tagata ma na Fale*, (Wellington: Statistics New Zealand, 2012), p. 14, also available at URL: http://www.stats.govt.nz/~/media/Statistics/browse-categories/people-and-communities/pacific-peoples/2011-tokelau-census/profile-tokelau-ata-o-tokelau/profile-of-tokelau-ata-o-tokelau.pdf, (accessed 9 December 2014). This is of course a small number, which would not require a large movement of persons to render Tokelau empty.

combination of global warming and entirely natural causes could eventually see the atolls disappear underneath the waves.[569]

However, as is the case with Niuean people, this would not necessarily mean the end of the Tokelauan people. In 2006, in New Zealand, 6,819 persons identified as Tokelauan, which is almost five times the population of Tokelau.[570] This suggests a Tokelauan people will survive even if the future of the Tokelauan atolls is uncertain.

Conclusion

This chapter has shown the freedom and independence of peoples' principle requires interpretation and justification. We also saw that Rawls, despite using the concept of peoples in a somewhat distinctive way, interprets the principle in a way similar to how international law interprets the principle of self-determination, with both approaches seeing these similar principles realized via full statehood. When it comes to justifying the principle, we once again see similarities with Rawls sometimes giving a cosmopolitan justification by arguing that the freedom and independence of peoples is good for persons, and the relevant UN resolutions giving a similar justification to self-determination. These justifications being cosmopolitan means there is some congruence between them and the cosmopolitan Rawlsian viewpoint I have taken in this thesis.

The question of how to judge New Zealand's history of colonialism in relation to the freedom and independence of peoples' principle is complicated in part because some of those persons colonised were open to their government to be in some sort of constitutional relationship with New Zealand's government. While this counts in favour of New Zealand, these relationships, especially early on, had instances of New Zealand officials ignoring the opinions of persons from these colonies, and thereby disregarding the freedom and independence of these peoples. This led to occasionally very poor decision making. In the cases of Western Samoa and the Cook Islands there were major mistakes which were often the result of viewing Western Samoans and Cook Islanders as inferior. In the cases of Niue and Tokelau, New Zealand's rule was more benign.

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[569] Government of Tokelau, 'National Strategic Plan: 1 July 2010 to 20 June 2015', (2010), URL: http://www.tokelau.org.nz/Strategic+Plan.html, (accessed 9 December 2014). Blakeley, 'Global Warming: A Pacific Perspective', p. 202.
[570] Statistics New Zealand, *Census 2006: Quick Stats about Culture and Identity*.

Another complicating factor in judging New Zealand's respect for this principle is the small size of Niue and Tokelau, and that Rawls did not consider such small polities in any detail in *LoP*. However, we concluded that Rawlsian theory could accommodate small polities like Niue and Tokelau as semi-autonomous peoples with a right of access to liberal or decent institutions. This conclusion counted in favour of New Zealand's respect for the freedom and independence of peoples' principle, because it means New Zealand can respect the principle even while Niue and Tokelau continue to be in a constitutional relationship with New Zealand.

The constitutional arrangements New Zealand has with Niue, Tokelau, and the Cook Islands, and its continuing close relationship with Samoa complicate the question of what sort of ODA programmes, if any, New Zealand should have with these four peoples. As we will see in the next chapter, these programmes are a relic of New Zealand's colonial history. Indeed, one can trace the origins of all New Zealand's ODA programmes, which now include a wide variety of countries, back to this history.

In the next chapter, we will look at the history of these ODA programme as well as their current state, to determine what role they have played in the past, and what role they can play in future, in realizing certain global principles of justice discussed in this thesis.

Chapter 11: New Zealand's ODA Programme

Introduction

This chapter will investigate New Zealand's ODA programme (currently known as the New Zealand Aid Programme) in order to see what conclusions one can draw on the programme's moral status including its role in realizing certain principles of global justice. The focus on one country means I leave to one side the issue of how different countries coordinate their ODA programmes in order to avoid inefficiencies and other problems. The ODA community is aware of the coordination problem. Members of this community, including New Zealand, have signed up to various documents including the 2005 Paris Declaration on Aid Effectiveness and the 2008 Accra Agenda for Action, which aim, among other things, to coordinate different ODA programmes.[571]

There is also some justification, from a Kantian influenced Rawlsian position, for imagining New Zealand and all other ODA countries focusing their policies on realizing a global difference principle. In doing so, we are testing, "our maxim by considering what would be the case were it a universal law of nature".[572]

While focusing on the global difference principle, the chapter will also briefly mention how the programme may affect the freedom and independence of peoples, and help to fulfil the duty of assistance. While researchers have carried out previous reviews of this programme, these reviews, like the ministerial review done by aid researchers Grossman and Lees, have been done without the sort of normative framework I have established in previous chapters, so have not had much to say on the programme's moral status.

In order to assess how the programme's moral status has developed over time; to place the current programme in context; and to see how the programme might develop in the future, the chapter's investigation will start with an examination of the programme's history. This investigation will show the strong influence New Zealand's colonial history has had; how New Zealand has focused the programme on the Pacific; and that New Zealand has generally given around 0.2% of GNP in ODA, never reaching the long agreed to target of 0.7%.

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[571] OECD, *The Paris Declaration on Aid Effectiveness and the Accra Agenda for Action*, (2008), http://www.oecd.org/dac/effectiveness/34428351.pdf, (accessed 9 December 2014). I make this comment in response to a comment made by my examiner David Reidy.
[572] Rawls, *ToJ*, revised edition § 24, p. 118, n. 11.

After the historical investigation, there will be a closer analysis of what percentage of GNP in ODA New Zealand has recently given. This investigation will show that this percentage matches normal historical levels. This section of the chapter will also conclude that the New Zealand government's attempts to justify these levels fail.

Then the chapter will explore the programme's current focus on the Pacific.[573] One might believe most developed countries focus on giving ODA to developing countries in their geographical region, and therefore think this aspect of the programme is not worthwhile investigating. However, the chapter will gather evidence that will show New Zealand stands out in this regard. The chapter will argue this is regrettable because the focus of New Zealand's ODA programme should be more on realizing a global difference principle.

Another feature of the current programme the chapter will investigate is its "country programmes." The New Zealand Aid Programme describes these programmes as bilateral aid.[574] While these programmes have features that could help to realize a global difference principle, we will see that New Zealand reduces the chances of this happening by generally having country programmes with relatively wealthy developing countries. The chapter will note that New Zealand has a number of country programmes with LDCs, and then investigate the LDC concept, to show how LDCs could contain some of the globally least advantaged. However, the chapter will conclude that the relative wealth of the LDCs New Zealand has country programmes with reduces the chances of these programmes helping to realize a global difference principle. In this discussion, the chapter will also note that there is a justification in giving ODA to middle-income countries that contain some of the globally least advantaged and lack the capacity to mobilize domestic resources, but then note New Zealand only appears to have a country programme with one of these countries.

Among the other countries which New Zealand has country programmes with are New Zealand's former colonies the Cook Islands, Niue, Samoa, and Tokelau. The chapter will spend a good deal of time analysing these programmes because their distinctive nature, which includes the distinctive nature of the nations involved, raises questions which other country programmes do not. An example of this, which the chapter will investigate, is how to categorise the nations in order to determine whether they may contain some of the globally

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[573] In 2010, NZAID noted that more than half of New Zealand's ODA goes to the Pacific. *Currents*, Issue 21, (June 2010), p. 1, URL: http://www.aid.govt.nz/webfm_send/64, (accessed 9 December 2014).

[574] The OECD defines bilateral ODA as made up of transactions, which are "undertaken by a donor country directly with a developing country", and "[by a donor country] with national and international non-government organisations active in development and other internal development-related transactions."
OECD, 'DAC Statistical Reporting Directives', DCD/DAC (210)40/REV1, (12 November 2010), p. 5, URL: http://www.oecd.org/dac/stats/38429349.pdf, (accessed 9 December 2014).

least advantaged, and therefore whether having programmes with these nations might help to realize a global difference principle. This is difficult in the cases of the Cook Islands, Niue, and Tokelau, because they are not sovereign states, which means international institutions often do not treat them as separate entities that need to be categorised. Therefore, the chapter will attempt to categorise the nations in terms of income level, and to see whether the nations could fit into the LDC category.

It might be thought that if one argues, as is done in this chapter, that less ODA should go to relatively wealthy Pacific nations, then one would have to argue New Zealand's support of its four former colonies should drop dramatically. The chapter will argue that this is not the case because in the case of the Cook Islands, Niue, and Tokelau, these nations deserve support as part of New Zealand; because additionally in Niue and Tokelau's case it is questionable if they could survive without this support; and in Samoa's case of previous commitments to give aid.[575]

The chapter then looks at the New Zealand Aid Programme's projects, which are not country-programmes, which we will call "non-country programmes." In doing so, we will once again find that while they have features that could help to realize a global difference principle, by focusing them on relatively wealthy developing countries, New Zealand reduces the likelihood of this happening.

The chapter will also discover that even though the New Zealand Aid Programme describes its country programmes as its bilateral aid, this does not mean that one can conclude that the non-country programs are multilateral. Indeed, a number of these programmes are bilateral which reflects the fact that most of New Zealand's ODA is bilateral. The chapter will then argue that this fact is regrettable because New Zealand's ODA programme would be more likely to realize a global difference principle if more of its ODA was multilateral.

The chapter will close by showing there is public support for at least two of the policy recommendations made in this chapter: that New Zealand should increase its ODA in percentage of GNP terms, and that New Zealand should focus its ODA more on the globally least advantaged. This means that while the policy recommendations are moral and utopian, they also display realism and pragmatism.

[575] As was noted in the previous chapter, in the Niue Constitution Act 1974, New Zealand also committed itself to provide Niue with economic assistance.

History of New Zealand's Aid Programme

The origins of New Zealand's aid programme date back to the start of the 20th century and the economic assistance New Zealand provided to its first colonies, the Cook Islands and Niue. As we saw in the previous chapter, by the 1920s this colonial project had expanded to include Samoa and Tokelau. The aid given to these colonies was not much in monetary terms, for example, in the late 1940s it was around NZ£1 million per annum.[576] This amount was also not a large percentage of New Zealand's GNP, which for the financial year 1947/1948 was £475.6 million,[577] which means (presuming this figure and the aid figure were relatively stable) New Zealand gave roughly 0.21% of GNP in aid during this period.

In the early 1950s, New Zealand started to broaden the countries it gave aid to by joining the Colombo Plan. The plan originally included seven Commonwealth nations: Australia, Great Britain, Canada, Ceylon (now known as Sri Lanka), India, New Zealand and Pakistan, with the United States joining shortly thereafter. Much of New Zealand's aid under the plan went to Colombo Plan members India, Pakistan, and Sri Lanka.[578]

Since a number of governments contributed funds towards the programme one might be lead to think that there was a pooling of funds, so individual governments would not have much control of their contributions, making these contributions multilateral in nature.[579] However, a New Zealand government report in 1966 noted aid under the plan was, "given and received bilaterally" with there being no, "centralised organisation for the administration

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[576] Grossman and Lees, 'Towards Excellence in Aid Delivery', p. 9.
[577] Statistics New Zealand, *The New Zealand Official Year-Book, 1947-1949*, Chapter 35, Section 35, NATIONAL INCOME, URL: http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1947-49/NZOYB_1947-49.html, (accessed 9 December 2014).
[578] Roger S. Debreceny, 'New Zealand Development Assistance and the Pacific' in Roderic Alley (ed.), *New Zealand and the Pacific*, (Boulder, Colorado: Westview Press, 1984), p. 208.
[579] The OECD defines multilateral ODA as made up of multilateral contributions. On the definition of multilateral contribution the OECD writes:

> Multilateral contributions are those made to a recipient institution which:
>
> i. conducts all or part of its activities in favour of development;
> ii. is an international agency, institution or organisation whose members are governments, or a fund managed autonomously by such an agency; and
> iii. pools contributions so that they lose their identity and become an integral part of its financial assets.

The OECD adds the proviso:

> If, however, the donor effectively controls the disposal of the funds by specifying the recipient or other aspects of the disbursement (e.g. purpose, terms, total amount, reuse of any repayments), then the contribution should be classified as bilateral and allocated to the appropriate recipient country.

OECD, 'DAC Statistical Reporting Directives', p. 5.

of aid" and with all arrangements under the plan, "undertaken by direct consultation between the two countries concerned."[580]

The plan's official purpose was to be, "a cooperative venture for the economic and social advancement of the peoples of South and Southeast Asia",[581] but the official New Zealand Government Encyclopaedia of 1966 summed up the goals of the Colombo Plan in this fashion:

> Like ANZUS [Australia, New Zealand, United States Security Treaty] … the Colombo Plan is designed to achieve security, but its means are exclusively economic assistance to and friendship with underdeveloped countries whose enmity would be dangerous should low living standards foster the growth of communism within them.[582]

The Encyclopaedia goes on to state, "In the first decade over £3,000 million of aid has been thus given, chiefly by the United States … In this period New Zealand has contributed a total of over £10 million".[583] This indicates that New Zealand continued to give a small percentage of GNP in aid. OECD figures for the 1960s corroborate this, showing during these years New Zealand gave a range of 0.18 to 0.25% of GNP in aid,[584] which was low in comparison to the DAC total average at the time, which ranged from 0.37% to 0.54%.[585] The stability in the amount New Zealand gave may be partly explained by the same government, the second National Party government (1960-1972), being in power for almost the entirety of the 1960s.

New Zealand brought this long period of National Party rule to an end with the election of the short-lived third Labour government (1972-1975). Under this new government, strategic justifications of the aid programme gave way to humanitarian ones.[586]

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[580] Department of External Affairs, *New Zealand and the Developing World*, (Wellington: Department of External Affairs, 1966). This report has no pagination.
[581] The Colombo Plan, 'History', URL: http://www.colombo-plan.org/index.php/about-cps/history, (accessed 9 December 2014).
[582] William Hosking Oliver, 'The Colombo Plan' in 'International Relations', in A. H. McLintock ed., *An Encyclopaedia of New Zealand*, (1966), URL: http://www.teara.govt.nz/en/1966/international-relations/4, (accessed 9 December 2014).
[583] Ibid. New Zealand remains in the Colombo Plan, but after the 1980s, "the education and training work … [New Zealand] supported became integrated into the work of our [New Zealand's] official bilateral aid programmes." Helen Clark, 'Release of Colombo Plan publication', (27 November 2001), URL: http://www.beehive.govt.nz/node/12482, (accessed 9 December 2014). Throughout New Zealand's participation in the Colombo Plan, much of New Zealand's money went towards training and educating foreign students in New Zealand.
[584] OECD, QWIDS, Donor(s): New Zealand. No figures are available for 1960.
[585] OECD, QWIDS, Donor (s): DAC Average. The 1960s were a high point for the DAC total average but still saw a downward trend, with this average reaching the peak of 0.54% in 1961 and the low point, for the 1960s, of 0.37% in 1969.
[586] According to researcher Richard Kennaway, this was part of a wider attempt to, "find and to hold to a firm moral basis" for New Zealand's foreign policy. 'Foreign Policy', in Ray Goldstein and Rod Alley (eds.), *Labour*

New Zealand's aid programme also started to resemble its modern form, with New Zealand joining the OECD's DAC in 1973.[587]

The amount of ODA in percentage of GNP terms also increased during this period, reaching what is still its high point of 0.52% in 1975.[588] According to the Ministry of Foreign Affairs, these increased levels of aid were, "aimed at the achievement of the internationally accepted targets of 0.7 percent of GNP for Official Development Assistance (ODA)".[589] However, the government did not combine this with a shift in focus away from the Pacific.[590]

With the election of the third National government (1975-1984), the focus on the Pacific increased significantly.[591] When it came to the amount of ODA given, officially the government remained, "committed to the eventual objective of reaching 0.7 percent of GNP for official aid expenditure"[592], but the amount of ODA in GNP percentage terms began to drop, reaching what has proven to be the normal 0.2% range by 1981. There was also a return to a strategic focus in the disbursement of ODA. For example, when justifying the aid programme, the Prime Minister and Finance Minister of the period, Robert Muldoon, harkened back to the justification given by the New Zealand Government Encyclopaedia in 1966 to the Colombo Plan. Presenting the 1976 budget, he said:

> While for obvious reasons we could not contemplate with equanimity any one of these states [Polynesian territories of the South Pacific] becoming a satellite of a Communist superpower

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in Power – Promise and Performance: Evaluations of the work of the New Zealand Government from 1972 to 1975, (Wellington: New Zealand University Press, 1975), p. 168.

[587] OECD, 'DAC in Dates', p. 17. This made New Zealand the 17th country to join. Currently there are 28 country members.

[588] QWIDS.

[589] Ministry of Foreign Affairs, 'New Zealand Aid in the South Pacific, 1973-74', (Wellington: s. n., 1973), p. 3.

[590] In 1973 and 1975, New Zealand gave 38% and 33% respectively of its ODA to the Pacific. QWIDS. The percentage of bilateral assistance going to the South Pacific was even more stable with only a one per cent difference between the financial year 1972/1973 (52%) and the financial year 1974/1975 (53%). Statistics New Zealand, *The New Zealand Official Yearbook, 1974*, URL: http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1974/NZOYB_1974.html, (accessed 9 December 2014). Statistics New Zealand, *The New Zealand Official Yearbook, 1976*, URL: http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1976/NZOYB_1976.html, (accessed 9 December 2014). Official government policy was to increase the proportion of aid going to the South Pacific. A 1973 Ministry of Foreign Affairs report notes, "In a series of statements the Prime Minister, Rt. Hon. N. E. Kirk, has indicated that New Zealand will not only increase its total aid effort but that it will direct a greater proportion of aid towards the South Pacific." Ministry of Foreign Affairs, 'New Zealand Aid in the South Pacific, 1973-74', p. 1. However, according to OECD figures, 1975 stands out as the only year where the Pacific was not the continental region to receive the most ODA from New Zealand, with Asia receiving slightly more. QWIDS.

[591] Figures from the OECD show ODA to the Pacific as a percentage of ODA reached roughly 64% in 1984. QWIDS. For further comment on this issue see: Tess Mary Bridgman, 'The Efficacy of New Zealand Aid: An Analysis and Critique of New Zealand's Aid Programme', MA Thesis, (Toronto: University of Toronto, 2011), p. 18, URL: https://tspace.library.utoronto.ca/bitstream/1807/30522/1/Bridgman_Tess_M_201111_LLM_thesis.pdf, (accessed 9 December 2014).

[592] Derek Quigley, 'Address to the NZ Conference on International Development 1979', in *Effective Aid for the Eighties*, (Wellington: The Conference Committee, 1979), p. 3.

> the corollary is that we must make it clear that we accept a continuing obligation in respect of the economic welfare of these countries and growth in their living standards.[593]

The election of the fourth Labour government (1984-1990) did not result in a change in the type of justifications given for aid, as evidenced by a 1986 Ministerial review that stated:

> [I]n the case of the South Pacific, the Government has made it clear it hopes that the aid programme can partially substitute for a most costly defence programme by strengthening the fragile dependent economies and building up regional structures the better to withstand outside pressures.[594]

The amount of ODA given in percentage of GNP terms also remained about the same, as did the strong Pacific focus.[595]

The fourth National government (1990-1999) maintained this focus[596], but there was an increase in aid to countries which were believed to have the potential to become larger trading partners in the future, namely Cambodia, China, Lao People's Democratic Republic (PDR), and Viet Nam.[597] This was part of an increase in emphasis on New Zealand aid being beneficial to New Zealand. In this vein, the Minister of Foreign Affairs at this time, Donald McKinnon, pointed out that $77 out of $100 of New Zealand aid went to New Zealand businesses; McKinnon argued this showed, "New Zealand firms, suppliers, educational institutions and individual consultants are doing well out of our doing good".[598]

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[593] Debreceny, 'New Zealand Development Assistance and the Pacific', pp. 215-216.
[594] Grossman and Lees, 'Towards Excellence in Aid Delivery', p. 9.
[595] During this period, ODA as a percentage of GNP stayed in the 0.2% range except in 1986 when it reached 0.3. The percentage of ODA that went to the Pacific was generally over 50%, and sometimes over 60%. QWIDS.
[596] During this period New Zealand's percentage of ODA that went to the Pacific generally stayed in the 50% range. Ibid.
[597] From 1990 to 1999, New Zealand ODA to Cambodia, China, Lao PDR, and Viet Nam went from 1.14 million dollars (US current prices) to 5.86 million dollars. The total amount of ODA New Zealand gave during the same period went up from 95.28 million to 133.78 million, which is, obviously, in percentage terms a much smaller increase. Ibid. Glenn Banks et al., 'Paddling on One Side of the Canoe? : The Changing Nature of New Zealand's Development Assistance Programme', in *Development Policy Review*, Vol. 30, Issue 2, (March 2012), p. 172, DOI: 10.1111/j.1467-7679.2012.00570.x. China has gone on to become New Zealand's second largest trade partner behind Australia while Viet Nam is 22nd. Cambodia and Lao PDR still do not have a significant trade relationship with New Zealand, and perhaps not coincidentally, New Zealand does not currently have a country programme with these countries, but does have one with Viet Nam. New Zealand does not currently have an ODA programme with China but this is probably due to China becoming an upper-middle-income country and consequently receiving less ODA from all sources. Indeed, China became a net ODA giver in 2012. Ministry of Foreign Affairs and Trade, (MFAT), Statistics New Zealand, 'Global New Zealand: International trade, investment, and travel profile, Year ended June 2013', (2013), p. 32, URL: http://www.stats.govt.nz/~/media/Statistics/browse-categories/industry-sectors/imports-exports/global-nz/jun-13/Global%20NZ%202013.pdf, (accessed 9 December 2014). WB, 'Net official development assistance and official aid received (current US$)', URL: http://data.worldbank.org/indicator/DT.ODA.ALLD.CD, (accessed 9 December 2014).
[598] Banks et al., 'Paddling on One Side of the Canoe', p. 173.

With the election of the fifth Labour government (1999-2008), there was a significant change in the basic institutional structure of New Zealand's ODA programme, with the government creating a semi-autonomous governmental agency to administer the programme. Up to this point, the ministry responsible for foreign affairs administered the programme. The change in administration was in response to Grossman and Lees' 2001 ministerial review that recommended the creation of a semi-autonomous governmental aid agency, NZAID. Part of the rationale given for NZAID's creation was the claim, "Foreign Affairs and ODA have distinctly different missions. ODA asks partner governments: what are your needs and how can we help them? Foreign Affairs asks: what are our needs and how can we advance them?"[599] Recent statements from the Ministry and the aid programme give credence to this analysis. The most recent Ministry of Foreign Affairs and Trade's (MFAT's) Statement of Intent, includes the summation of MFAT's purpose as, "promoting and protecting New Zealand's interests abroad."[600] While, as we will see shortly, one of the focuses of the current aid programme is on similar strategic interests, the programme also declares its mission to be to, "support sustainable development in developing countries in order to reduce poverty and contribute to a more secure, equitable and prosperous world."[601]

Along with arguing for the creation of NZAID, the ministerial review recommended:

- NZAID should have one, unambiguous goal: the elimination of poverty.
- NZAID should adopt the six International Development Targets [the precursors to the MDGs] as its own objectives.
- NZAID should retain a core focus on the South Pacific.
- NZAID should mainstream human rights issues, along with gender and environment, throughout its operations.
- NZAID should establish monitoring and evaluation systems that measure impact of development assistance.[602]

The government adopted a number of these recommendations including the creation of NZAID, and the elimination of poverty goal. The adoption of this goal arguably resulted in a shift in funds from New Zealand's traditional sphere of influence Polynesia to the slightly poorer Melanesia.[603]

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[599] Ibid, p. 93.
[600] MFAT, 'Statement of Intent 2012-2015', (12 April 2012), p. 6, URL: http://www.mfat.govt.nz/downloads/media-and-publications/soi-mfat-2012-15.pdf, (accessed 9 December 2014).
[601] New Zealand Aid Programme, 'About the aid programme', URL: http://www.aid.govt.nz/about-aid-programme, (accessed 9 December 2014).
[602] Grossman and Lees, 'Towards Excellence in Aid Delivery', pp. 6-8.
[603] Banks et al., 'Paddling on One Side of the Canoe?', p. 181. Melanesia contains Papua New Guinea whose GNI per capita in 1990 was 820 dollars (US current prices), and the Solomon Islands whose GNI per capita in

While the ministerial review advocated, "increases in the aid budget … to raise New Zealand's contribution to ODA closer to the 0.7% GNP target"[604], during the 1999 to 2008 period, ODA remained in the 0.2% range except in 2008 when it reached 0.3%, the first time it had reached this level since 1986.[605]

The institutional shift that resulted from the review did not last long, with the fifth and current National government, (2008-), disestablishing NZAID and reintegrating New Zealand's ODA programme into MFAT, and in late 2010 renaming it the New Zealand Aid Programme.[606] This institutional change indicated a stronger focus on strategic interests. We can also see this more explicitly in a statement by Minister of Foreign Affairs, Murray McCully made in 2009. In this statement, he recommended that New Zealand's, "ODA outcomes should be consistent with and support New Zealand's foreign policy and external relations outcomes under the direction of the Minister of Foreign Affairs", and that the government should give greater priority to ODA that has, "demonstrable value for both recipient and donor."[607]

The programme also returned to giving priority to Polynesia,[608] and shifted its focus, "from the elimination of poverty to the support of sustainable economic development in developing countries".[609]

This means despite the number of changes New Zealand's ODA programme has gone through over the years, its current form is reflective of a number of the most consistent themes in the programme's history, namely, a small programme with a focus on Polynesia, New Zealand's strategic interests, and the recipient's economic development.

1992 was 800. These figures are lower than any Polynesia nation during the same period for which equivalent figures are available.
New Zealand's ODA to the Melanesian nations of Fiji, New Caledonia, Papua New Guinea, the Solomon Islands, and Vanuatu rose from 13.02 million dollars (US current prices) in 1990 to 22.57 million in 1999. WB, 'GNI, Atlas method (current US$)', URL: http://data.worldbank.org/indicator/NY.GNP.ATLS.CD, (accessed 9 December 2014). QWIDS.

[604] Grossman and Lees, 'Towards Excellence in Aid Delivery', p. 38.

[605] QWIDS.

[606] The 2010 June edition of the New Zealand ODA programme magazine *Currents* still refers to the programme as NZAID, but the August edition refers to the programme as the New Zealand Aid Programme. *Currents*, Issue 21. *Currents*, Issue 22, (August 2010), www.aid.govt.nz/webfm_send/63, (accessed 9 December 2013).

[607] Hon. Murray McCully, Cabinet External Relations and Defence Committee paper, 'New Zealand Agency for International Development (NZAID): Mandate and Policy Settings', (7 May 2009), pp. 2, 3, URL: http://www.beehive.govt.nz/sites/all/files/CAB%20paper%203.doc.pdf, (accessed 9 December 2014).

[608] Banks et al., 'Paddling on One Side of the Canoe?', p. 181. Some years during the time of the fifth National government have seen the percentage of ODA that the Pacific receives dip below 50% into the 40% range, but figures for 2012 show this percentage at 51%. QWIDS.

[609] McCully, Cabinet External Relations and Defence Committee paper, 'New Zealand Agency for International Development (NZAID): Mandate and Policy Settings', p. 1.

Now let us look more closely at the recent and current form of the programme, and justifications given for this form. If this form can be morally justified, this will suggest its historical form, which shares a number of similarities with its recent and current form, can also be justified. We will start this exploration by briefly looking at how the New Zealand government recently gave much less ODA than it has pledged to give and how the government indirectly attempted to justify this.

Recent Levels of ODA Given

In 2010, a year in which New Zealand gave 0.26% of GNP in ODA[610], the NZAID website[611] posed the question: "Why doesn't New Zealand give 0.7 per cent of our Gross National Income (GNI) like some organisations suggest we should?"[612]

The website did not directly address the question, but did note that in the Millennium Declaration wealthy countries committed themselves, "to grant more generous development assistance". The website then went on to claim, "New Zealand is delivering on its commitment to grant more generous development assistance".[613] In support of this statement, the website noted New Zealand's aid budget had increased from 242 million New Zealand dollars in the financial year 2000/2001 to 500 million in 2009/2010, and the government expected it to rise to 600 million in 2012/2013.[614]

The NZAID website did not mention New Zealand's numerous promises to give 0.7% of GNP in ODA, and did not mention what New Zealand gave in GNP percentage terms during the 2000s. When we inspect OECD figures, we find in the 2000s New Zealand gave 0.22% to 0.3%.[615]

We can start to see why we need these percentages to decide whether New Zealand has given more generous development assistance, by noting that when we make judgments

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[610] QWIDS.
[611] The government had not yet changed the programme's name to the New Zealand Aid Programme.
[612] New Zealand Ministry of Foreign Affairs and Trade, NZAID: New Zealand's International Aid & Development Agency, 'FAQs: About NZAID', URL: http://www.aid.govt.nz/faqs/about-nzaid.html, (accessed 21 October 2010). [Dead link] An archived copy of the page is available at The Internet Archive, URL: http://web.archive.org/web/20101015032545/http://www.aid.govt.nz/faqs/about-nzaid.html, (accessed 9 December 2014).
[613] Ibid. The Millennium Declaration does not mention the 0.7% goal. UN GA resolutions, 55/2, 18 September 2000, 'Millennium Declaration', URL: http://www.un.org/millennium/declaration/ares552e.pdf, (accessed 9 December 2014).
[614] NZAID, 'FAQs: About NZAID'. Recent estimates by the New Zealand Aid Programme suggest the total for 2012/2013 was less than 600 million, being around 528,148,000 dollars. New Zealand Aid Programme, 'Indicative programme allocations 2012/13 - 2014/15', URL: http://www.aid.govt.nz/about-aid-programme/aid-statistics/aid-allocations-201213-201415, (accessed 9 December 2014).
[615] QWIDS.

about generosity we generally take into account how wealthy the entity we are judging is. For example, if a relatively poor person in a developed country gives 10% of her income to development charities, we do not judge her less generous than a wealthy person who does the same, even though the wealthy person gives more in monetary terms. Indeed, we would view the poorer person as more generous because they may be putting themselves through more privations in order to donate to charity. A corollary of this is that, if this poor person was to become wealthy but continued to give the same percentage of her income to development charities, we would not think she had become more generous. We also tend to make similar judgments about countries, not viewing the wealthiest country, the United States, as particularly generous even though it provides the most ODA in monetary terms.[616] We also should not view New Zealand as more generous simply because it has given more in monetary terms in recent years, this is a reflection of New Zealand becoming wealthier[617] rather than becoming more generous. Instead, we should look to the amount of ODA in percentage of GNP terms given, and see continuing to give about the same in these terms since the year 2000 means New Zealand's level of generosity has remained about the same.

Therefore, even if we did not agree that New Zealand should fulfil its numerous commitments to give 0.7% of GNP in ODA, and thought New Zealand only had to fulfil the Millennium Declaration to be more generous, we would still have to admit that New Zealand had failed to fulfil its moral obligations.

Another historical feature of the programme that, like the amount of ODA given in percentage of GNP terms, continues in the present form of the programme, and is morally questionable, is the focus on the Pacific.

[616] In 2012, the United States gave 30,460.37 million US dollars current prices, easily the most given by any country, with the United Kingdom coming in second at 13,659.41 million dollars. QWIDS. However, the United States GNI for 2012 was 15,734,567 million US dollars current prices, easily beating China who comes in second place with 7,671,547 million and well ahead of the sixth placed United Kingdom, whose GNI was 2,444,857 million. WB, 'GNI, Atlas method (current US$)'.

[617] Figures from the WB confirm New Zealand has become wealthier in recent years, showing New Zealand's GNI rose from 52,971 million current US dollars in 2000 to 134,883 million in 2011. WB, 'GNI, Atlas method (current US$)'.

An Ongoing Focus on the Pacific

Figures from the OECD show that in 2012 out of the 449.14 million dollars (US current prices) New Zealand gave in ODA around 51% went to the Pacific.[618] This made 2012 a typical year.[619] When one learns of this one might respond by asking: If governments use ODA as a tool of foreign policy, and if foreign policy looks to maintain a country's sphere of influence, should not we expect governments to focus their ODA on their geographical neighbours, and therefore find these figures not noteworthy? However, aid researcher Eric Neumayer's statistical analysis shows that at the stage when a country decides whether to give ODA, "Only Australia, New Zealand, and Portugal have a regional bias."[620] When Neumayer analyses the data on a country's decision on how much ODA to give to different countries he finds New Zealand and Australia, unlike Portugal, continue to show a regional bias. He also finds Germany, Austria, Switzerland, Japan, and the United States of America have this bias.[621] Only Australia and New Zealand showing both types of bias leads Neumayer to write, "Australia and New Zealand notoriously concentrate their aid in the Pacific."[622]

Other countries may be able to come up with justifications for their regional biases, but is New Zealand able to? The NZAID's website claims that it focuses its programmes on the Pacific because, "The Pacific is a part of the world where New Zealand has the scale, resources, people, and relationships that can influence positive and real change and make lasting differences in people's lives."[623] This statement implies that if New Zealand were to spend most of its ODA elsewhere, New Zealand would misspend it because of a lack of "scale, resources, people, and relationships". This is plausible when we think of New Zealand acting on its own, but New Zealand could avoid this problem but channelling ODA funds to other developed countries' ODA programmes or multilateral ODA agencies, which do have the necessary "scale, resources, people and relationships". Even the NZAID website appears to acknowledge this when it writes that New Zealand's, "Global development efforts are

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[618] QWIDS.
[619] If we take the total amount of ODA New Zealand gave from 1972 to 2012: 5,720.14 million dollars US current prices, and divide that number by the total amount given to the Pacific during the same period: 2,724.9 million, we find that New Zealand gave roughly 48% of its ODA to the Pacific during this period. Ibid.
[620] Eric Neumayer, 'Do Human Rights Matter in Bilateral Aid Allocation? A Quantitative Analysis of 21 Donor Countries', in *Social Science Quarterly*, Vol. 84, No. 3, (September 2003), p. 658, DOI: 10.1111/1540-6237.8403010.
[621] Ibid, pp. 659-662.
[622] Ibid, p. 658.
[623] NZAID, *Currents*, Issue 21, (June 2010), p. 1.

supported through funding from the NZAID programme to international agencies."[624] These facts suggests that New Zealand focusing its ODA on the Pacific has more to do with wanting ownership of the ODA programmes it contributes to, and a desire to maintain a sphere of influence in what it considers its backyard.

However, while New Zealand concentrates ODA on the Pacific region, in part for strategic reasons, could the distribution of ODA in the Pacific, and to countries outside the Pacific, be partly explained by other reasons like the low-income levels of recipient countries? If we can answer affirmatively to this question, it would suggest that despite its Pacific focus, New Zealand's ODA programme might, by distributing funds to poor countries likely to contain the globally least advantaged, still be playing a significant role in helping to realize a global difference principle. We would have even more reason to think the ODA programme was having this role if the types of sub-programmes that made up the programme were likely to produce social primary goods. In order to start answering these questions, we now turn to an exploration of what the New Zealand Aid Programme calls its "country programmes."

New Zealand's Country Programmes

The New Zealand Aid Programme says its "Country programmes", "are New Zealand's bilateral aid to a country."[625] In examining the goals of the various country programmes, we find that some, if achieved, may be steps towards realizing a global difference principle. This is because a number of these programs look to promote economic development, and improve health and education services, which means they look to produce social primary goods.[626] The New Zealand Aid Programme also funds independent evaluations, although not randomized evaluations, of its programmes. The findings of these evaluations suggest the programmes are often successful in this regard, which is in keeping with our previous findings in this thesis about ODA's effectiveness.[627] This also suggests that

[624] Ibid.
[625] New Zealand Aid Programme, 'Programme Framework', URL: http://www.aid.govt.nz/about-aid-programme/how-we-work/programme-framework, (accessed 9 December 2014).
[626] For example, according to the New Zealand Aid Programme, "Health and education are key focal areas of New Zealand's Aid Programme, with a particular focus on the health of women and children." In Afghanistan's case this means, firstly, "Funding goes to provision of basic health services in remote communities and delivery of essential hospital services to the people of Bamyan Province" and secondly, "New Zealand is supporting an in-service teacher training programme and provision of resources for teachers." 'Where we work: Afghanistan', URL: http://www.aid.govt.nz/where-we-work/afghanistan, (accessed 9 December 2014).
[627] For an example see Anna Klinken Whelan's 'Evaluation Report for the Bougainville Healthy Community Project: Bridges to post-conflict communities' (1 October 2012), URL: http://www.aid.govt.nz/sites/default/files/Evaluation%20Report%20for%20the%20Bougainville%20Healthy%20Community%20Project.pdf, (accessed 9 December 2014).

if New Zealand spent more on these and similar programmes, New Zealand would help in the production of more social primary goods. This gives New Zealand reason to spend more on these programmes. However, in order to realize a global difference principle it is the globally least advantaged whose expectations and conditions have to be improved via the receiving of more social primary goods. Therefore, in order for enlarged versions of these programmes to be more likely to help realize the principle, they will have to make significant changes in countries where some of the globally least advantaged are most likely to live. In order to work out if New Zealand currently targets these countries with its country programmes, let us look at a table, which shows the countries New Zealand had country programmes with, and how much these programmes received in monetary terms, in the financial year 2011/2012:

Country programmes	**$NZ m**
Afghanistan	14
Cook Islands	19
Fiji	5
Indonesia	24
Kiribati	12
Niue	14
Papua New Guinea	27
Samoa	17
Solomon Islands	40
Timor-Leste	12.5
Tokelau	17
Tonga	20
Tuvalu	5
Vanuatu	20
Viet Nam	10
Total	256.5[628]

[628] New Zealand Aid Programme, 'Aid allocations 2011/12', (June 2011), URL: http://www.aid.govt.nz/about-aid-programme/aid-statistics/aid-allocations-20112012, (accessed 9 December 2014). New Zealand has had country programmes with these countries for a number of years, which means if we investigate the amount given to these countries from 1972-2010 we find:

Recipient	**US million dollars current prices**
Afghanistan	46.35
Cook Islands	255.14
Fiji	150.23
Indonesia	170.25
Kiribati	55.6
Niue	216.57
Papua New Guinea	209.56
Samoa	196.97
Solomon Islands	199.74
Timor-Leste post 2002 independence from Indonesia	39.7
Tokelau	169.03
Tonga	147.11

Unsurprisingly, we see a Pacific focus with 11 out of 15 of the countries who have a Country Programme falling under the OECD's Oceania grouping, and the 196 million dollars these countries received being roughly 77% of the money allocated to country programmes. The four non-Oceanic nations that New Zealand has country programmes with (Afghanistan, Indonesia, Timor-Leste, and Viet Nam) are in the relatively near geographical area of Asia, an area where New Zealand has increased its strategic focus due in part to an enlarged trade relationship with the region.[629]

In order to discover if New Zealand's selection of countries is influenced by low-income levels, and to get some sense of the relative wealth of nations, we can start by noting that the WB classifies countries as low-income 0-$1,035 (GNI per capita current US prices), lower-middle-income $1,036-$4,085, upper-middle-income $4,086-$12,615 and high-income $12,616+.[630] If we look at countries for which the WB provides data[631], we see most of New Zealand's country programmes are with lower-middle income countries, for example Indonesia, Papua New Guinea, and Viet Nam. New Zealand also has country programmes with upper-middle-income countries like Fiji and Tonga. New Zealand appears to have only one country programme with a low-income country, Afghanistan. As we have already seen, Rawls gave reasons for identifying the least advantaged simply by looking at income[632], so this data suggests New Zealand is not giving much ODA to the globally least advantaged.

However, if we investigate via the broader notion of poverty the UN uses in their categorisation of the LDCs, we get a different picture and find just under half of the countries New Zealand has country programme with are LDCs. Two of these LDCs come from Asia (Afghanistan and Timor-Leste) and four come from the Pacific (Kiribati, the Solomon

Tuvalu	43.74
Vanuatu	121.54
Viet Nam	59.89

QWIDS. While historically New Zealand had bilateral aid relationships with numerous other countries, these were generally small. The only ones of any financial significance were with Cambodia, Lao PDR, Philippines, South Africa, India, Pakistan, and Sri Lanka. QWIDS. Debreceny, 'New Zealand Development Assistance and the Pacific', p. 208.

[629] MFAT's website notes, "The wider Asian region is playing an ever more important role in New Zealand's international relationships … Six of our [New Zealand's] current top 10 trading partners are in Asia." MFAT, 'Foreign Relations > Asia', (last updated 12 July 2013), URL: http://www.mfat.govt.nz/Foreign-Relations/Asia/, (accessed 9 December 2014).

[630] WB, 'Country and Lending Groups', URL: http://data.worldbank.org/about/country-classifications/country-and-lending-groups, (accessed 9 December 2014).

[631] WB, 'GNI per capita, Atlas method, (current US$)', URL: http://data.worldbank.org/indicator/NY.GNP.PCAP.CD?order=wbapi_data_value_2012+wbapi_data_value+wbapi_data_value-last&sort=desc, (accessed 9 December 2014).

[632] Rawls, *ToJ*, § 16, p. 98/84.

Islands, Tuvalu, and Vanuatu),[633] which means New Zealand has country programmes with all the Pacific LDCs.

To get a better idea of the broader notion of poverty found in the LDC concept, and to get a better idea of whether New Zealand's country programmes with certain LDCs mean it is helping to realize a global difference principle, we can start by quoting the three criteria that determine LDC status:

> 1) *Low-income criterion*, based on a three-year average estimate of GNI per capita, based on the World Bank Atlas method[634] (under $905 for inclusion, above $ 1,086 for graduation as applied in the 2009 triennial review).
> 2) *Human Assets Index (HAI)* based on indicators of: (a) nutrition: percentage of population undernourished; (b) health: mortality rate for children aged five years or under; (c) education: the gross secondary school enrolment ratio; and (d) adult literacy rate.
> 3) *Economic Vulnerability Index (EVI)* based on indicators of: (a) population size; (b) remoteness; (c) merchandise export concentration; (d) share of agriculture, forestry and fisheries in gross domestic product; (e) share of population living in low elevated coastal zones; (f) instability of exports of goods and services; (g) victims of natural disasters; and (h) instability of agricultural production.[635]

The HAI and EVI indexes, like the low-income criterion, are numerical, with a country's numerical score on these indexes being a factor in whether it is included among the LDCs or graduates from LDC status. To be more exact, to graduate a country has to reach the graduation level on two out of the three criteria, or its income level has to be twice the income threshold level, and in both cases, the UN's Committee for Development Policy (CDP) has to judge these levels sustainable.[636] If the CDP comes to this judgment about a particular country, it then recommends to the UN's General Assembly that the country graduate, the General Assembly then either does or does not confirm this graduation. To be included on the LDC list a country has to qualify on all three criteria, and has to agree to being categorised as an LDC.[637] The country then goes through a similar process to the graduation process, with the CDP recommending, and then the General Assembly either approving or not approving the inclusion of the country as an LDC.[638]

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[633] UN-OHRLLS, 'About LDCs'.
[634] The World Bank Atlas method is a conversion factor whose purpose is, "to reduce the impact of exchange rate fluctuations in the cross-country comparison of national incomes." WB, 'World Bank Atlas Method', URL: http://data.worldbank.org/about/country-classifications/world-bank-atlas-method, (accessed 9 December 2014).
[635] UN-OHRLLS, 'Criteria for Least Developed Countries', URL: http://unohrlls.org/about-ldcs/criteria-for-ldcs-2, (accessed 9 December 2014).
[636] UN, DESA, Development Policy and Analysis Division, 'The criteria for identifying the least developed countries', (last updated August 2013), URL: http://www.un.org/en/development/desa/policy/cdp/ldc/ldc_criteria.shtml, (accessed 9 December 2014).
[637] UN-OHRLLS, 'Criteria for Identification and Graduation of LDCs'.
[638] UN, DESA, CDP, 'Handbook on the Least Developed Country Category', p. 8.

As one would expect, given our previous discussion of income levels, most of the LDCs New Zealand has country programmes with are relatively high in terms of income. All of them except Afghanistan[639] have an income above the graduation level of $1,086 GNI per capita per annum for three years. Most easily exceed this level. For example, Tuvalu with a 2010 to 2012 GNI per capita per annum average of $5,150[640] makes it into the WB's upper-middle-income group.[641] However, the Solomon Islands only just exceeds the graduation level with a 2010 to 2012 per capita per annum average of $1,100.[642]

The Solomon Islands and the other LDC countries New Zealand has country programmes with that exceed the graduation level on income, do not exceed the graduation level score on some or all the other LDC indicators, the HAI and the EVI.[643] To be more specific, Tuvalu, Kiribati, and Vanuatu score below the graduation level score on the EVI, while Timor-Leste (which does better in GNI per capita terms reaching 2,233 dollars in 2012)[644] and the Solomon Islands score below the graduation level on both the HAI and EVI. Perhaps not surprisingly, Afghanistan also scores below the graduation level on both these counts.

A low score on the HAI can indicate that a number of individuals are undernourished and illiterate. These individuals are likely to be ones, "whose natural endowments (as realized) permit them to fare less well".[645] A country with a low EVI is likely to have inhabitants whose expectations of social primary goods are low due to uncertainty over the stability of their economy. This suggests that countries with a low HAI and EVI score may contain some of the globally least advantaged. This along with the efficacy of ODA suggests that targeting ODA programmes at these LDCs may be one way to realise a global difference principle. However, as we saw in the previous paragraph, among the countries New Zealand has country programmes with, only Afghanistan, the Solomon Islands, and Timor-Leste have low scores on both the HAI and EVI. This suggests that New Zealand is not targeting its ODA at the right LDCs. However, one could argue that governments can help to realize a global difference principle by targeting other countries besides the LDCs.

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[639] In 2011, Afghanistan's GNI per capita was 570. WB, 'GNI per capita, Atlas method (current US$)'.
[640] WB, 'Data: Tuvalu', UR: http://data.worldbank.org/country/tuvalu, (accessed 9 December 2014).
[641] WB, 'Country and Lending Groups'.
[642] WB, 'Data: Solomon Islands', URL: http://data.worldbank.org/country/solomon-islands, (accessed 9 December 2014).
[643] UN, DESA, 'LDC Data Retrieval', http://www.un.org/en/development/desa/policy/cdp/ldc/ldc_data.shtml, (accessed 9 December 2014).
[644] Ibid.
[645] Rawls, *ToJ*, § 13, p. 75/65.

In doing so, one could point towards the research of Andy Sumner, which suggests that most of the world's poorest now live in middle-income countries, and then argue that this means one way to use ODA to help realize a global difference principle would be to have ODA programmes with these countries.[646] However, someone else might respond by arguing that reducing poverty in these countries is a problem these countries should solve since in these cases there would appear to be domestic resources that could help reduce poverty. However, Sumner notes that for middle-income countries it is not simply a question of having the resources to reduce poverty, but also having the capacity to mobilize these resources. In cases where countries lack this capacity, then there is an argument for, "poverty reduction to be a shared endeavour" with both ODA and domestic resources being used.[647] Does this mean New Zealand's country programmes, which as we have noted are mainly with middle-income countries, could be helping to improve the conditions of the poorest of the poor, and thereby helping to realize a global difference principle? Unfortunately, this generally does not appear to be the case. Sumner only identifies two of the countries New Zealand has a country programme with, Viet Nam[648] and Indonesia, as being among the middle-income countries that have a high number of world's poorest, and he identifies Indonesia as an "emerging" power with little need for ODA.[649]

Another factor to take in to consideration when considering if New Zealand's ODA programme is helping to realize a global difference principle is how much of New Zealand's country programme ODA went to LDCs. In the financial year 2011/2012, we find 120.5 million dollars of the 256.5 million dollars that went to country programmes went to LDCs. However, this may underestimate how much of New Zealand's country programmes contribute to very poor nations, and therefore lead to an underestimation of the role New Zealand's ODA programme has in helping to realize a global difference principle. This can happen because New Zealand gives ODA to some nations that the UN does not consider countries, and therefore does not consider for inclusion among the LDCs. The three nations I am referring to are New Zealand's former colonies of the Cook Islands, Niue, and Tokelau.

Determining whether these nations could qualify as LDCs if the UN treated them as separate countries is not straightforward in part because a number of reliable sources of data

[646] Andy Sumner, 'Global Poverty and the New Bottom Billion: What if Three-quarters of the World's Poor Live in Middle-income Countries?, IDS Working Paper 349, November 2010, DOI: 10.1111/j.2040-0209.2010.00349_2.x. I thank my examiner David Reidy for making me aware of this point.
[647] Andy Sumner, 'Where do the Poor Live?', in *World Development*, Vol. 40, Issue 5, (May 2012), p. 874, DOI: 10.1016/j.worlddev.2011.09.007.
[648] Ibid, p. 868.
[649] Ibid, p. 874.

do not provide separate data on these nations, e.g. the WB.[650] However, other reliable sources do provide data on some of these nations. The UN's Statistics Division records the Cook Islands' GDP per capita for 2010 as being $12,212 (US current prices).[651] Given GDP is greater than GNI[652], this places the Cook Islands easily into the WB's upper-middle-income group, if not higher, and certainly above the income levels of most LDCs. Indeed, if the Cook Islands were an LDC it would be eligible for graduation purely based on its income level. The same is true of Niue. We can start to discover this by viewing figures from Niue's statistics office that show that, in 2009, in NZ dollars current prices, the GDP per capita of Niue was 16,575.[653] To work out which WB income group Niue fits into one would have to convert this into US dollars, which would lead to a reduction. However, this reduction would not be very large, and before doing this, we would have to convert GDP into GNI, which would lead to an increase. This means one can safely say that Niue is similar to the Cook Islands in being at least an upper-middle-income country, which means it is much wealthier in terms of income than most LDCs, and, if Niue were an LDC, it would be eligible to graduate solely based on its income.

Working out Tokelau's income, and whether this income would qualify it as an LDC, is more difficult due to limited data. The census of the atolls only collects data on household income, which is not easily convertible into GNI per capita.[654] Nevertheless, this data suggests that Tokelau is significantly poorer than the Cook Islands and Niue. The 2011 census records that more than two thirds of Niuean households earn less than 15,000 NZ dollars a year, with a large number of these households earning between 0-5,000 and 5001-10,000 dollars. Given that there is on average roughly six persons in each household[655], this suggests a very low GNI per capita. Another source that suggests this is America's Central Intelligence Agency, which records Tokelau as having a GNI per capita of $1,000 (PPP) in 1993.[656] This suggests Tokelau may qualify as an LDC based on income. However, when

[650] WB, 'Country and Lending Groups'.
[651] UN Statistics Division, 'Country Profile: Cook Islands', URL: http://data.un.org/CountryProfile.aspx?crName=Cook%20Islands, (accessed 9 December 2014).
[652] OECD, 'Glossary of Statistical Terms, Gross National Income (GNI)'.
[653] PRISM, 'Niue: Economic Statistics', (2012), URL: http://www.spc.int/prism/niue/index.php/economic, (accessed 9 December 2014).
[654] According to the census, "Cultural and real-world considerations meant that household, rather than personal, income was a more appropriate measure to reflect the communal lifestyle of Tokelau's people." Statistics New Zealand, 'Profile of Tokelau', p. 58.
[655] The census recorded Tokelau as having a population of 1,411 in 246 households. Statistics New Zealand, '2011 Tokelau Census of Population and Dwellings – Tables', (last updated 21 February 2012), URL: http://www.stats.govt.nz/browse_for_stats/people_and_communities/pacific_peoples/2011-tokelau-census-landing-page/2011-tokelau-census-tables.aspx, (accessed 9 December 2014).
[656] CIA, *The World Factbook*, 'Country Comparison: GDP – Per Capita (PPP)'.

thinking about these GNI per capita figures for Tokelau, Niue, and to a lesser extent the Cook Islands, we have to keep in mind the amounts of ODA in per capita terms they receive.

There is a paucity of direct data on this, so we have to do our own calculations based on other available data. In starting to do this we can look at the annual amounts of ODA received, and then divide this number by the nation's population. According to OECD figures, in 2011, the Cook Islands received 25,350,000 in US dollar current prices in ODA, Niue received 20,850,000, and Tokelau received 20,040,000.[657] In 2011 Niue's population was 1,611[658], Tokelau's was 1,411[659] and the Cook Islands' was 14, 974.[660] This works out to Tokelau receiving 14,203 dollars per capita in ODA, Niue receiving 12,942 dollars per capita, and the Cook Islands received 1,693 dollars per capita.[661] This data shows that while the ODA that New Zealand sends to Tokelau does not see Tokelauans recording high levels of income, it does make Tokelau wealthier than data on income levels suggests.

But what of other indicators of least advantage like those captured by the EVI and HAI? Once again, a paucity of direct data confronts us, but we can acquire an idea of these nations' EVI scores by noting that the Cook Islands, Niue, and Tokelau are small isolated island nations without much in the way of exports. This suggests they all might qualify as LDCs based on their scores on the EVI. However, there is a different picture when it comes to the result of estimating what their scores would be on the HAI.

The UN's World Health Organization (WHO) records the health of Tokelauans as, "reasonably good" with it recording no infant mortalities in 2010.[662] The WHO records a similar picture for the Cook Islands, and Niue.[663] The WHO also notes that Niue has good education levels, including a 100% literacy rate. The literacy rate in Tokelau is also high with less than 2% unable to read and write in Tokelauan.[664] The Cook Islands has a similar literacy

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[657] QWIDS.
[658] PRISM, 'Niue Population and Household Census 2011', Person, PRN, Person number.
[659] Statistics New Zealand, 'Profile of Tokelau', p. 14.
[660] Cook Islands Statistics Office, 'Cook Islands 2011 Census', p. 4.
[661] OECD, QWIDS, 'Donor(s): New Zealand'.
[662] WHO, 'Tokelau Country Profile, 2011', URL: http://www.wpro.who.int/countries/tkl/32TOKpro2011_finaldraft_ver2.pdf, p. 413, (accessed 9 December 2014).
[663] WHO, 'Cook Islands Country Profile, 2011', pp. 79-80, URL: http://www.wpro.who.int/countries/cok/6COKpro2011_finaldraft.pdf, (accessed 9 December 2014). WHO, 'Niue Country Profile, 2011', pp. 268-287, URL: http://www.wpro.who.int/countries/niu/22NIUpro2011_finaldraft.pdf, (accessed 9 December 2014). This does not mean the islands and atolls are without health problems. The WHO reports show that obesity is a problem in all three nations.
[664] Statistics New Zealand, '2011 Tokelau Census of Population and Dwellings – Tables'.

rate.[665] This data suggests that the Cook Islands, Niue, and Tokelau would not qualify as LDCs based on their scores on the HAI. Considering this along with income levels and EVI levels, will lead us to conclude that the Cook Islands and Niue are like a number of Pacific Islands that receive ODA from New Zealand (Kiribati, Tuvalu and Vanuatu) in that they would only qualify as LDCs on their high scores on the EVI. Tokelau, however, might also qualify on income levels.

Given this, and the other data we have analysed, we can suggest that the Cook Islands, Niue, and Tokelau would not qualify for inclusion as LDCs. If they previously qualified as LDCs, the current data suggests that the Cook Islands and Niue would now qualify to graduate, while Tokelau might not. This might seem to suggest that New Zealand does not help to realize a global difference principle by giving ODA to the Cook Islands and Niue, and the same might be true of Tokelau, but before rushing to this conclusion, we should bear in mind how dependent these nations are on ODA from New Zealand.

Data we have analysed regarding ODA and GNI suggests Niue and Tokelau are some of the most ODA dependent nations.[666] Most of this ODA comes from New Zealand, with 2012 seeing Niue and Tokelau, receiving 65% and 93% respectively from this source.[667] While the Cook Islands also receives most of its ODA from New Zealand, in 2012 around 63%,[668] this does not make up a very large percentage of its income. We can work out this by looking at the Cook Islands' GNI per capita (12,212 in 2010) and its ODA received per capita from New Zealand (1,693 in 2011). This suggests were New Zealand were to stop sending ODA to the Cook Islands, the Cooks would not be eligible for inclusion as an LDC, and if it had previously qualified as an LDC, it would still be eligible for graduation. This means New Zealand's ODA to the Cook Islands is probably not preventing it from being an LDC, is

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[665] Office of the Cook Islands' Prime Minister, 'National Millennium Development Goals Report: 2009', (2010), http://www.mfem.gov.ck/docs/Stats/1.Statistics/7.MDG/MDG_RPRT_June_2010.pdf, (accessed 9 December 2014).

[666] In inspecting figures for sovereign states that receive ODA from New Zealand, one finds Tuvalu and the Solomon Islands are also heavily dependent on ODA, with ODA either coming close to or exceeding 50% of GNI. For 2011, this makes them the first and third most dependent on ODA independent countries in percentage of GNI terms. WB, Net ODA received (% of GNI), URL: http://data.worldbank.org/indicator/DT.ODA.ODAT.GN.ZS?order=wbapi_data_value_2011+wbapi_data_value+wbapi_data_value-last&sort=asc, (accessed 9 December 2014). However, these countries are not particularly dependent on New Zealand ODA, with this ODA in 2012 only making up around 11% of the Solomon Islands' ODA, and 19% of Tuvalu's ODA. QWIDS.

[667] QWIDS. These large percentages are another distinctive feature of New Zealand's ODA programme. Researchers Emmanuel Frot and Javier Santiso found that, in 2007, New Zealand's ODA relationships with the Cook Islands, Niue, and Tokelau, were among the top 5% in these terms. Frot and Santiso, 'Crushed Aid: Fragmentation in Sectoral Aid', Stockholm Institute of Transition Economics (SITE) Working Paper No. 6, (2009), http://swopec.hhs.se/hasite/papers/hasite0006.pdf, p. 24, (accessed 9 December 2014).

[668] QWIDS.

probably not preventing its inhabitants from being among the globally least advantaged, and unlikely to be helping to realize a global difference principle. The cases of Tokelau and Niue are not as clear because of their dependence on New Zealand ODA.

In trying to clarify Niue's case and Tokelau's case, we can estimate how removing ODA would affect their economies. In doing so we can note that before large amounts of New Zealand ODA arrived, copra production formed a large part of Niue's economy and Tokelau's economy, but afterwards this production virtually ceased.[669] One might criticise this on a Rawlsian front by saying Niue and Tokelau both were formerly a more free and independent people because they sustained themselves through their own economic production. However, this copra production did not earn the Niueans or Tokelauans much money, which means it would be unlikely to sustain the sort of freedom and independence Rawls had in mind.

To be more specific, in Tokelau's case, one of the high points for money earned from copra production was 87,154 New Zealand dollars in 1975.[670] In trying to estimate how much Tokelau could now earn from copra production, we can note that when Tokelau was in the business of copra production it generally produced around 150 to 200 tonnes a year, and on recent prices this would earn it around 225,000 to 300,000 US dollars.[671] This works out to about 142 to 213 US dollars per capita per annum. Niue, faced with the same problem of not being able to earn much from copra production has attempted to develop other export industries, but these attempts have met with little success.[672]

However, both Niue and Tokelau do receive revenue from fisheries. In Tokelau's case, the revenue from fishing licences had reached two million New Zealand dollars annually, which works out to be around 1417 New Zealand dollars per annum per capita, but this amount varies due to variation in fishing stocks.[673] The single atoll, Niue, receives less, with fisheries licensing earning only 243,067 New Zealand dollars in the financial year 2006/2007. That works out to only around 158 New Zealand dollars per annum per capita.[674]

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[669] McQuarrie, *Tokelau*, pp. 177-179. John Connell, 'Niue: Embracing a Culture of Migration', in *Journal of Ethnic and Migration Studies*, Vol. 34, No. 6, (August 2008), pp. 1028-1031, DOI: 10.1080/13691830802211315. Niue also earned money from the export of bananas. Ibid, p. 1028.
[670] McQuarrie, *Tokelau*, p. 178.
[671] UNCTAD, 'Infocomm – Commodity Profile: Coconut', (last updated 27 April 2012), URL: http://www.unctad.info/en/Infocomm/AACP-Products/COMMODITY-PROFILE---Coconut2/, (accessed 9 December 2014).
[672] Connell, 'Niue: Embracing a Culture of Migration', p. 1022.
[673] Government of Tokelau, 'Tokelau National Strategic Plan 1 July 2010 – 30 June 2015'.
[674] Government of Niue, 'Estimates of Expenditure and Revenue for year 2006/2007', (Niue: Treasury Department, 2007), p. 14, also available at URL: http://www.paddle.usp.ac.fj/cgi-bin/paddle?e=d-0paddle--00-

These figures suggest that if New Zealand did stop giving ODA to Niue and Tokelau, there would be a risk they would experience poverty levels similar to the LDCs and their inhabitants could become members of the globally least advantaged.[675] This suggests some of the large amounts of ODA the two atoll nations receive from New Zealand may be helping to realize a global difference principle.

One might think that this means New Zealand should maintain the ODA it gives to Niue and Tokelau, and that this contrasts with the Cook Islands' case because removing ODA would probably not lead to Cook Islanders joining the ranks of the globally least advantaged. Before concluding whether these positions are correct, let us introduce ourselves to New Zealand's ODA programme with its other former colony, Samoa, and some facts about Samoa that will lead to similar questions.

Samoa used to be one of the LDCs New Zealand had a country programme with, but this recently changed, not because the country programme ended, but because Samoa graduated from LDC status on 1 January 2014. This does not appear to represent a change in its score on the EVI but rather the judgment of the UN's CDP that Samoa's high score on the HAI[676] and its relatively high GNI per capita are sustainable.[677]

Samoa's ODA makes up a relatively high percentage of its GNI, to be more specific 16.4%, but this does not make it as dependent on ODA as Niue and Tokelau. Samoa also receives a smaller percentage of its ODA from New Zealand when compared to New Zealand's other former colonies. In 2010, it received 143 million US dollars in ODA from all donors, with New Zealand giving 11 million or roughly 7.7%.[678] Given Samoa's relatively large population, the total amount of ODA it receives from all countries is not a large amount

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1-0---0-10-TX--4------0-11l--1-en-50---20-home---00031-000-1-0utfZz-8-00&a=file&d=niu002, (accessed 9 December 2014).

[675] Niueans and Tokelauans might avoid this if the possibility if Niueans and Tokelauans living in New Zealand sent back significant remittances. In Niue's case, this possibility has some plausibility because, as Connell notes, Niueans sent larger remittances back to Niue in response to Cyclone Heta (2003-2004). Connell, 'Niue: Embracing a Culture of Migration', p. 1030. Anthony Cooper found that in the period of 1979-1981 remittances played a significant part in the economy of one of Tokelau's atolls, Fakaofo, even though money from remittances was small in comparison to money from copra, salaries, and wages. Anthony Cooper, 'The MIRAB transition in Fakaofo, Tokelau', in *Pacific Viewpoint*, Vol. 34, No. 2, (1993), p. 255. MIRAB stands for Migration, Remittances, and Bureaucracy.

[676] Among LDCs in 2013, Samoa had the highest score on the HAI. UN, DESA, 'LDC Data Retrieval'.

[677] Among LDCs in 2013, Samoa had the fourth highest GNI per capita. Ibid. Samoa's two thousand eight hundred and eighty GNI per capita US dollars would place it in the WB's second lowest income category, lower-middle-income countries, but as GNI per capita has been about the same level for three years and is double the graduation level, Samoa would have qualified for graduation from LDC status based on income alone. WB, 'Data: Samoa', http://data.worldbank.org/country/samoa, (accessed 9 December 2014).

[678] OECD, *Aid Effectiveness 2011: Progress in Implementing the Paris Declaration – Volume II Country Chapters*, 'Samoa', (2012), URL: http://www.oecd.org/dac/effectiveness/Samoa%205.pdf, (accessed 9 December 2014).

in per capita terms, especially when compared to New Zealand's other former colonies, with Samoa receiving 532 US dollars current prices per capita in 2011.[679]

However, while the Cook Islands receives more in ODA in per capita terms than Samoa, a number of the figures we have analysed suggest Samoa's ODA relationship with New Zealand is similar to the Cook Islands in certain ways. For example, while the Cook Islands GNI per capita of US $12,212 is significantly higher than Samoa's $2,880[680], the removal of New Zealand's ODA in both cases would probably not have much of an effect. We have already seen that in the Cook Islands case this is because it receives a significant amount of income from sources besides ODA. In Samoa's case, this is because New Zealand ODA is a smaller percentage of Samoa's total ODA, and Samoa receives less ODA in per capita terms. Both Samoa and the Cook Islands also score highly on the HAI and EVI, and this, along with the other data, implies that the removal of New Zealand's ODA would not see the inhabitants of these nations become part of the globally least advantaged.

From a Rawlsian perspective, this might seem to mean that New Zealand should not have an ODA relationship with Samoa or the Cook Islands. However, as we will see in the next section of the chapter, there are other Rawlsian arguments for maintaining financial support for Samoa and the Cook Islands along with New Zealand's other two former colonies, Niue and Tokelau.

What Kind of ODA Relationship, if any, should New Zealand have with the Cook Islands, Niue, Samoa, and Tokelau?

In Samoa's case, one reason for New Zealand continuing to have an ODA relationship with the country is the Friendship Treaty, mentioned in the previous chapter, where New Zealand pledged to "consider sympathetically requests from the Government of Western Samoa for technical, administrative and other assistance."[681] In chapter nine, I argued that it was important to keep international agreements, in part because keeping these agreements will assist countries in making cooperative arrangements for mutual advantage in the future.

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[679] This, however, did place Samoa 9th amongst countries receiving ODA. WB, 'Net ODA received per capita (current US$), URL: http://data.worldbank.org/indicator/DT.ODA.ODAT.PC.ZS?order=wbapi_data_value_2011+wbapi_data_value+wbapi_data_value-last&sort=asc, (accessed 9 December 2014). With New Zealand giving 7.7% of Samoa's ODA, this works out to around 41 US dollars per capita.

[680] UN, DESA, 'LDC Data Retrieval'.

[681] United Nations — Treaty Series, No. 6515, 'Treaty of Friendship between the Government of New Zealand and Government of Western Samoa', Article IV.

This might lead us to the conclusion that New Zealand's ODA programme with Samoa should continue.

However, one fact that counts against this conclusion is Article VI of the Friendship Treaty, which states:

> Either Government may at any time give to the other Government written notice of its desire to terminate this Agreement. In such case, this Agreement shall terminate upon the expiration of three months from the date on which the notice is received.[682]

This implies New Zealand could be morally justified in ending the agreement and ending its ODA relationship with Samoa as long as it gave three months' notice of its intention to do so. However, New Zealand has yet to do so, and when discussing the treaty, assistance and trade are emphasised rather than the exit clause.[683] New Zealand has also made newer commitments to Samoa including, in 2011, a Joint Commitment to Development, which as the name suggests, includes commitments from New Zealand and Samoa. Among New Zealand's commitments is to, "Provide long-term and predictable assistance".[684] The agreement also does not contain an exit clause. This, along with the importance of keeping international agreements, and the benefits the programme will bring to the Samoan people, suggests New Zealand should continue to have an ODA relationship with Samoa.[685]

As we have seen, while New Zealand gives similar amounts of ODA in monetary terms to Samoa, the Cook Islands, Niue, and Tokelau, due to their smaller populations the Cook Islands, Niue, and Tokelau receive exponentially more in per capita terms. Some might think this means the amount the Cook Islands, Niue, and Tokelau receives is too generous and that New Zealand should reduce its support to these three nations especially as it is questionable whether these nations contain many of the globally least advantaged. However, others argue New Zealand should provide more support, but that this support should not be in the form of ODA. The former National Minister of Parliament, Marilyn Waring, who

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[682] Ibid, Article VI.
[683] MFAT, 'Foreign Relations > Samoa'.
[684] New Zealand and Samoan governments, 'Joint Commitment for Development', (signed 11 July 2011), URL: http://www.aid.govt.nz/webfm_send/114, (accessed 9 December 2014).
[685] New Zealand has also made a number of financial commitments to the Cook Islands, Niue, and Tokelau. However, I will argue that New Zealand's main reason for providing financial assistance to these countries is its constitutional relationship with them. For some of the financial commitments made by New Zealand to these nations see: New Zealand Aid Programme, 'The New Zealand – Cook Islands Joint Commitment for Development', (14 July 2011), https://www.aid.govt.nz/webfm_send/113, (accessed 9 December 2014); The Niue Constitution Act 1974; and Government of Tokelau, 'Joint Statement of the Principles of Partnership between New Zealand and Tokelau', (21 November 2003), http://tokelau.org.nz/About+Us/Government/Principles+of+Partnership.html, (accessed 9 December 2014).

undertook a 2005 ministerial review of New Zealand's ODA programme for the then Labour government[686], appears to have this view.

Waring viewed the ODA given to the Cook Islands, Niue, and Tokelau as meagre, especially when compared to how other developed countries treat their overseas territories. She claimed, "Australia and France regard their territories as integral parts of the metropolitan country or community with citizen's rights to the same level of provision of government services as mainland metropolitan levels." This contrasts with New Zealand which, "promises special relationships and necessary assistance, not service equality."[687] Waring suggested that New Zealand could view its territories as Great Britain does given Great Britain gives roughly the same amount of money in ODA in per capita terms.[688] However, data suggests that Waring's claims about how Australia, Great Britain, and France treat their territories are not entirely accurate.

If we look at OECD figures and compare Tokelau to the other 16 NSGTs, the majority of which are British, we find most of the 16 other NSGTs used to receive ODA. However, figures that are more recent suggest that, besides Tokelau, the only NSGTs to receive ODA in 2011 were the British territories of Anguilla, Montserrat, and St Helena. In investigating the question of how much each territory received in 2011 in per capita terms, we find New Zealand gave Tokelau roughly 12,594 US current prices dollars. If we compare this to the British NSGTs, we find Montserrat received around 9,037 dollars per capita;[689] St. Helena received around 19,907;[690] and Anguilla received only around 29.[691] This, along with a number of Great Britain's overseas NSGTs appearing to receiving no ODA[692], suggests that Great Britain's treatment of its overseas territories varies more than Waring indicated. However, as Waring claims, Great Britain, at least when it comes to amounts of ODA in per

[686] The purpose of Waring's review was to see what progress, if any, the programme had made in implementing the recommendations the government had adopted from Grossman and Lees' 2001 ministerial review.
[687] Waring, 'Ministerial Review of Progress in Implementing 2001 Cabinet Recommendations Establishing NZAID', (July 2005), p. 79, URL: http://nzadds.files.wordpress.com/2011/01/waring-review.pdf, (accessed 9 December 2014).
[688] Ibid. The territories given in Waring's review are Tokelau and Niue in regards to New Zealand, and St. Helena in regards to the United Kingdom.
[689] Calculation based on 2011 QWIDS data and 2011 census data. Statistics Department Montserrat, *Census 2011: Montserrat at a Glance*, (March 2012), URL: http://www.gov.ms/wp-content/uploads/2011/02/Montserrat-At-A-Glance.pdf, (accessed 9 December 2014).
[690] Calculation based on 2011 QWIDS data and 2008 census data. St. Helena Statistics Office, *The 2008 Population Census of St. Helena*, (November 2009), URL: http://www.sainthelena.gov.sh/wp-content/uploads/2013/01/Census-Report-2008.pdf, (accessed 9 December 2014).
[691] Calculation based on 2011 QWIDS data and preliminary data from 2011 census. Anguilla News, 'Preliminary Data from Anguilla's Census 2011 puts the population at 13,542', 19 June 2012, URL: http://www.anguillanews.com/enews/index.php/permalink/4309.html, (accessed 9 December 2014).
[692] It may be the case that recent data is not available for all ODA recipients.

capita terms, does seem to treat some of its territories in a manner similar to how New Zealand treats the Cook Island, Niue, and Tokelau.[693]

But contrary to what Waring claims, France and Australia do not treat all of their overseas territories in all respects as if they were part of the mainland. For France notable in this regard is the territory known as Wallis and Futuna. This territory received around 8,604 dollars in ODA in per capita terms,[694] which means in this case France may not be any more generous than New Zealand is in regards to Niue and Tokelau, indeed, France may be less generous. France by giving Wallis and Futuna ODA may also be revealing it does not view Wallis Futuna in the same manner as mainland France. This is because the French government does not categorise financial support it gives to those living in mainland France as ODA. When it comes to Australia, we can note that its government does not provide the inhabitants of its territory Norfolk Island with the same level of health cover as mainland Australians.[695] However, the Australian government does not classify the financial support it gives to Norfolk Island as ODA, which suggests it views the island as an integral part of Australia. This, along with Waring's commentary, raises the question whether New Zealand should do the same when it comes to the Cook Islands, Niue, and Tokelau.

We can start to argue for a positive answer to this question by first noting that the New Zealand government does not classify the support it gives to mainland New Zealand citizens as ODA. Then we can note that the native inhabitants of Niue, Tokelau, and Cook Islands have New Zealand citizenship.[696] If citizens deserve equal treatment from the state, a view with a history that predates Rawls but is nonetheless in keeping with Rawlsian thinking, then this suggests that the support New Zealand gives to Cook Islanders, Niueans, and Tokelauans should not be in the form of ODA. Similar thinking led Grossman and Lees to

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[693] New Zealand has one NSGT while Great Britain has many, but New Zealand has two self-governing territories in free association while Great Britain has none.

[694] Calculation based on 2011 QWIDS data and 2008 census data. *Institut national de la statisque et des etudes économiques*, '*Les populations des circonscriptions du Territoire des îles Wallis et Futuna*' [National Institute of Statistics and Economic Studies, 'Population districts of the Wallis and Futuna islands territory'], URL: http://www.insee.fr/fr/themes/detail.asp?ref_id=poplegalescom&page=recensement/poplegalescom/popcircwallisetfutuna.htm, (accessed 9 December 2014).

[695] Mark Turner, 'Norfolk Island/ Australia', Kreddha Autonomy Mapping Project, (December 2007), pp. 15-16, URL: http://www.kreddha.org/mapping/downloads/080116_Norfolk_Island.pdf, (accessed 1 April 2014) [Dead link]. An archived copy of the page is available at The Internet Archive, URL: https://web.archive.org/web/20110412172550/http://www.kreddha.org/mapping/downloads/080116_Norfolk_Island.pdf, (accessed 9 December 2014).

[696] Cook Islanders, Niueans, and Tokelauans have citizenship under New Zealand's Citizenship Act 1977 http://www.legislation.govt.nz/act/public/1977/0061/latest/096be8ed80f3be5c.pdf, (accessed 9 December 2014).

recommend, "Constitutionally-derived payments to Niue, Cook Islands and Tokelau should not come from the ODA budget."[697] The review added:

> Niue, the Cook Islands and Tokelau are entitled to direct financial support from New Zealand through their constitutional arrangements. They are payments as of right that should not be met through ODA. The relationship with these countries comprising New Zealand citizens should be managed through Foreign Affairs or another appropriate body. ODA could still be provided for specific poverty elimination needs within those countries but would need to meet the same criteria for ODA as all other bilateral countries.[698]

As was noted earlier, the fifth Labour government adopted many of the recommendations in the ministerial review; however, this government's Cabinet decided, "Development Assistance to the Cook Islands, Niue and Tokelau should remain within the NZODA programme."[699] This was a mistake. Just as New Zealand has an obligation to meet its many promises to give 0.7% of GNP in ODA, it also has a separate obligation to meet its constitutional commitments to the Cook Islands, Niue, and Tokelau in the same way it meets its constitutional commitments to other New Zealand citizens.

The current inclusion of financial support to the Cook Islands, Niue, and Tokelau as country programme ODA is just one problem this section on the New Zealand Aid Programme's country programmes has revealed. Another notable problem is the focus on relatively wealthy Pacific nations unlikely to contain the globally least advantaged, which reduces the likelihood of New Zealand's ODA helping to realize a global difference principle. However, is this true of New Zealand's other forms of ODA, which for the lack of a better term we could call its "non-country programmes"?[700] Does New Zealand target these programmes in such a way, and do these programmes have features, that could help to realize a global difference principle and certain other principles of justice discussed in this thesis?

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[697] Grossman and Lees, 'Towards Excellence in Aid Delivery', p. 102.
[698] Ibid, p. 8.
[699] Summary of cabinet minute in Marilyn Waring, 'Ministerial Review of Progress in Implementing 2001 Cabinet Recommendations Establishing NZAID', p. 3.
[700] The New Zealand Aid Programme categories each type of non-country programme separately. This leads to the programme not having a collective name for these programmes. New Zealand Aid Programme, 'Aid allocations 2011/12'.

New Zealand's Non-Country Programmes

We can start our exploration of the recent state of these programmes by viewing a table of New Zealand's financial contribution to these programmes for the financial year 2011/2012:

Programme subtype	$NZ m
Regional programmes	
ASEAN[701]	30
Africa	7
Latin America and the Caribbean	6
Multi-country thematic programmes	
Economic Development	18
Human Development and Governance	20
Agency Programmes	
Multilateral Agencies	94.5
Pacific Regional Agencies	19.5
Other programmes	
New Zealand Partnerships and Funds	40
Humanitarian	17
Other Crown Expenditure	7
Discretionary/Revolving Fund	20
Total	279

[702]

As we can see from the table, one point of difference between these programmes and the country programmes is that many of these programmes do not have an explicit geographical focus. Instead, the New Zealand government names them after the goals it hopes they will accomplish. Among the goals we find a number that if realized may be steps towards realizing some of the global principles of justice discussed in this thesis.

It is likely that the governance part of the human development and governance programme will look to push nations towards becoming more liberal and therefore closer to being a liberal people, which means it could help to realize the duty of assistance. We can see this push in a liberal direction when the New Zealand Aid Programme declares that it wishes that this, and other programmes, "reflect and encourage recognised values such as transparency, accountability, democratic governance, gender equity and the rule of law."[703]

[701] ASEAN stands for the Association of South East Asian Nations.
[702] New Zealand Aid Programme, 'Aid allocations 2011/12'.
[703] New Zealand Aid Programme, 'International Development Policy Statement: Supporting Sustainable Development', (March 2011), URL: http://www.aid.govt.nz/webfm_send/454, p. 12, (accessed 9 December 2014).

There is, of course, the possibility that a number of New Zealand's other ODA programmes may indirectly assist countries in developing in a liberal direction. If, for example, as many political scientists claim, economic development pushes countries in a liberal direction[704], then any programme that assists with economic development could indirectly help nations become a liberal people and thereby help to realize the duty of assistance. Of course, this economic development may also help to realize a global difference principle.

For example, if the multi-country thematic programme that seeks to promote economic development succeeds in encouraging development in the developing world, then it may improve the expectations and conditions of the globally least advantaged. Similar comments apply to programmes that seek to promote human development, which the New Zealand Aid Programme believes is encouraged by improving education and health services.[705]

However, when considering if these non-country programmes would help to realize a global difference principle, we have to discover the countries the programmes take place in to see if these countries are likely to include some of the globally least advantaged. While the figures in the previous table do not detail where all the non-country programme money is distributed, they still suggest that the non-country programmes have less of a Pacific focus than the country programmes. Other figures support this suggestion. We have already seen that in the 2011/2012 financial year, Pacific country programmes took up 77% of contributions to country programmes, while OECD figures for 2012 show that "only" 51% of New Zealand's total ODA explicitly distributed to the Pacific. This suggests a low percentage of non-country programme money distributed to the Pacific, and leaves open the possibility that the rest of this money goes towards poorly performing LDCs that we generally do not find in the Pacific. However, when we inspect the figures more closely we find this does not appear to be the case.

We already saw that New Zealand distributed 120.5 million New Zealand dollars of country programme money to the LDCs in the financial year 2011/2012, with most of these LDCs being the better performing ones. In 2012, according to OECD figures, the dollar amount from all New Zealand's ODA programmes that went to LDCs was 118.35 million

[704] For example, Seymour Martin Lipset, 'Some Social Requisites of Democracy: Economic Development and Political Legitimacy', in *The American Political Science Review*, Vol. 53, No. 1 (March 1959), pp. 69-105, Stable URL: http://www.jstor.org/stable/1951731.
[705] New Zealand Aid Programme, 'Human Development and Governance Programme', URL: http://www.aid.govt.nz/about-aid-programme/how-we-work/policies-and-priorities/promoting-human-development/human-developmen, (accessed 9 December 2014).

(US current prices) out of a total 449.14 million given.[706] Comparing these numbers suggests, even when adjusting for the exchange rate, that most of the ODA that New Zealand distributes to the LDCs comes from its country programmes. The small amount of non-country programme money, 7 million New Zealand dollars, that Africa receives, also suggests this.[707]

Along with reducing the possibility that New Zealand's ODA will help to realize a global difference principle, the small amount of money that New Zealand distributes towards the LDCs also represents another broken promise. We saw in the ninth chapter that developed countries, including New Zealand, have pledged to give 0.15% to 0.2% of GNP in ODA to the LDCs. Figures from the UN show that in 2011 New Zealand only gave 0.08%.[708]

New Zealand also gives a small amount of its resources to multilateral programmes. Before seeing why this reduces the ability of the programme to realize a global difference principle, let us discover exactly how much ODA New Zealand gives to multilateral programmes.

One might think that all of the non-country programmes are multilateral because the New Zealand Aid Programme classifies its country programmes as its bilateral aid, but a number of New Zealand's non-country programmes are clearly bilateral. For example, the New Zealand government controls the New Zealand Partnership for International Development fund, with the programme's stated aim being, "to harness the expertise and innovation of New Zealand charitable, other not-for-profit, private sector and state sector organisations in the delivery of aid activities in developing countries."[709]

New Zealand's contribution to the Association of South East Asian Nations (ASEAN) might appear to be multilateral because the members of ASEAN are governments. However, when the New Zealand Aid Programme discusses its four ASEAN "flagship" programmes (Disaster Risk Management, New Zealand-ASEAN scholars, Agricultural Diplomacy, and the Young Business Leaders initiative) it says, "new bilateral and regional activities are under development for all four flagships."[710] This suggests that a good deal of funds provided for these programmes are bilateral in nature.

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[706] QWIDS.
[707] Thirty-four of the 48 LDCs are in Africa. A number of these are poorly performing LDCs like Somalia. UN-OHRLLS, 'About LDCs'.
[708] UN, 'Net ODA to LDCs as percentage of OECD/DAC donors GNI'.
[709] New Zealand Aid Programme, 'New Zealand Partnerships for International Development Fund: Summary Guidelines', (6 August 2012), p. 2, URL: http://www.aid.govt.nz/webfm_send/293, (accessed 9 December 2014).
[710] New Zealand Aid Programme, 'ASEAN regional', URL: http://www.aid.govt.nz/where-we-work/asia/asean-regional, (accessed 9 December 2014).

If we look at the previous table of non-country programme disbursements, the only money that goes to the non-country programmes that we can classify as multilateral may be the 94.5 million New Zealand dollars given to multilateral agencies, and the 19.5 million given to Pacific regional agencies. This represents around 21% of the 535.5 million New Zealand dollars given in the 2011/12 financial year. This is similar to OECD figures for 2011, which show that New Zealand gave 94.55 million dollars (US current prices) to multilateral agencies, which is around 22% of the ODA New Zealand gave that year.[711]

Even without studying empirical research, one might be concerned with the large majority of New Zealand's ODA being bilateral. This is because one might expect bilateral aid, whose disbursement is under the control of one government, would likely reflect the interests of the donor and be less likely to reflect the interests of the recipient. In comparison, an intergovernmental body determines multilateral aid's disbursement. Common sense suggests that this may lead to a situation where the conflicting interests of donors cancel each other out, leaving room for the interests of the recipient to have more of a role.[712]

If we look to empirical research, we find evidence backs up common sense with some exceptions. Starting with an exception, we can note Neumayer found, in contradiction to a number of other empirical studies, "there is only weak and somewhat ambiguous evidence that multilateral food aid allocation is actually more sensitive to recipient need [than bilateral food allocation]."[713] However, he also found this, "stands in contrast to the allocation of general ODA".[714] This latter finding matches Craig Burnside and David Dollar's empirical investigations, which found, "Not surprisingly, the donor interest variables are more important for bilateral than multilateral aid."[715]

While Rawls was open to the possibility that certain policies could be in everyone's interests, he also acknowledged the obvious fact that some policies are in the interests of some groups and not in the interests of others. We can note it is likely that policies that reflect the interests of wealthy donors but do not reflect recipient need are in this latter category; serving the interests of wealthy donors but not improving the expectations of the globally least advantaged and thereby helping to realize a global difference principle. Policies that respond to recipient needs are more likely to improve the expectations of receiving social

[711] QWIDS.
[712] For an example see, 'Roles of Bilateral and Multilateral Aid in Economic Growth of Developing Countries' in *Kyklos*, Vol. 56, (February2003), p. 97, DOI: 10.1111/1467-6435.00211.
[713] Neumayer, 'Is the Allocation of Food Aid Free from Donor Interest Bias?', p. 398.
[714] Ibid, p. 408.
[715] Craig Burnside and David Dollar, 'Aid, Policies, and Growth', in *The American Economic Review*, Vol. 90, No. 4, (September 2000), p. 863, Stable URL: http://www.jstor.org/stable/117311.

primary goods among the globally least advantaged, so can be a step to realizing a global difference principle. Given recipient need is more likely to influence the distribution of multilateral ODA, this gives us a Rawlsian reason to favour New Zealand directing more ODA through this channel.

Exactly what the New Zealand public would make of this recommendation, and how this affects its realism, is not clear due to a lack of data on the topic. However, there is data that suggests there is public support for, and therefore some realism in, two of the other related policy recommendations made in this chapter, viz. that New Zealand should give more ODA in percentage of GNP terms, and that New Zealand should focus its ODA more on the globally least advantaged rather than the Pacific.

New Zealand Public Opinion on ODA

In 2007, UMR Research[716], with funding from the New Zealand government and the Council for International Development[717], surveyed the opinions of New Zealanders on overseas aid.[718] Among the questions UMR research asked respondents was:

> If additional New Zealand Government funding was made available for overseas aid do you think it should go where people are in the greatest need of help no matter where that is or should it go to people in need in the Pacific region? [719]

Sixty-nine per cent responded that the additional funding should go to those in the greatest need, 25% responded that the funding should go to the Pacific region, 2% were unsure, 2% said neither, and 2% said both.[720] Now, those in the greatest need in the world will likely be,

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[716] UMR Research describes itself as, "a full-service market research and evaluation company specialising in corporate reputation, issue management, policy, evaluation, [and] social and rural research." 'What we do', URL: http://umr.co.nz/what-we-do, (accessed 9 December 2014).

[717] A statement from the CID website indicates the nature of the organization:

> The Council for International Development (CID) is the national umbrella agency of international development organisations based in Aotearoa New Zealand. CID was formed in 1985 by a small group of development NGOs and aid agencies to coordinate some activities and present a single voice on issues of common concern. Today CID represents over 50 members, from small community based organisations to large international NGOs. CID is governed by a board made up of member organisations.

The Council for International Development, 'About CID', URL: http://www.cid.org.nz/about-2/about-cid/, (accessed 9 December 2014).

[718] UMR Research, *Overseas Aid: A Qualitative and Quantitative Study*, (July 2007), http://www.cid.org.nz/assets/CID-Resources/Policy-position-and-discussion/UMRStudycorrected2007.pdf, (accessed 9 December 2014).

[719] UMR Research, *Overseas Aid: A Qualitative and Quantitative Study*, [Supplementary Tables], (July 2007), p. 9, URL: http://www.oecd.org/dev/communicationanddevelopment/39430074.pdf, (accessed 9 December 2014).

[720] Ibid.

"persons whose family and class origins are more disadvantaged than others, whose natural endowments (as realized) permit them to fare less well, and whose fortune and luck in the course of life turn out to be less happy".[721] This suggests they are likely to be among the globally least advantaged. This gives indirect public support for the recommendation that New Zealand should focus ODA more on the globally least advantaged rather than the Pacific.

The New Zealand public is also open to the idea of giving more ODA in percentage of GNP terms. When respondents were given the statement, "The OECD recommends each Government provide 0.7% of their country's GNI for overseas aid. GNI is the value of all the goods and services in the economy" and then asked, "Do you think the New Zealand Government should meet this target?" Sixty three per cent said yes, 25% said no, 9% said unsure, and 3% said depends.[722] Then the questioners gave the respondents more contextual information. Namely:

> The amount the New Zealand Government currently spends on overseas aid is 0.3% of our Gross National Income. That comes to around $429 million. The Government has made a commitment to reach the 0.7% Target by 2015. Some European countries have met or exceeded this target.[723]

The questioners then asked the respondents, "If New Zealand were to meet this target by annual increases, would you support or oppose this?"[724] Support stayed the same, 63%, but opposition grew to 29%, with other responses about the same.[725] Then the questioners explained that increasing ODA to 0.7 % of GNI would mean giving around 1 billion dollars, while the government's annual budget on health was 10 billion, on the unemployment benefit was 615 million, and on early education was 619 million. This induced a drop in support and a rise in opposition, but support was still in the majority at 54%, with opposition at 37%, and other responses remaining about the same.[726]

Exactly how we should interpret these changing figures is a difficult question. An opponent of ODA might suggest that these figures show that the more information we give people, the more they oppose ODA. The critic might then suggest that if we gave the people

[721] Ibid, revised edition, § 16, p. 83.
[722] Ibid, p. 24.
[723] Ibid. In 2007 the New Zealand government gave 0.27% of GNI in ODA, so if one says it gave 0.3%, one must be rounding up. QWIDS.
[724] UMR Research, *Overseas Aid: A Qualitative and Quantitative Study*, (July 2007), p. 25.
[725] Ibid. Four per cent of respondents were unsure, 3% said depends, and 1% said they neither supported nor opposed.
[726] Ibid, p. 26. Five per cent said unsure, 3% said depends, and 1% said they neither supported nor opposed.

enough information, eventually a majority would oppose ODA. Then the critic could conclude that this makes increasing ODA an unrealistic policy. In response, we can note this is a speculative position. We can also respond, if for argument's sake we too become speculative, by suggesting that if respondents learnt not only of New Zealand's commitment to give 0.7% by 2015, but also of its numerous commitments over decades to reach the 0.7% goal, and its failure to do so, this would lead to more respondents supporting an increase in ODA.[727]

The critic might give a different response and note that if the government were to increase ODA in percentage of GNP terms, there would probably have to be either a rise in taxes or a shift in tax revenues from expenditure in New Zealand to expenditure outside New Zealand. The critic could argue that once this happened, the popularity of ODA would drop dramatically and this would force the government to reduce ODA in percentage of GNP terms. In reply, we can note that in countries where governments have raised the amount of ODA they give in percentage of GNP terms, there has not been such a public backlash that governments have been forced to reverse this increase.

The critic of ODA could respond by taking a different tack and point out that the survey occurred in 2007, when the global financial crisis and subsequent recession was only beginning to emerge. The critic could then suggest the New Zealand public would now be against raising ODA levels, as the effects of the recession are still ongoing. However, we could note that countries who give high levels of ODA have been able to maintain these levels during the global financial crisis and subsequent recession.[728]

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[727] An interesting question surveyors did not ask respondents was what percentage of the budget went to aid. In an American survey respondents were asked, "Just based on what you know, please tell me your hunch about what percentage of the federal budget goes to foreign aid. You can answer in fractions of percentage points as well as whole percentage points." The median response to the question was 25%. The follow up question was, "What do you think would be an appropriate percentage of the federal budget to go to foreign aid, if any?" The median response was 10%. The actual percentage of the American federal budget that goes to foreign aid is around 1%. If questioners asked New Zealanders the same question about core Crown expenses and if New Zealanders gave answers which also overestimated the amount given, and the surveyors then told them that ODA made up 0.74% of core Crown expenses, one can speculate that this would have led to increased support for ODA. World Public Opinion, 'American Public Vastly Overestimates Amount U.S. Foreign Aid', (29 November 2010), URL: http://www.worldpublicopinion.org/pipa/articles/brunitedstatescanadara/670.php, (accessed 9 December 2014). The Treasury, *Budget Economic and Fiscal Update 2013*, (Wellington: The Treasury, 2013), pp. 115, 118, also available at Persistent URL: http://purl.oclc.org/nzt/b-1544. Core Crown expenses for 2012 were 69,076 million New Zealand dollars with official development assistance making up 510 million of this.

[728] QWIDS. Another reason for thinking that New Zealanders would not oppose increasing the amount of ODA given in percentage of GNP terms is that there is evidence that the recession in New Zealand is ending with the employment rate increasing and the unemployment rate decreasing. Statistics New Zealand, 'Household Labour Survey: September 2013 quarter', (6 November 2013), URL: http://www.stats.govt.nz/~/media/Statistics/Browse%20for%20stats/HouseholdLabourForceSurvey/HOTPSep13qtr/HouseholdLabourForceSurveySep13qtrHOTP.pdf, (accessed 9 December 2014).

Of course, we cannot be sure of how New Zealanders would react to the government increasing the amount of ODA it gives to 0.7% of GNP. The only way we will know for sure is if the New Zealand government finally fulfils its numerous pledges to do so.

Conclusion

This chapter has investigated New Zealand's distinctive ODA programme from a Rawlsian point of view, with a focus on what role the programme has had, what role it does have, and what role it could have in helping to realizing a global difference principle. A number of the conclusions drawn in this regard have been negative. Historically the programme seems unlikely to have had much role in realizing a global difference principle. The same is true of the current programme, which, like many previous incarnations of the programme, is a small programme that focuses on bilateral ODA to relatively wealthy developing states in the Pacific.

However, the chapter also had some positive findings. It found there was justification in New Zealand giving financial support to its former colonies, the Cook Islands, Niue, Samoa, and Tokelau. It also found that the level of financial support New Zealand currently provides is comparable, and in some cases more generous than what other countries provide to their overseas territories. The chapter argued, however, that due to their constitutional relationship with New Zealand, the New Zealand government should not classify the financial support it gives to the Cook Islands, Niue, and Tokelau as ODA.

The last conclusion drawn in the chapter was positive. This conclusion was that two of the policy recommendations argued for in this chapter, that New Zealand should give more ODA in percentage of GNP terms, and that New Zealand should focus this ODA more on improving the expectations and conditions of the globally least advantaged, has support among the New Zealand public. This means these utopian recommendations have realism.

This comment on the realism of some of the recommendations the thesis makes, brings to an end the third part of the thesis, and the topic-based chapters. In the concluding chapter, I will restate my findings from this and previous chapters, and then end with a peroration.

Chapter 12: Conclusion

In the previous chapters we have seen how there is justification for a Rawlsian inspired cosmopolitan view of the world, and how this view applies to New Zealand.

In order to set up our Rawlsian view of the world we had to interpret a great deal of Rawls's theory, starting with his domestic theory of justice, and working our way up to a global theory of justice based on Rawls's views, this process occupied the first part of the thesis. This process began in the second chapter where I introduced Rawls's distinction between ideal and nonideal theory, and his domestic model and the principles of justice he derived from it. In this chapter, I argued that the main justification for the model and principles was that virtually all humans possess the potential to develop the two moral powers. I also briefly presented Rawls's arguments that his principles were superior to perfectionist and intuitionist principles. My final argument in this chapter was that the version of egalitarianism argued for by Rawls was superior to stricter forms of egalitarianism proposed by Nielsen and Cohen.

In the third chapter, I introduced Rawls's international model, starting with his taxonomy of polities. The chapter then moved on to the international principles of justice Rawls derived from this model, and added to the literature by building on Alyssa R. Bernstein's argument that this was an interpretive process that did not consider other principles than the eight listed by Rawls.

An argument for a principle not found in this list, a global difference principle focused on persons, started in earnest in the fourth chapter. In making this argument, I argued that if we accept the domestic difference principle because of the equal moral worth of persons, which is due to them possessing the potential to develop the two moral powers, then we should also accept the global difference principle. After this, the chapter responded to a number of arguments made against the principle by Nagel, Freeman, Pettit, and, ironically, Rawls.

In the fifth chapter, we saw Rawls's argument against the global difference principle was not entirely negative. He believed he had identified a principle that could act as a replacement, the duty of assistance. The chapter showed that this position is mistaken because, as is argued by Hinsch, we can and should have both principles. This is a reflection

of the domestic situation where we have the difference principle and the just savings principle. We could discover this reflection by noting a number of similarities between the just savings principle and the duty of assistance, both of which are about the creation and preservation of institutions which help to protect certain liberties. These similarities had been hitherto been largely neglected by other commentators.

While the fifth and the previous three chapters that made up the first part of the thesis mainly focused on a number of conceptual issues in ideal theory, the second part of the thesis investigated the more empirical, nonideal theory issues of realizing principles of global justice. This started in the sixth chapter that looked at Rawls's empirical claim that the causes of wealth and well-orderliness are largely internal to nations, which if true would undermine the idea that the duty of assistance and the global difference principle were realizable principles of justice. It was concluded that Rawls's empirical claim, labelled by Pogge as "explanatory nationalism", was often false and that we can see this in how international factors, like how governments sell natural resources on the international market, can have an effect on economic performance and well-orderliness. I then argued that even when explanatory nationalism was true, this did not necessarily mean in these instances we could hold the persons who make up nations responsible for their countries' economic performance. In disagreement with Miller, I argued this was especially true in the case of non-liberal societies.

In the seventh chapter, I argued that testing of ODA using randomized evaluations, along with other sources of evidence, provided reasons to believe that, via poverty reduction and other means, ODA can be effective in helping to realize a global difference principle. However, economists and others in development circles often suggest trade would be more effective in reducing poverty. If true, this could mean trade would be more effective at realizing a global difference principle. Therefore, the eighth chapter considered this policy in both its free and fair forms.

Despite its prominence, theorists on global justice have largely neglected the issue of free trade. After reviewing free trade, and the arguments made in favour of it by Tesón and Klick, I concluded there were reasons to believe free trade could improve the condition of the globally least advantaged, but that we should not pursue the policy in isolation, and that ODA can assist free trade. I also concluded that Tesón and Klick's argument in favour of free trade

on the basis that free trade is not coercive, had neglected to acknowledge that free trade sometimes requires coercion.

I closed this chapter by considering fair trade. I noted that it was more of a social movement than a school of thought, and suggested trade is fair when it improves the situation of the globally least advantaged.

In the ninth chapter, I had a discussion of promises. While a discussion of promises may seem removed from questions about governmental policy, I argued that it is relevant in part because the various commitments developed countries have made in relation to ODA amount to promises. This discussion of promises ended the second part of the thesis.

The third part of thesis was composed of chapters ten and eleven, and looked at the nonideal theory issue of how a particular developed country, New Zealand, could realize certain principles of global justice discussed in the previous two parts of the thesis. This started in the tenth chapter which looked at how New Zealand via its history of colonialism, had not respected one of Rawls's international principles of justice, the freedom and independence of peoples principle. Along with detailed discussion of the principle, the chapter's discussion of New Zealand's colonialism led to an investigation of a neglected issue in Rawlsian theory, how to view small polities. The discussion of New Zealand's history of colonialism also tied into how New Zealand might be able to help realize a global difference principle via its ODA programme, because this history clearly led to the programme. The final topic-based chapter of this thesis, the eleventh chapter, explored this and other aspects of the programme.

Much of the eleventh chapter was dedicated to empirical investigation, but the normative framework established in previous chapters acted as a guide to this investigation and enabled us to come to a number of normative conclusions. Among these conclusions were that; the low levels of aid giving, the strong focus on the Pacific, and the mainly bilateral nature of the programme, could not be morally justified; and consequently New Zealand should change these aspects of the programme. These conclusions were the last ones made in the third part of thesis, and brought the topic-based chapters of the thesis to an end.

Now that we have nearly reached the end of the thesis, what can I say as a final note? Rawls would often end his work, which contained its fair share of dry prose, with dramatic, almost poetic, language. At the end of the book version of *LoP*, he wrote:

> If a reasonably just Society of Peoples whose members subordinate their power to reasonable aims is not possible, and humans are largely amoral, if not incurably cynical and self-centered, one might ask, with Kant, whether it is worthwhile for human beings to live on the earth.[729]

The essay version of *LoP* ends in a similarly bleak fashion, with Rawls writing that when it comes to clashes between expansionist religious societies "there is no peaceful solution … except the domination of one side or the peace of exhaustion."[730] Both the original and revised versions of *ToJ* end on a more optimistic note, even if there is a touch of uncertainty:

> [T]o see our place in society from the perspective of this [original] position is to see it *sub specie aeternitatis*: it is to regard the human situation not only from all social but also from all temporal points of view. The perspective of eternity is not a perspective from a certain place beyond the world, nor the point of view of a transcendent being; rather it is a certain form of thought and feeling that rational persons can adopt within the world. And having done so, they can, whatever their generation, bring together into one scheme all individual perspectives and arrive together at regulative principles that can be affirmed by everyone as he [and she] lives by them, each from his [and her] own standpoint. Purity of heart, if one could attain it, would be to see clearly and to act with grace and self-command from this point of view.[731]

The evidence gathered and the arguments made in this thesis show there are more grounds for optimism than pessimism when it comes to certain questions we ask from the point of view of global justice. That is not to say the pessimist is entirely misguided. Considering ongoing injustices, it is natural to have some of the dark thoughts you sometimes find in Rawls's work.[732] However, if one takes the philosophical and historical viewpoint I have taken in this thesis, one can see the reality of progress, and the possibility of a just world.

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[729] Rawls, *LoP*, § 18.3, p. 128.
[730] Rawls, 'The Law of Peoples', § 8.4, p. 68. Rawls makes a similar remark in the book version of *LoP*, but extends the remark to cover all expansionist societies. *LoP*, § 17.2, p. 123.
[731] Rawls, *ToJ*, § 87, p. 587/514. This passage appears to jar with the Rawlsian idea that the original position gives us a view of how we should shape institutions that make up the basic structure of society rather than how we should shape our individual behaviour. However, Rawls might say that for an individual to act from this point of view would mean the individual supporting the institutions that make up the basic structure.
[732] At one point in *LoP*, in presenting a false dichotomy, Rawls asserts that the alternative to The Law of Peoples, an alternative he does not rule out, is, "a fatalistic cynicism which conceives the good of life solely in terms of power." § 9.3, p. 78.

Acronyms

AGOA……..African Growth and Opportunity Act (United States)

ANZUS…….Australia, New Zealand, United States Security Treaty

ASEAN……..Association of East Asian Nations

CIA…….Central Intelligence Agency (United States)

CID……Council for International Development (New Zealand)

DAC…….Development Assistance Committee (OECD)

DAG……Development Assistance Group (OECD)

DESA……Department for Economic and Social Affairs (United Nations)

DI……..Donor Interest

DOI…….Digital Objector Identifier

EU……..European Union

EVI……...Economic Vulnerability Index

GATS……..General Agreement on Trade in Services

GATT……..General Agreement on Tariffs and Trade

GDP……...Gross Domestic Product

GG……...Good Governance

GNI……..Gross National Income

GNP……Gross National Product

HAI…….Human Assets Index

IEA……..International Energy Agency (OECD)

LDCs…….Least Developed Countries

MDGs……...Millennium Development Goals

MFAT…….Ministry of Foreign Affairs and Trade (New Zealand)

MIRAB……..Migration, Remittances, Aid, and Bureaucracy

NSGT……...Non-Self-Governing Territory

NZAID…….New Zealand Agency for International Development

NZMCH…… ……...New Zealand Ministry of Culture and Heritage

ODA……Official Development Assistance

OECD……Organisation for Economic Co-operation and Development

OEEC…….Organisation for European Economic Co-operation

OOF…….Other Official Flows

LoP……*The Law of Peoples*

PL…….*Political Liberalism*

PPP……Purchasing Power Parity

PRISM……...Pacific Regional Information System (Secretariat of South Pacific Community)

QWIDS……..Query Wizard for International Development Statistics (OECD)

RN……Recipient Need

SIDS……....Small Island Developing State

ToJ…….……*A Theory of Justice*

UN……....United Nations

UNCTAD…….United Nations Conference on Trade and Development

UN-OHRLLS……**.....**United Nations' Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States

URL……...Uniform Resource Locator

WB ……...World Bank

WHO…….World Health Organization

WTO…….....World Trade Organization

Polynesian Words and Terms

Are Ariki……Cook Islands' House of Hereditary Chiefs

Ariki…….……Cook Islands High Chief

Faipule……Tokelauan Elected Administrator

Fautua……...Office held by an Influential Samoan Appointed by German Authorities

Fono……Chiefly Council (Niue)

General *Fono*……National Assembly (Tokelau)

Inati…….…Tokelauan Equal Sharing System

Koutu Nui…….Cook Islands' Parliamentary Group of Sub-Chiefs

Matai……...Head of Samoan Household (usually male)

Mataiapo……...Cook Islands Chief

Mau…….Samoan Autonomy Movement

Patu-iki…….Niuean Leadership Position (sometimes referred to as King)

Pulenuku……..Tokelauan Mayor

Rangatira……..Chief or Low Chief

Tama'āiga……Influential Samoans

Bibliography

Books:

Auty, Richard M., *Sustainable Development in Mineral Economies: The resource curse thesis*, (London: Routledge, 1993).

Barrett, Christopher B.; and Maxwell, Daniel G., *Food Aid After Fifty Years: Recasting its Role*, (Abingdon, Oxon: Routledge, 2005).

Beitz, Charles R., *Political Theory and International Relations*, (Princeton: Princeton University Press, 1979).

—, *Political Theory and International Relations: With a new afterword by the author*, (Princeton: Princeton University Press, 1999)

Brierly, J. L., *The Law of Nations*, (sixth edition), (Oxford University Press, 1963).

Chapman, Terry, *The Decolonisation of Niue*, (Wellington: Victoria University Press, 1976).

Cohen, G. A., *Rescuing Justice and Equality*, (Harvard: Harvard University Press, 2008),

Commission on International Development, *Partners in Development*, (London: Pall Mall Press, 1970).

Davidson, J. W., *Samoa mo Samoa* [Samoa for Samoa]*: the emergence of the independent state of Western Samoa*, (Oxford: Oxford University Press, 1967), Permanent URL: http://hdl.handle.net/2027/heb.03584.0001.001.

Davis, Jr., James W., *Threats and Promises: The Pursuit of International Influence*, (Baltimore: John Hopkins University Press, 2000).

Docker, Edward Wybergh, *The Blackbirders: The Recruiting of South Seas Labour for Queensland, 1863-1907*, (Sydney: Angus & Robertson Ltd, 1970).

Easterly, William, *The White Man's Burden: Why the West's Efforts to Aid the Rest of the World Have Done So Much Ill and So Little Good*, (London: Penguin Books, 2006).

Field, Michael J., *Mau: Samoa's Struggle for Freedom*, (Auckland: Pasifika Press, 2008).

Gilson, Richard, in Ron Crocombe ed., *The Cook Islands 1820-1950*, (Wellington: Victoria University Press, 1991).

Horne, Donald, *The Lucky Country: Australia in the sixties*, (Harmondsworth, Middlesex: Penguin, 1964).

Kant, Immanuel, *The Critique of Practical Reason*, (Thomas Kingsmill Abbott trans.), (fifth edition), (London: Longmans, Green, and Co. 1898 [1788]), also available at URL: http://files.libertyfund.org/files/360/0212_Bk.pdf, (accessed 9 December 2014).

Landes, David, *The Wealth and Poverty of Nations*, (London: Little, Brown and Company, 1998).

Macdonald, Barrie, *In Pursuit of the Sacred Trust: Trusteeship and Independence in Nauru*, (Wellington: Victoria University of Wellington, 1988).

Maude, Henry Evans, *Slavers in Paradise: The Peruvian Slave Trade in Polynesia, 1862-1864*, (Canberra: Australian National University Press, 1981).

McQuarrie, Peter, *Tokelau: People, Atolls and History*, (Wellington: Peter McQuarrie, 2007).

Meleisea, Malama, *The Making of Modern Samoa: Traditional Authority and Colonial Administration in the Modern History of Western Samoa*, (Suva, Fiji: Institute of Pacific Studies of the University of the South Pacific, 1987).

Mill, John Stuart, *Considerations on Representative Government*, 1861, URL: http://www.gutenberg.org/files/5669/5669-h/5669-h.htm, (accessed 9 December 2014).

Morrell, W. P., *Britain in the Pacific Islands*, (Oxford: Clarendon Press, 1960).

Moyo, Dambisa, *Dead Aid: Why Aid is not working and how there is a Better Way for Africa*, (Vancouver: Douglas & McIntyre, 2009).

Murphy, Liam B., *Moral Demands in Nonideal Theory*, (Oxford: Oxford University Press, 2000).

Nielsen, Kai, *Equality and Liberty: A Defense of Radical Egalitarianism*, (Totowa, N.J.: Rowman and Allanheld, 1985).

Neumayer, Eric, *The Pattern of Aid Giving: The impact of good governance on development assistance*, (London: Routledge, 2003).

Pogge, Thomas, *World Poverty and Human Rights*, (second edition), (Cambridge: Polity Press, 2008).

Rawls, John, in Erin Kelly ed., *Justice as Fairness: A Restatement*, (Cambridge, Massachusetts: Harvard University Press, 2001).

—, *The Law of Peoples, with "The Idea of Public Reason Revisited"*, (Cambridge, Massachusetts: Harvard University Press, 2002 [1999]).

—, *Political Liberalism*, (expanded edition), (New York: Columbia University Press, 2005).

—, *A Theory of Justice*, (Cambridge, Massachusetts: Harvard University Press, 2005 [1971]).

—, *A Theory of Justice*, (revised edition), (Cambridge, Massachusetts: Harvard University Press, 1999).

Sachs, Jeffrey, *Common Wealth: Economics for a Crowded Planet*, (London: Penguin Books: 2008).

—, *The End of Poverty: Economic Possibilities for Our Time*, (New York: The Penguin Press, 2005).

Sahlins, Marshall D., *Social Stratification in Polynesia*, (Seattle: University of Washington, 1958).

Scanlon, Thomas, *What We Owe to Each Other*, (Cambridge, Massachusetts: Harvard University Press, 1999).

Scheffler, Samuel, *The Rejection of Consequentialism: A Philosophical Investigation of the Considerations Underlying Rival Moral Conceptions*, (Oxford: Oxford University Press, 1994).

Scott, Dick, *Years of the Pooh-Bah: A Cook Islands History*, (Rarotonga: Cook Islands Trading Corporation Limited, 1991).

Stiglitz, Joseph E., and Charlton, Andrew, *Fair Trade For All: How Trade Can Promote Development*, (Oxford: Oxford University Press, 2005).

Thomson, Basil C., *Savage Island: An Account of a Sojourn in Niue and Tonga*, (Auckland: R. McMillan, 1984 [1902]), also available at URL: http://nzetc.victoria.ac.nz/tm/scholarly/tei-ThoSava-t1-front-d1.html, (accessed 9 December 2014).

Book Chapters:

Angelo, Tony, 'Tokelau', in Steven Levine ed., *Pacific Ways: Government and Politics in the Pacific Islands*, (Wellington: Victoria University Press, 2009), pp. 221-225.

Banerjee, Abhijit; and He, Ruimin, 'Making Aid Work', in William Easterly ed., *Reinventing Foreign Aid*, (Cambridge, Massachusetts: The MIT Press, 2008), pp. 47-92.

Boucher, David, 'Uniting What Right Permits with What Interest Prescribes: Rawls's Law of Peoples in Context', in Rex Martin and David A. Reidy (eds.), *Rawls's Law of Peoples: A Realistic Utopia?*, (Malden, MA: Blackwell Publishing, 2006), pp. 19-37.

Caney, Simon, 'Cosmopolitanism and Justice' in *Contemporary Debates in Political Philosophy*, Thomas Christiano and John Christman (eds.), (West Sussex: Blackwell Publishing Ltd, 2009), pp. 387-407.

Chapman, Terry, 'Modern Times', in *Niue: A History of the Island*, (Suva, Fiji; Alofi, Niue: Institute of Pacific Affairs; University of the South Pacific, 1982), pp. 133-139.

Debreceny, Roger S., 'New Zealand Development Assistance and the Pacific' in Roderic Alley ed., *New Zealand and the Pacific*, (Boulder, Colorado: Westview Press, 1984), pp. 207-220.

Duflo, Esther, and Kremer, Michael, 'Use of Randomization in the Evaluation of Development Effectiveness', in *Reinventing Foreign Aid*, pp. 93-120.

Easterly, William, 'Introduction: Can't Take It Anymore?', in *Reinventing Foreign Aid*, pp. 1-43.

Freeman, Samuel, 'Distributive Justice and *The Law of Peoples*', in *Rawls's Law of Peoples: A Realistic Utopia?*, pp. 243-260.

Haber, Stephen, 'Authoritarian Government', in Barry Weingast and Donald Wittman (eds.), *The Oxford Handbook of Political Economy*, (Oxford: Oxford University Press, 2006), pp. 693-707.

Jonassen, Jon Tikivanotau M., 'Cook Islands', in *Pacific Ways*, pp. 35-45.

Kennaway, Richard, 'Foreign Policy', in Ray Goldstein and Roderic Alley eds., *Labour in Power – Promise and Performance: Evaluations of the work of the New Zealand Government from 1972 to 1975*, (Wellington: New Zealand University Press, 1975), pp. 161-172.

Miller, David, 'Collective Responsibility and International Inequality', in *Rawls's Law of Peoples: A Realistic Utopia?*, pp. 191-205.

Parfit, Derek, 'Equality or Priority' in *The Ideal of Equality*, (eds.) Matthew Clayton and Andrew Williams, (New York: Palgrave, 2002), pp. 81-125.

Pettit, Philip, 'Rawls's Peoples', in *Rawls's Law of Peoples: A Realistic Utopia?*, pp. 38-55.

Pogge, Thomas, '"Assisting" the global poor', in Deen K. Chatterjee (ed.), *The Ethics of Assistance: Morality and the Distant Needy*, (Cambridge: Cambridge University Press, 2004), pp. 260-288.

—, 'Do Rawls's Two Theories of Justice Fit Together?', in *Rawls's Law of Peoples: A Realistic Utopia?*, pp. 206-225.

Prichard, H. A., 'The Obligation to Keep a Promise', (c. 1940), in *Moral Writings*, Jim McAdams ed., (Oxford: Oxford University Press, [1949] 2002), pp. 257-265, DOI: 10.1093/0199250197.001.0001.

Rex, Leslie, and Vivian, Young, 'The New Zealand Period', in *Niue: A History of the Island*, pp. 127-132.

Tafatu, Ofa, and Tukuitoga, Ianeta Joylyn, 'Developments to Annexation' in *Niue: A History of the Island*, pp. 121-126.

Takelesi, Hima, 'Niue', *Pacific Ways*, pp. 151-160.

Journal Articles:

Anderson, Atholl, 'The Archaeology of Raoul Island (Kermadecs) and Its Place in the Settlement History of Polynesia', in *Archaeology & Physical Anthropology in Oceania*, Vol. 15, No. 3 (October 1980), pp. 131-141, Stable URL: http://www.jstor.org/stable/40386383.

Armstrong, Chris, 'Global justice, positional goods, and international political inequality', in *Ethics & Global Politics*, Vol. 6, No. 2, (2013), pp. 109-116, DOI: http://dx.doi.org/10.3402/egp.v6i2.21313.

Arrow, Kenneth J., 'Some Ordinalist-Utilitarian Notes on Rawls's Theory of Justice', in *The Journal of Philosophy*, Vol. LXX, No. 9, (10 May 1973), pp. 245-263, Stable URL: http://www.jstor.org/stable/2025006.

Audard, Catherine, 'Peace or Justice: Some Remarks on Rawls's Law of Peoples', in *Revue Internationale de Philosophie* [International Journal of Philosophy], Vol. 3, (2006), pp. 301-326, also available at URL: http://www.cairn.info/article.php?ID_ARTICLE=RIP_237_0301, (accessed 9 December 2014).

Banks, Glenn, et al., 'Paddling on One Side of the Canoe?' The Changing Nature of New Zealand's Development Assistance Programme', in *Development Policy Review*, Vol. 30, Issue 2, (March 2012), pp. 169-186, DOI: 10.1111/j.1467-7679.2012.00570.x.

Beetham, David, 'What Future for Social and Economic Rights?', in *Political Studies*, Vol. 43, Issue Supplement 1, (August 1995) pp. 41–60, DOI: 10.1111/j.1467-9248.1995.tb01735.x.

Beitz, Charles R., 'Cosmopolitan Ideals and National Sentiment', in *The Journal of Philosophy*, Vol. 80, No. 10, Eightieth Annual Meeting of the American Philosophical Association, Eastern Division (October 1983), pp. 591-600, Stable URL: http://www.jstor.org/stable/2026155.

—, 'Rawls's Law of Peoples', in *Ethics*, Vol.110, No.4, (July 2000), pp. 669-696, Stable URL: http://www.jstor.org/stable/10.1086/233369.

Bernstein, Alyssa R., 'Kant, Rawls, and Cosmopolitanism: *Toward Perpetual Peace* and *The Law of Peoples*', in *Jahrbuch für Recht und Ethik/ Annual Review of Law and Ethics*, Vol. 17, (2009), pp. 3-52, also available at URL: http://www.philosophy.ohiou.edu/pdf/kantrawlscosmpltnsm2008sept07final1.pdf, (accessed 9 December 2014).

Blakeley, Dr. Roger, 'Global Warming: A Pacific Perspective', in *Transnational Law & Contemporary Problems*, Vol. 2, (Spring 1992), pp. 173-204, also available at URL: http://heinonline.org/HOL/Page?handle=hein.journals/tlcp2&div=12&g_sent=1&collection=journals#183, (accessed 9 December 2014).

Brock, Gillian, 'Recent Work on Rawls's Law of Peoples: Critics versus Defenders' in *American Philosophical Quarterly*, Vol. 47, No. 1, (January 2010), pp. 85-101, Stable URL: http://www.jstor.org/stable/40606904.

Brunnschweiler, C. N.; and Bulte, E. H., 'Linking Natural Resources to Slow Growth and More Conflict', in *Science*, Vol. 320, No. 5876, (2 May 2008), pp. 616-617, also available at URL: http://www.ees.rochester.edu/ees101/PDFs/616.pdf, (accessed 9 December 2014).

Buchanan, Allen, 'Rawls's Law of Peoples: Rules for a Vanished Westphalian World', in *Ethics*, Vol. 110, No. 4 (July 2000), pp. 697-721, Stable URL: http://www.jstor.org/stable/10.1086/233370.

Burnside, Craig; and Dollar, David, 'Aid, Policies, and Growth', in *The American Economic Review*, Vol. 90, No. 4, (September 2000), pp. 847-868, Stable URL: http://www.jstor.org/stable/117311.

Chase-Dunn, Christopher, 'The Effects of International Economic Dependence on Development and Inequality: A Cross National Study' in *American Sociological Review*, Vol. 40, No. 6, (December 1975), pp. 735, Stable URL: http://www.jstor.org/stable/2094176.

Choptiany, Leonard, 'A Critique of John Rawls's Principles of Justice', in *Ethics*, Vol. 83, No. 2, (January 1973), pp. 146-150, Stable URL: http://www.jstor.org/stable/2380099.

Clark, Roger S., 'Self-Determination and Free Association—Should the United Nations Terminate the Pacific Islands Trust?', in *Harvard International Law Journal*, Vol. 21, No. 1, (Winter 1980), pp. 1-86, also available at URL: http://heinonline.org/HOL/Page?handle=hein.journals/hilj21&div=7&g_sent=1&collection=journals#11, (accessed 9 December 2014).

Connell, John, 'Niue: Embracing a Culture of Migration', in *Journal of Ethnic and Migration Studies*, Vol. 34, No. 6, (August 2008), pp. 1020-1041, DOI: 10.1080/13691830802211315.

Cooper, Anthony, 'The MIRAB transition in Fakaofo, Tokelau', in *Pacific Viewpoint*, Vol. 34, No. 2, (1993), pp. 241-264.

Donnelly, Jack, 'Cultural Relativism and Universal Human Rights', in *Human Rights Quarterly*, Vol. 6, No. 4, (November 1984), pp. 400-419, Stable URL: http://www.jstor.org/stable/762182.

English, Jane, 'Justice between Generations', in *Philosophical Studies*, Vol. 31, No. 2, (February 1977), pp. 91-104, Stable URL: http://www.jstor.org/stable/4319117.

Feinberg, Joel, 'Justice, Fairness and Rationality', in *The Yale Law Journal*, Vol. 81, No. 5 (April 1972), pp. 1004-1031, Stable URL: http://www.jstor.org/stable/795158.

Frankfurt, Harry, 'Equality as a Moral Ideal', in *Ethics*, Vol. 98, No. 1, (October 1987), pp. 21-43, Stable URL: http://www.jstor.org/stable/2381290.

Freeman, Samuel, 'The Law of Peoples, Social Cooperation, Human Rights, and Distributive Justice', in *Social Philosophy and Policy*, Vol. 23, No. 1, (Winter 2006), pp. 29-68, DOI: http://dx.doi.org/10.1017/S026505250606002X.

Galston, William A., 'Moral Personality and Liberal Theory: John Rawls's "Dewey Lectures"', in *Political Theory*, Vol. 10, No. 4 (November 1982), pp. 492-519, Stable URL: http://www.jstor.org/stable/190960.

Gauthier, David, 'The Social Contract as Ideology' in *Philosophy & Public Affairs*, Vol. 6, No. 2 (Winter 1977), pp. 130-164, Stable URL: http://www.jstor.org/stable/2264939.

Gibbard, Allan, 'Human Evolution and the Sense of Justice', in *Midwest Studies in Philosophy*, Vol. 7, Issue 1, (September 1982), pp. 31-46, DOI: 10.1111/j.1475-4975.1982.tb00082.x.

Harsanyi, John C., 'Can the Maximin Principle Serve as a Basis for Morality? A Critique of John Rawls's Theory', in *The American Political Science Review*, Vol. 69, No. 2 (June 1975), pp. 594-606, Stable URL: http://www.jstor.org/stable/1959090.

—, 'Cardinal Utility in Welfare Economics and in the Theory of Risk-Taking', in *Journal of Political Economy*, Vol. 61, No. 5, (October 1953), pp. 434-435, Stable URL: http://www.jstor.org/stable/1827289.

Hart, H. L. A., 'Rawls on Liberty and Its Priority', in *University of Chicago Law Review*, Vol. 40, (1972-1973), pp. 534-555, also available at URL: http://heinonline.org/HOL/Page?handle=hein.journals/uclr40&div=33&g_sent=1&collection=journals#548, (accessed 9 December 2014).

Hayek, F. A., 'The Use of Knowledge in Society', in *The American Economic Review*, Volume 35, No. 4, (September 1945), pp. 519-530, Stable URL: http://www.jstor.org/stable/1809376.

Hinsch, Wilfried, 'Global Distributive Justice', in *Metaphilosophy*, Vol. 32, No. 1 and 2, (January 2001) pp. 58-78, DOI: 10.1111/1467-9973.00175.

Kamminga, Menno R., 'Why Global Distributive Justice Cannot Work', in *Acta Politica*, Vol. 41, No. 1, (2006), pp. 21-40, DOI: 10.1057/palgrave.ap.5500136.

Kapstein, Ethan B., 'Distributive Justice and International Trade', in *Ethics & International Affairs*, Vol. 13, (March 1999), pp. 175-204, DOI: http://dx.doi.org/10.1111/j.1747-7093.1999.tb00334.x.

Kim, Hyunseop, 'A Stability Interpretation of Rawls's The Law of Peoples', in *Political Theory*, Published online before print, (6 January 2014), DOI: 10.1177/0090591713516150.

Krugman, Paul R., 'The Narrow and Broad Arguments for Free Trade', in *The American Economic Review*, Vol. 83, No. 2, (May 1993), pp. 362-366, Stable URL: http://www.jstor.org/stable/2117691.

Lafoa'i, Ioane, 'Universal Suffrage in Western Samoa: A Political Review', in *The Journal of Pacific History*, Vol. 26, No. 3 (1991), pp. 67-73, Stable URL: http://www.jstor.org/stable/25169098.

Levine, Steven, 'Niue', in *The Contemporary Pacific*, Vol. 12, No. 1, (Spring 2000), p. 234, DOI: 10.1353/cp.2000.0020.

Lipset, Seymour Martin, 'Some Social Requisites of Democracy: Economic Development and Political Legitimacy', in *The American Political Science Review*, Vol. 53, No. 1 (March 1959), pp. 69-105, Stable URL: http://www.jstor.org/stable/1951731.

McKinlay, R. D; and Little, R., 'A Foreign Policy Model of U.S. Bilateral Aid Allocation', in *World Politics*, Vol. 30, No. 1, (October 1977), pp. 58-86, Stable URL: http://www.jstor.org/stable/2010075.

Miller, David, 'National responsibility and global justice', in *Critical Review of International Social and Political Philosophy*, Vol. 11, No. 4, (December 2008), pp. 383-399, DOI: 10.1080/13698230802415862.

Mills, Charles W., '"Ideal Theory" as Ideology', in *Hypatia*, Vol. 20, No. 3, (Summer 2005), pp. 165-184, Stable URL: http://www.jstor.org/stable/3811121.

Moellendorf, Darrel 'Constructing the Law of Peoples', in *Pacific Philosophical Quarterly*, Vol. 77, (1996), pp. 132-154.

Moore, Geoff, 'The Fair Trade Movement: Parameters, issues and future research', in *Journal of Business Ethics*, Vol. 53, Issues 1-2, (August 2004), pp. 73-86, DOI: 10.1023/B:BUSI.0000039400.57827.c3.

Musgrave, R. A., 'Maximin, Uncertainty, and the Leisure Trade-Off', in *The Quarterly Journal of Economics*, Vol. 88, No. 4, (November 1974), pp. 625-632, Stable URL: http://www.jstor.org/stable/1881826.

Nagel, Thomas, 'The Problem of Global Justice', in *Philosophy and Public Affairs*, Vol. 33, No. 2, (March 2005), pp. 113-147, DOI: 10.1111/j.1088-4963.2005.00027.x.

Neumayer, Eric, 'Do Human Rights Matter in Bilateral Aid Allocation? A Quantitative Analysis of 21 Donor Countries', in *Social Science Quarterly*, Vol. 84, No. 3, (September 2003), pp. 650-666, DOI: 10.1111/1540-6237.8403010.

—, 'Is the Allocation of Food Aid Free from Donor Interest Bias?', in *Journal of Development Studies*, Vol. 41, Issue 3, (April 2005), pp. 394-411, DOI: 10.1080/0022038042000313309.

Nili, Shmuel, 'A Poggean passport for fairness? Why Rawls' Theory of Justice did not become global', in *Ethics and Global Politics*, Vol. 3 No. 4, (September 2010), pp. 289-291, also available at URL: http://www.ethicsandglobalpolitics.net/index.php/egp/article/view/5385, (accessed 9 December 2014).

Østerud, Øyvind; and Selle, Per, 'Power and Democracy in Norway: The Transformation of Norwegian Politics', in *Scandinavian Political Studies*, Vol. 29, No. 1, (2006), pp. 25-46, DOI: 10.1111/j.1467-9477.2006.00140.x.

Pogge, Thomas, 'An Egalitarian Law of Peoples', in *Philosophy & Public Affairs*, Vol. 23, No. 3, (Summer 1994), pp. 195-224, Stable URL: http://www.jstor.org/stable/2265183.

—, 'Priorities of Global Justice', in *Metaphilosophy*, Vol. 32, Nos. 1-2 (January 2001), p.21, DOI: 10.1111/1467-9973.00172.

Prentis Jr., H. W., 'Trade Not Aid', in *Challenge*, Vol. 1, No. 7, (April 1953), pp. 38-45, Stable URL: http://www.jstor.org/stable/40716603.

Quentin-Baxter, Alison, 'The Problems of Islands', in *Victoria University of Wellington Law Review*, Vol. 31, Issue 2, (May 2000), pp. 427-437, also available at URL: http://www.victoria.ac.nz/law/nzacl/PDFS/CLJP_JDCP/Vol%206,%202000/7-%20Quentin-Baxter.pdf, (accessed 9 December 2014).

Ram, Rati, 'Roles of Bilateral and Multilateral Aid in Economic Growth of Developing Countries', in *Kyklos*, Vol. 56, (February 2003), pp. 95-110, DOI: 10.1111/1467-6435.00211.

Rawls, John, 'The Idea of an Overlapping Consensus', in the *Oxford Journal of Legal Studies*, Vol. 7, No. 1 (Spring 1987), pp. 1-25, Stable URL: http://www.jstor.org/stable/764257.

—, 'The Idea of Public Reason Revisited', in *The University of Chicago Law Review*, Vol. 64, No. 3, (Summer 1997), pp. 765-807, Stable URL: http://www.jstor.org/stable/1600311.

—, 'The Law of Peoples', in *Critical Inquiry*, Vol. 20, No. 1, (Autumn 1993), pp. 36-68, Stable URL: http://www.jstor.org/stable/1343947.

—, 'Two Concepts of Rules', in *The Philosophical Review*, Vol. 64, No. 1, (January 1955), pp. 3-32, Stable URL: http://www.jstor.org/stable/2182230.

—, and Van Parijs, Philippe, 'Three letters on The Law of Peoples and the European Union', originally published in French in *Revue de philosophie économique* [Journal of Economic Philosophy],Vol. 7, (2003), pp. 7-20, also available at URL:

http://www.ucl.eu/cps/ucl/doc/etes/documents/2003.RawlsVanParijs.R.Phil.Econ.pdf, (accessed 9 December 2014).

Richards, David, 'International Distributive Justice', in *NOMOS*, Vol. XXIV, (1982), (New York: New York University Press), pp. 275-299.

Scanlon, Thomas, 'Promises and Practices', in *Philosophy & Public Affairs*, Vol. 19, No. 3, (Summer 1990), pp. 199-226, Stable URL: http://www.jstor.org/stable/2265394.

Schmitt, David P., and Allik, Jüri, 'Simultaneous Administration of the Rosenberg Self-Esteem Scale in 53 Nations: Exploring the Universal and Culture-Specific Features of Global Self-Esteem', in *Journal of Personality and Social Psychology*, Vol. 89, No. 4, (2005), pp. 623-642, DOI: 10.1037/0022-3514.89.4.623.

Serjeantson, S. S. W.; Ryan, D. P.; and Thompson, A. R., 'The Colonization of the Pacific: The Story According to Human Leukocyte Antigens' in *American Journal of Human Genetics*, Vol. 34, No. 6, (1982), pp. 904-918, also available at URL: http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1685721/pdf/ajhg00360-0070.pdf, (accessed 9 December 2014).

Singer, Peter, 'Ethics and Intuitions' in *The Journal of Ethics*, Vol. 9, (2005), p. 332, DOI 10.1007/s10892-005-3508-y.

Simmons, A. John, 'Ideal and Nonideal Theory', in *Philosophy & Public Affairs*, Vol. 38, Issue 1, (Winter 2010), pp. 5-36, DOI: 10.1111/j.1088-4963.2009.01172.x.

Smith, Tom W., and Kim, Seokho, 'National Pride in Comparative Perspective: 1995/96 and 2003/04' in *International Journal of Public Opinion Research*, Vol. 18, No. 1, (2006), p. 133, DOI: 10.1093/ijpor/edk007.

Tasioulas, John, 'Global Justice without End?', in *Metaphilosophy*, Vol. 36, Nos. 1/2, (January 2005), pp. 3-29, DOI: 10.1111/j.1467-9973.2005.00354.x.

Tomz, Michael, 'Domestic Audience Costs in International Relations: An Experimental Approach', in *International Organization*, No. 61, (Fall 2007), pp. 821-840, DOI: 10.10170S0020818307070282.

Townend, Andrew, 'Tokelau's 2006 Referendum on Self-government', in *New Zealand Journal of Public and International Law*, Vol. 5, (2007), pp. 121-168, also available at URL: http://heinonline.org/HOL/Page?handle=hein.journals/nzjpubinl5&div=12&g_sent=1&collection=journals, (accessed 9 December 2014).

Tullock, Gordon, 'The Welfare Costs of Tariffs, Monopolies, and Theft', in *Economic Inquiry*, Vol. 5, Issue 3, (June 1967), pp. 224-232, DOI: 10.1111/j.1465-7295.1967.tb01923.x.

Valentini, Laura, 'Coercion and (Global) Justice', in *American Political Science Review*, Vol. 105, No. 1, (February 2011), p. 218, DOI: 10.1017/S0003055410000559.

Wall, Steven, 'Just Savings and the Difference Principle', in *Philosophical Studies*, Vol. 116, No. 1, (October 2003), pp. 79-102, Stable URL: http://www.jstor.org/stable/4321414.

Walter, Richard, 'Settlement Pattern Archaeology in the Southern Cook Islands: A Review', in *The Journal of the Polynesian Society*, Vol. 105, No. 1, (March 1996), pp. 63-99, Stable URL: http://www.jstor.org/stable/20706646.

Wellman, Christopher Heath, 'Reinterpreting Rawls's *Law of Peoples*', in *Social Philosophy and Policy*, Vol. 29, Issue 1, (January 2012), pp. 213-232, DOI: http://dx.doi.org/10.1017/S0265052511000148.

Ypi, Lea L., 'Statist Cosmopolitanism', in *The Journal of Political Philosophy*, Vol. 16, No. 1, (March 2008), p. 48, DOI: 10.1111/j.1467-9760.2008.00308.x.

Zaitchik, Alan, 'On Deserving to Deserve', in *Philosophy & Public Affairs*, Vol. 6, No. 4 (Summer 1977), p. 371.

Other Sources:

Electronic Miscellany

The ACE Electoral Knowledge Network, 'Tokelau Referendum on Self-Government (2007)', URL: http://aceproject.org/today/feature-articles/tokelau-referendum-2007, (accessed 9 December 2014).

Anguilla News, 'Preliminary Data from Anguilla's Census 2011 puts the population at 13,542', 19 June 2012, URL: http://www.anguillanews.com/enews/index.php/permalink/4309.html, (accessed 9 December 2014).

The Chicago Council on Global Affairs and WorldPublicOpinion.org, 'World Public Favors Globalization and Trade but Wants to Protect Environment and Jobs', (25 April 2007), URL: http://www.worldpublicopinion.org/pipa/pdf/apr07/CCGA+_GlobTrade_article.pdf, (accessed 9 December 2014).

The Colombo Plan, 'History', URL: http://www.colombo-plan.org/index.php/about-cps/history, (accessed 9 December 2014).

The Council for International Development, 'About CID', URL: http://www.cid.org.nz/about-2/about-cid/, (accessed 9 December 2014).

Evenett, Simon J., 'Some Tough Love on "Aid for Trade"', (28 November 2005), http://www.econstor.eu/bitstream/10419/41835/1/50453856X.pdf, (accessed 9 December 2014).

Freedom House, 'Freedom in the World 2012: Kiribati', http://www.freedomhouse.org/report/freedom-world/2012/kiribati, (accessed 9 December 2014).

Kaplan, Lawrence, 'Inuit or Eskimo: Which name to use?', URL: http://www.uaf.edu/anlc/resources/inuit-eskimo/, (accessed 9 December 2014).

Secretariat of the Pacific Community, Applied Geoscience and Technology Division, 'Niue', URL: http://www.sopac.org/index.php/member-countries/niue, (accessed 9 December 2014).

Pacific Islands Benthic Habitat Mapping Center, 'American Samoa: Swains Island', (last updated 14 November 2011), URL: http://www.soest.hawaii.edu/pibhmc/pibhmc_amsamoa_swains.htm, (accessed 9 December 2014).

Pacific Islands Forum Secretariat, *Report of the Pacific Islands Forum Election Observer Mission to the April 2010 Nauru General Elections*, (14 May 2010), URL: http://www.forumsec.org/resources/uploads/attachments/documents/Forum_Election_Observer_Report_Nauru_2010.pdf, (accessed 9 December 2014).

UMR Research, 'What we do', URL: http://umr.co.nz/what-we-do, (accessed 9 December 2014).

World Public Opinion, 'American Public Vastly Overestimates Amount U.S. Foreign Aid', (29 November 2010), URL: http://www.worldpublicopinion.org/pipa/articles/brunitedstatescanadara/670.php, (accessed 9 December 2014).

Electronic Papers

Anderson, Kym, 'How Can Agricultural Trade Reform Reduce Poverty?', Centre for International Economic Studies, University of Adelaide, Discussion Paper 0321, (July 2003), URL: http://www.adelaide.edu.au/cies/papers/0321.pdf, (accessed 9 December 2014).

Brenton, Paul, and Hoppe, Mombert, 'The African Growth and Opportunity Act, Exports, and Development in Sub-Saharan Africa', World Bank Policy Research Working Paper 3996, (1 August 2006), URL: http://ssrn.com/abstract=927139, (accessed 9 December 2014).

Frazer, Garth, and Van Biesebroeck, Johannes, 'Trade Growth under the African Growth and Opportunity Act', National Bureau of Economic Research (NBER), Working Paper No. 13222, (July 2007), URL: http://www.nber.org/papers/w13222, (accessed 9 December 2014).

Frot, Emmanuel, and Santiso, Javier, 'Crushed Aid: Fragmentation in Sectoral Aid', Stockholm Institute of Transition Economics (SITE) Working Paper No. 6, (2009), URL: http://swopec.hhs.se/hasite/papers/hasite0006.pdf, (accessed 9 December 2014).

Ono, Rintaro, and Addison, David J., 'Ethnoecology and Tokelauan fishing lore from Atafu atoll, Tokelau', SPC Traditional Marine Resource Management and Knowledge Information Bulletin, Vol. 26, (2009), pp. 3-22, also available at URL: https://www.spc.int/DigitalLibrary/Doc/FAME/InfoBull/TRAD/26/Trad26_03_Ono.pdf, (accessed 9 December 2014).

Rawls, John, 'The Basic Liberties and Their Priority', in *The Tanner Lectures on Human Values*, (10 April 1981), URL: http://tannerlectures.utah.edu/_documents/a-to-z/r/rawls82.pdf, (accessed 9 December 2014).

Sen, Amartya, 'Equality of What?', *The Tanner Lectures on Human Values*, (22 May 1979), URL: http://www.uv.es/~mperezs/intpoleco/Lecturcomp/Distribucion%20Crecimiento/Sen%20Equaliy%20of%20what.pdf, (accessed 9 December 2014).

Sumner, Andy, 'Global Poverty and the New Bottom Billion: What if Three-quarters of the World's Poor Live in Middle-income Countries?, IDS Working Paper 349, November 2010, DOI: 10.1111/j.2040-0209.2010.00349_2.x.

Tesón, Fernando R. and Klick, Jonathan, 'Global Justice and Trade: A Puzzling Omission', FSU College of Law, Public Law Research Paper No. 285, FSU College of Law, Law and Economics Paper No. 07-24, (October 2007), URL: http://ssrn.com/abstract=1022996, (accessed 9 December 2014).

Turner, Mark, 'Norfolk Island/Australia', Kreddha Autonomy Mapping Project, (December 2007), URL: http://www.kreddha.org/mapping/downloads/080116_Norfolk_Island.pdf, (accessed 1 April 2014) [Dead link]. An archived copy of the page is available at The Internet Archive, URL: https://web.archive.org/web/20110412172550/http://www.kreddha.org/mapping/downloads/080116_Norfolk_Island.pdf, (accessed 9 December 2014).

Wantchekon, Leonard, 'Why do Resource Dependent Countries Have Authoritarian Governments?', (12 December 1999), URL: http://www.yale.edu/leitner/resources/docs/1999-11.pdf, (accessed 9 December 2014).

Foreign Government Publications

Cook Islands Office of the Prime Minister, 'National Millennium Development Goals Report: 2009', (2010), http://www.mfem.gov.ck/docs/Stats/1.Statistics/7.MDG/MDG_RPRT_June_2010.pdf, (accessed 9 December 2014).

Cook Islands Statistics Office, 'Cook Islands 2011 Census', (2012), URL: http://www.mfem.gov.ck/docs/Stats/2012/Census/2011%20Cook%20Islands%20Population%20Census%20Report.pdf, (accessed 9 December 2014).

Fiji Bureau of Statistics, 'Census of Population and Ethnicity 1881-2007', (June 2012), URL: http://www.statsfiji.gov.fj/index.php/document-library/doc_download/416-census-of-population, (accessed 9 December 2014).

Statistics Department Montserrat, *Census 2011: Montserrat at a Glance*, (March 2012), URL: http://www.gov.ms/wp-content/uploads/2011/02/Montserrat-At-A-Glance.pdf, (accessed 9 December 2014).

Government of Niue, 'Estimates of Expenditure and Revenue for year 2006/2007', (Niue: Treasury Department, 2007), also available at URL: http://www.paddle.usp.ac.fj/cgi-bin/paddle?e=d-0paddle--00-1-0---0-10-TX--4------0-11l--1-en-50---20-home---00031-000-1-0utfZz-8-00&a=file&d=niu002, (accessed 9 December 2014).

Statistics Niue, 'Gross Domestic Product (GDP) Current Prices - Value in NZD', http://www.spc.int/prism/niue/index.php/component/docman/doc_download/4-niuestatsgdp, (accessed 9 December 2014).

Norway Ministry of Petroleum and Energy, 'Norway's Oil History in 5 minutes', (last updated 9 October 2013), URL: http://www.regjeringen.no/en/dep/oed/Subject/oil-and-gas/norways-oil-history-in-5-minutes.html?id=440538, (accessed 9 December 2014).

Pacific Regional Information System (PRISM), 'Niue: Economic Statistics', (2012), URL: http://www.spc.int/prism/niue/index.php/economic, (accessed 9 December 2014).

—, 'Niue Population and Household Census 2011', Person, PRN, Person number, URL: http://www.spc.int/prism/nada/index.php/ddibrowser/47/datacollection, (accessed 9 December 2014).

—, 'Niue Population Profile: Based on 2006 Census of Population and Housing', (Noumea: New Caledonia: 2008), also available at URL: http://www.spc.int/prism/nutest/Reports/Census%202006/NIUE%20PROFILE-25-02WEB.pdf, (accessed 9 December 2014).

Constitution of the Independent State of Samoa, 1960, URL: http://www.paclii.org/cgi-bin/disp.pl/ws/legis/consol_act_2010/cotisos1960438/cotisos1960438.html?stem=0&synonyms=0&query=samoa%20and%20constitution, (accessed 9 December 2014).

Samoa Bureau of Statistics, 'Population and Housing Census 2011: Analytical Report 2011', (Apia: Samoa Bureau of Statistics, 2012), also available at URL: http://www.sbs.gov.ws/index.php?option=com_advlisting&view=download&fileId=275, (accessed 9 December 2014).

St. Helena Statistics Office, *The 2008 Population Census of St. Helena*, (November 2009), URL: http://www.sainthelena.gov.sh/wp-content/uploads/2013/01/Census-Report-2008.pdf, (accessed 9 December 2014).

Angelo, Tony, and Pasikale, Talei, *Tokelau: A History of Government: The constitutional history and legal development of Tokelau*, (Apia: Council for the Ongoing Government of

Tokelau, 2008), also available at URL: http://tokelau.org.nz/site/tokelau/files/Tokelau%20A%20History%20of%20Government%20FINAL.pdf, (accessed 9 December 2014).

Government of Tokelau, 'Joint Statement of the Principles of Partnership between New Zealand and Tokelau', (21 November 2003), http://tokelau.org.nz/About+Us/Government/Principles+of+Partnership.html, (accessed 9 December 2014).

—, 'National Strategic Plan: 1 July 2010 to 20 June 2015', (2010), URL: http://www.tokelau.org.nz/Strategic+Plan.html, (accessed 9 December 2014).

'Joint Statement of the Principles of Partnership between New Zealand and Tokelau', (21 November 2003), http://tokelau.org.nz/About+Us/Government/Principles+of+Partnership.html, (accessed 9 December 2014).

Tuvalu Central Statistics Division, 'Homepage', (2013), URL: http://www.spc.int/prism/tuvalu/, (accessed 9 December 2014).

Central Intelligence Agency (CIA), (United States), *The World Factbook*, 'Country Comparison: Area', URL: https://www.cia.gov/library/publications/the-world-factbook/rankorder/2147rank.html, (accessed 9 December 2014).

—, 'Country Comparison: Population', (2014), URL: https://www.cia.gov/library/publications/the-world-factbook/rankorder/2119rank.html, (accessed 9 December 2014).

—, 'Field Listing, Natural Resources', URL: https://www.cia.gov/library/publications/the-world-factbook/fields/2111.html, (accessed 9 December 2014).

—, 'Tokelau', (last updated 11 March 2014), URL: https://www.cia.gov/library/publications/the-world-factbook/geos/tl.html, (accessed 9 December 2014).

National Public Radio (NPR), (United States), 'Declassified Documents Reveal CIA Role In 1953 Iranian Coup', (1 September 2013), http://www.npr.org/2013/09/01/217976304/declassified-documents-reveal-cia-role-in-1953-iranian-coup, (accessed 9 December 2014).

Institut national de la statisque et des etudes économiques, '*Les populations des circonscriptions du Territoire des îles Wallis et Futuna*' [National Institute of Statistics and Economic Studies, 'Population Districts of the Wallis and Futuna Islands territory'], URL: http://www.insee.fr/fr/themes/detail.asp?ref_id=poplegalescom&page=recensement/poplegalescom/popcircwallisetfutuna.htm, (accessed 9 December 2014).

New Zealand Government Publications

Appendices to the Journals of the House of Representatives, 'Report of the Administrator of Samoa to the Government of New Zealand on the Tokelau (Union) Islands (by Mr Richardson)', (Wellington: House of Representatives, 1926), I-A-04D, also available at URL: http://atojs.natlib.govt.nz/cgi-bin/atojs?a=d&cl=search&d=AJHR1926-I.2.1.2.8&srpos=8&e=-------10--1---bySH---0-AJHR%5f1926%5fI%5fAZz-C-, (accessed 9 December 2014).

Clark, Helen, 'Release of Colombo Plan publication', (27 November 2001), URL: http://www.beehive.govt.nz/node/12482, (accessed 9 December 2014).

Department of External Affairs, *New Zealand and the Developing World*, (Wellington: Department of External Affairs, 1966).

Green, Michael, 'Foreign policy and diplomatic representation', (last updated 18 January 2013), in *Te Ara: the Encyclopedia of New Zealand*, URL: http://www.teara.govt.nz/en/foreign-policy-and-diplomatic-representation/page-1, (accessed 9 December 2014).

Grossman, Jonathan, and Lees, Annette, [aka the Ministerial Review Team], 'Towards Excellence in Aid Delivery: A Review of New Zealand's Official Development Assistance Programme', (March 2001), URL: http://nzadds.files.wordpress.com/2011/01/ministerial-review-nzoda-2001.pdf, (accessed 9 December 2014).

McCully, Murray, Cabinet External Relations and Defence Committee paper, 'New Zealand Agency for International Development (NZAID): Mandate and Policy Settings', (7 May 2009), URL: http://www.beehive.govt.nz/sites/all/files/CAB%20paper%203.doc.pdf, (accessed 9 December 2014).

Ministry of Foreign Affairs, 'New Zealand Aid in the South Pacific, 1973-74', (Wellington: s. n., 1973).

Ministry of Foreign Affairs and Trade (MFAT), 'Foreign Relations > Asia', (last updated 12 July 2013), URL: http://www.mfat.govt.nz/Foreign-Relations/Asia/, (accessed 9 December 2014).

—, 'Foreign Relations > Samoa', (last updated 9 December 2013), URL: http://www.mfat.govt.nz/Countries/Pacific/Samoa.php , (accessed 9 December 2014).

—, 'Statement of Intent 2012-2015', (12 April 2012), URL: http://www.mfat.govt.nz/downloads/media-and-publications/soi-mfat-2012-15.pdf, (accessed 9 December 2014).

—, and Statistics New Zealand, 'Global New Zealand: International trade, investment, and travel profile, Year ended June 2013', (2013), URL:

http://www.stats.govt.nz/~/media/Statistics/browse-categories/industry-sectors/imports-exports/global-nz/jun-13/Global%20NZ%202013.pdf, (accessed 9 December 2014).

New Zealand Aid Programme, 'About the aid programme', URL: http://www.aid.govt.nz/about-aid-programme, (accessed 9 December 2013).

—, 'Aid allocations 2011/12', (June 2011), URL: http://www.aid.govt.nz/about-aid-programme/aid-statistics/aid-allocations-20112012, (accessed 9 December 2014).

—, 'ASEAN regional', URL: http://www.aid.govt.nz/where-we-work/asia/asean-regional, (accessed 9 December 2014).

—, *Currents*, Issue 22, (August 2010), www.aid.govt.nz/webfm_send/63, (accessed 9 December 2013).

—, 'Human Development and Governance Programme', URL: http://www.aid.govt.nz/about-aid-programme/how-we-work/policies-and-priorities/promoting-human-development/human-developmen, (accessed 9 December 2014).

—, 'Indicative programme allocations 2012/13 - 2014/15', URL: http://www.aid.govt.nz/about-aid-programme/aid-statistics/aid-allocations-201213-201415, (accessed 9 December 2014).

—, 'International Development Policy Statement: Supporting Sustainable Development', (March 2011), URL: http://www.aid.govt.nz/webfm_send/454, (accessed 9 December 2014).

—, 'The New Zealand – Cook Islands Joint Commitment for Development', (14 July 2011), https://www.aid.govt.nz/webfm_send/113, (accessed 9 December 2014).

—, 'New Zealand Partnerships for International Development Fund: Summary Guidelines', (6 August 2012), URL: http://www.aid.govt.nz/webfm_send/293, (accessed 9 December 2014).

—, 'Programme Framework', URL: http://www.aid.govt.nz/about-aid-programme/how-we-work/programme-framework, (accessed 9 December 2014).

—, 'Where we work: Afghanistan', URL: http://www.aid.govt.nz/where-we-work/afghanistan, (accessed 9 December 2014).

NZAID, *Currents*, Issue 21, (June 2010), URL: http://www.aid.govt.nz/webfm_send/64, (accessed 9 December 2014).

—, 'FAQs: About NZAID', URL: http://www.aid.govt.nz/faqs/about-nzaid.html, (accessed 21 October 2010). [Dead link] An archived copy of the page is available at The Internet Archive, URL: http://web.archive.org/web/20101015032545/http://www.aid.govt.nz/faqs/about-nzaid.html, (accessed 9 December 2014).

—, ‘Influenza in Samoa’, (last updated 20 December 2012), URL: http://www.nzhistory.net.nz/culture/1918-influenza-pandemic/samoa, (accessed 9 December 2014).

—, ‘League of Nations Mandate for German Samoa’, (last updated 15 July 2013), URL: http://www.nzhistory.net.nz/media/photo/league-nations-mandate-german-samoa, (accessed 9 December 2014).

—, ‘New Zealand in the Pacific – capture of German Samoa’, (last updated 20 December 2012), URL: http://www.nzhistory.net.nz/war/capture-of-samoa/background, (accessed 9 December 2014).

—, ‘Wartime administration – capture of German Samoa’, (last updated 20 December 2012), URL: http://www.nzhistory.net.nz/war/capture-of-samoa/administration, (accessed 9 December 2014).

New Zealand Parliamentary Counsel Office, New Zealand Legislation, Citizenship Act 1977, http://www.legislation.govt.nz/act/public/1977/0061/latest/096be8ed80f3be5c.pdf, (accessed 9 December 2014).

—, Cook Islands Constitution Act 1964, URL: http://www.legislation.govt.nz/act/public/1964/0069/latest/096be8ed807e2744.pdf, (accessed 9 December 2014).

—, Niue Constitution Act 1974, URL: http://www.legislation.govt.nz/act/public/1974/0042/latest/DLM412778.html, (accessed 9 December 2014).

—, Tokelau Act 1948, URL: http://www.legislation.govt.nz/act/public/1948/0024/latest/DLM247577.html, (accessed 9 December 2014).

New Zealand and Samoan governments, ‘Joint Commitment for Development’, URL: (signed 11 July 2011), URL: http://www.aid.govt.nz/webfm_send/114 , (accessed 9 December 2014).

Oliver, William Hosking, ‘The Colombo Plan’ in ‘International Relations’, in A. H. McLintock ed., *An Encyclopaedia of New Zealand*, (1966), URL: http://www.teara.govt.nz/en/1966/international-relations/4, (accessed 9 December 2014).

Quigley, Hon. Derek, ‘Address to the NZ Conference on International Development 1979’, in *Effective Aid for the Eighties*, (Wellington: The Conference Committee, 1979).

Statistics New Zealand, ‘2011 Tokelau Census of Population and Dwellings – Tables’, (last updated 21 February 2012), URL: http://www.stats.govt.nz/browse_for_stats/people_and_communities/pacific_peoples/2011-tokelau-census-landing-page/2011-tokelau-census-tables.aspx, (accessed 9 December 2014).

—, '2013 Census Usually Resident Population Counts', (15 October 2013), URL: http://www.stats.govt.nz/browse_for_stats/population/census_counts/2013CensusUsuallyResidentPopulationCounts_HOTP2013Census.aspx, (accessed 9 December 2014).

—, *Census 2006: Quick Stats about Culture and Identity*, (7 March 2006), URL: http://www.stats.govt.nz/Census/2006CensusHomePage/QuickStats/quickstats-about-a-subject/culture-and-identity.aspx, (accessed 9 December 2014).

—, *Census 2013: Quick Stats about Culture and Identity*, (April 2014), http://www.stats.govt.nz/~/media/Statistics/Census/2013%20Census/profile-and-summary-reports/quickstats-culture-identity/quickstats-culture-identity.pdf, (accessed 9 December 2014).

—, 'Household Labour Survey: September 2013 quarter', (6 November 2013), URL: http://www.stats.govt.nz/~/media/Statistics/Browse%20for%20stats/HouseholdLabourForceSurvey/HOTPSep13qtr/HouseholdLabourForceSurveySep13qtrHOTP.pdf, (accessed 9 December 2014).

—, *The New Zealand Official Yearbook, 1927*, http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1927/NZOYB_%201927.html, (accessed 9 December 2014).

—, *The New Zealand Official Year-Book, 1947-1949*, URL: http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1947-49/NZOYB_1947-49.html, (accessed 9 December 2014).

—, *The New Zealand Official Yearbook, 1961*, http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1961/NZOYB_%201961.html, (accessed 9 December 2014).

—, *The New Zealand Official Yearbook, 1966*, URL: http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1966/NZOYB_1966.html, (accessed 9 December 2014).

—, *The New Zealand Official Yearbook, 1974*, URL: http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1974/NZOYB_1974.html, (accessed 9 December 2014).

—, *The New Zealand Official Yearbook, 1976*, URL: http://www3.stats.govt.nz/New_Zealand_Official_Yearbooks/1976/NZOYB_1976.html, (accessed 9 December 2014).

—, *Profile of Tokelau Ata o Tokelau: 2011 Tokelau Census of Population and Dwellings / Tuhiga Igoa a Tokelau 2011 mo te Faitau Aofaki o Tagata ma na Fale* (Wellington: Statistics New Zealand, 2012), also available at URL: http://www.stats.govt.nz/~/media/Statistics/browse-categories/people-and-

communities/pacific-peoples/2011-tokelau-census/profile-tokelau-ata-o-tokelau/profile-of-tokelau-ata-o-tokelau.pdf, (accessed 9 December 2014).

The Treasury, *Budget Economic and Fiscal Update 2013*, (Wellington: The Treasury, 2013), also available at Persistent URL: http://purl.oclc.org/nzt/b-1544.

UMR Research, *Overseas Aid: A Qualitative and Quantitative Study*, (July 2007), URL: http://www.cid.org.nz/assets/Key-issues/Partnerships-for-dev/2007.-Overseas-aid.pdf, (accessed 9 December 2014).

—, *Overseas Aid: A Qualitative and Quantitative Study*, [Supplementary Tables], (July 2007), URL: http://www.oecd.org/dev/communicationanddevelopment/39430074.pdf, (accessed 9 December 2014).

Walrond, Carl, 'Niueans – Migration', in *Te Ara: The Encyclopedia of New Zealand*, (last updated 13 July 2012),
URL: http://www.TeAra.govt.nz/en/niueans/page-1, (accessed 9 December 2014).

Waring, Marilyn, 'Ministerial Review of Progress in Implementing 2001 Cabinet Recommendations Establishing NZAID', (July 2005), URL: http://nzadds.files.wordpress.com/2011/01/waring-review.pdf, (accessed 9 December 2014).

Whelan, Anna Klinken, 'Evaluation Report for the Bougainville Healthy Community Project: Bridges to post-conflict communities', (1 October 2012), URL: http://www.aid.govt.nz/sites/default/files/Evaluation%20Report%20for%20the%20Bougainville%20Healthy%20Community%20Project.pdf, (accessed 9 December 2012).

Wilson, John, 'From Colony to Nation', (last updated 29 August 2013), in *Te Ara: The Encyclopedia of New Zealand*, URL: http://www.teara.govt.nz/en/nation-and-government/page-2, (accessed 9 December 2014).

Newspaper Articles

Sachs, Jeffrey D., 'Four Easy Pieces', in *The New York Times*, (25 June 2005), also available at URL: http://www.nytimes.com/2005/06/25/opinion/25sachs.html?_r=0, (accessed 9 December 2014).

OECD Publications

Organisation for Economic for Economic Co-operation and Development (OECD), 'Agricultural policies and support: Producer and Consumer Support Estimates database', (September 2013), URL: http://www.oecd.org/agriculture/agricultural-policies/producerandconsumersupportestimatesdatabase.htm, (accessed 9 December 2014).

—, *Aid at a Glance, Flows of official development assistance to and through civil society organisations in 2011*, (2013), http://www.oecd.org/dac/peer-reviews/Aid%20for%20CSOs%20Final%20for%20WEB.pdf, (accessed 9 December 2014).

—, *Aid Effectiveness 2011: Progress in Implementing the Paris Declaration – Volume II Country Chapters*, 'Samoa', (2012), URL: http://www.oecd.org/dac/effectiveness/Samoa%205.pdf, (accessed 9 December 2014).

—, Aid Statistics, Table 31, Aid from DAC Countries to Least Developed Countries, http://www.oecd.org/dac/stats/TAB31e.xls, (accessed 9 December 2014).

—, 'DAC in Dates: The History of OECD's Development Assistance Committee', (2006 edition), URL: http://www.oecd.org/dataoecd/3/38/1896808.pdf, (accessed 9 December 2014).

—, 'DAC members', URL: http://www.oecd.org/dac/dacmembers.htm, (accessed 9 December 2014).

—, 'DAC Statistical Reporting Directives', DCD/DAC (210)40/REV1, (12 November 2010), URL: http://www.oecd.org/dac/stats/38429349.pdf, (accessed 9 December 2014).

—, 'Glossary of Statistical Terms: Gross National Income (GNI)', (5 March 2003), URL: http://stats.oecd.org/glossary/detail.asp?ID=1176, (accessed 9 December 2014).

—, 'Gross Domestic Product in US dollars at current prices and current PPPs', DOI: 10.1787/2074384x-table3.

—, 'History', Permanent URL: www.oecd.org/history.

—, International Energy Agency, *2014 Key World Energy Statistics*, (Paris: International Energy Agency, 2014), also available at URL: http://www.iea.org/publications/freepublications/publication/KeyWorld2014.pdf, (accessed 9 December 2014).

—, 'List of OECD Member countries – Ratification of the Convention on the OECD', URL: http://www.oecd.org/general/listofoecdmembercountries-ratificationoftheconventionontheoecd.htm, (accessed 9 December 2014).

—, *The Paris Declaration on Aid Effectiveness and the Accra Agenda for Action*, (2008), http://www.oecd.org/dac/effectiveness/34428351.pdf, (accessed 9 December 2014).

—, '(PPPS)-OECD', (last updated on 11 June 2013), URL: http://stats.oecd.org/glossary/detail.asp?ID=2205, (accessed 9 December 2014).

—, 'Quarterly Growth Rates of real GDP', http://stats.oecd.org/index.aspx?queryid=350, (accessed 9 December 2014).

—, Query Wizard for International Development Statistics (QWIDS), URL: http://stats.oecd.org/qwids, (accessed 9 December 2014).

—, *Stat Extracts*, 'Level of GDP per capita and productivity', URL: http://stats.oecd.org/Index.aspx, (accessed 9 December 2014).

—, Total flows by donor (ODA + OOF + Private) [DAC1], https://stats.oecd.org/Index.aspx?DataSetCode=TABLE1, (accessed 9 December 2014).

Theses

Bridgman, Tess Mary, *The Efficacy of New Zealand Aid: An Analysis and Critique of New Zealand's Aid Programme*, MA Thesis, (Toronto: University of Toronto, 2011), also available at URL: https://tspace.library.utoronto.ca/bitstream/1807/30522/1/Bridgman_Tess_M_201111_LLM_thesis.pdf, (accessed 9 December 2014).

Ryan, Thomas Felix, *Prehistoric Niue: An Egalitarian Polynesian Society*, MA Thesis, (Auckland: Auckland University Press, 1977).

United Nations Publications

Dikhanov, Yuri, *Trends in Global Income Distribution, 1970-2000, and Scenarios for 2015*, Human Development Report Office, Occasional Paper, (2005), URL: http://siteresources.worldbank.org/ICPINT/Resources/hdR2005_Dikhanov_Yuri_8.pdf, (accessed 9 December 2014).

The United Nations (UN), International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 19 December 1966, URL: https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf, (accessed 9 December 2014).

—, International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly of the United Nations on 16 December 1966, URL: https://treaties.un.org/doc/Publication/UNTS/Volume%20993/volume-993-I-14531-English.pdf, (accessed 9 December 2014).

—, Member States of the United Nations, URL: http://www.un.org/en/members/, (accessed 9 December 2014).

—, 'Millennium Development Goals', http://www.un.org/millenniumgoals/, (accessed 9 December 2014).

—, 'Millennium Development Goals Indicators: Goal 8. Develop a Global Partnership for Development: Net ODA to LDCs as percentage of OECD/DAC donors GNI', URL: http://mdgs.un.org/unsd/mdg/Data.aspx, (accessed 9 December 2014).

—, 'Millennium Development Goals Indicators: Goal 8. 'Develop a Global Partnership for Development: ODA to basic social services US$', URL: http://mdgs.un.org/unsd/mdg/Data.aspx, (accessed 9 December 2014).

—, 'Monterrey Consensus on Financing for Development, 18-22 March 2002', (2003), URL: http://www.un.org/esa/ffd/monterrey/MonterreyConsensus.pdf, (accessed 1 April 2014) [Dead link]. An archived copy of the page is available at The Internet Archive, https://web.archive.org/web/20140923003129/http://www.un.org/esa/ffd/monterrey/MonterreyConsensus.pdf, (accessed 9 December 2014).

—, 'Non-Self-Governing Territories', URL: http://www.un.org/en/decolonization/nonselfgovterritories.shtml, (accessed 9 December 2014).

—, 'Report of the Second United Nations Conference on the Least Developed Countries', Paris, 3-14 September 1990, A/CONF.147/18, (New York: United Nations, 1991), also available at URL: http://www.un.org/wcm/webdav/site/ldc/shared/Outcome_%20document_Second_UN_Conference_%20LDCs.%20pdf.pdf, (accessed 9 December 2014).

—, Status of International Covenant on Civil and Political Rights as of 21 April 2014, URL: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en, (accessed 9 December 2014).

—, Treaty Collection, Status of International Covenant on Economic, Social and Cultural Rights as of 21 April 2014, URL: http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-3&chapter=4&lang=en, (accessed 9 December 2014).

—, Treaty Series, No. 6515, (1963), 'Treaty of Friendship between the Government of New Zealand and Government of Western Samoa', signed at Apia, on 1 August 1962, URL: http://treaties.un.org/doc/Publication/UNTS/Volume%20453/volume-453-I-6515-English.pdf, (accessed 9 December 2014).

—, Trusteeship Agreement for the Mandated Territory of Western Samoa, Submitted by the Government of New Zealand to the General Assembly, First Session, Second Part, as Revised by the Assembly, Document A/160/Rev. 2, December 12, 1946, appears in *International Organization*, Vol. 1, Issue 01. February 1947, pp. 216-219, DOI: 10.1017/S0020818300007001.

—, The United Nations Charter, 26 June 1945, URL: http://treaties.un.org/doc/Publication/CTC/uncharter.pdf, (accessed 9 December 2014).

United Nations Conference on Trade and Development (UNCTAD), 'Infocomm – Commodity Profile: Coconut', (last updated 27 April 2012), URL: http://www.unctad.info/en/Infocomm/AACP-Products/COMMODITY-PROFILE---Coconut2/, (accessed 9 December 2014).

UN and Decolonization, URL: http://www.un.org/en/decolonization/pdf/decolonization/decon_num_19-2.pdf, (accessed 9 December 2014).

UN, Department for Economic and Social Affairs (DESA), Development Policy and Analysis Division, 'The criteria for identifying the least developed countries', (last updated August 2013), URL: http://www.un.org/en/development/desa/policy/cdp/ldc/ldc_criteria.shtml, (accessed 9 December 2014).

—, 'LDC Data Retrieval', URL: http://www.un.org/en/development/desa/policy/cdp/ldc/ldc_data.shtml, (accessed 9 December 2014).

UN General Assembly A/CONF.191/12, 2 July 2001, 'Brussels Declaration', URL: http://www.unctad.org/en/docs/aconf191d12.en.pdf, (accessed 9 December 2014).

UN General Assembly resolution, 66 (I), 14 December 1946, URL: http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/033/17/IMG/NR003317.pdf?OpenElement, (accessed 9 December 2014).

—, 1514 (XV), 14 December 1960, URL: http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/152/88/IMG/NR015288.pdf?OpenElement, (accessed 9 December 2014).

—, 1522 (XV), 15 December 1960, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/1522(XV)&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).

—, 1541 (XV), 15 December 1960, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/1541(XV)&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).

—, 1626 (XVI), 16 October 1961, URL: http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/166/79/IMG/NR016679.pdf?OpenElement, (accessed 9 December 2014).

—, 2200 (XXI), 16 December 1966, URL: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/2200(XXI)&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).

—, 2626, (XXV), 24 October 1970, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/2626(XXV)&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).

—, 35/56, 5 December 1980, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/35/56&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).

—, 38/195, 20 December 1983, URL: http://www.un.org/documents/ga/res/38/a38r195.htm, (accessed 9 December 2014).

—, 45/199, 21 December 1990, URL: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/45/199&Lang=E&Area=RESOLUTION, (accessed 9 December 2014).

—, 55/2, 18 September 2000, 'Millennium Declaration', URL: http://www.un.org/millennium/declaration/ares552e.pdf, (accessed 9 December 2014).

—, Voting record for resolution 1514 (XV), 14 December 1960, URL: http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=P3817P7293V69.1770&profile=voting&uri=full=3100023~!900002~!1&ri=2&aspect=power&menu=search&source=~!horizon, (accessed 9 December 2014).

—, Voting record for resolution 1803 (XVII), 14 December 1962, URL: http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=1L577G2H08219.221033&menu=search&aspect=power&npp=50&ipp=20&spp=20&profile=voting&ri=&index=.VM&term=1803&matchopt=0%7C0&oper=AND&x=8&y=8&aspect=power&index=.AD&term=19621214+&matchopt=0%7C0&oper=AND&index=.AD&term=&matchopt=0%7C0&oper=AND&index=BIB&term=&matchopt=0%7C0&ultype=&uloper=%3D&ullimit=&ultype=&uloper=%3D&ullimit=&sort=, (accessed 9 December 2014).

UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, (UN-OHRLLS), 'About LDCs', URL: http://unohrlls.org/about-ldcs/, (accessed 9 December 2014).

—, 'Criteria for Least Developed Countries', URL: http://unohrlls.org/about-ldcs/criteria-for-ldcs-2/, (accessed 9 December 2014).

UN Special Committee, GA/COL/3244, 'Special Committee on Decolonization concludes session with adoption of Resolutions on Tokelau, New Caledonia', 22 June 2012, URL: http://www.un.org/News/Press/docs/2012/gacol3244.doc.htm, (accessed 9 December 2014).

UN Statistics Division, 'Country Profile: Cook Islands', URL: http://data.un.org/CountryProfile.aspx?crName=Cook%20Islands, (accessed 9 December 2014).

The World Health Organization (WHO), 'Cook Islands Country Profile, 2011', URL: http://www.wpro.who.int/countries/cok/6COKpro2011_finaldraft.pdf, (accessed 9 December 2014).

—, *Global Update on HIV Treatment 2013: Results, Impact and Opportunities*, (June 2013), URL: http://apps.who.int/iris/bitstream/10665/85326/1/9789241505734_eng.pdf, (accessed 9 December 2014).

—, 'Niue Country Profile, 2011', URL: http://www.wpro.who.int/countries/niu/22NIUpro2011_finaldraft.pdf, (accessed 9 December 2014).

—, 'Tokelau Country Profile, 2011', URL: http://www.wpro.who.int/countries/tkl/32TOKpro2011_finaldraft_ver2.pdf, (accessed 9 December 2014).

World Bank Publications

Milanović, Branko, 'Ethical case and economic feasibility of global transfers', World Bank Policy Research Working Paper No. 3775, (March 2007), http://ssrn.com/abstract=978696, (accessed 9 December 2014).

Ravallion, Martin, 'World Bank's $1.25/day poverty measure – countering the latest criticisms', (January 2010), URL: http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/0,,contentMDK:22510787~pagePK:64165401~piPK:64165026~theSitePK:469382,00.html, (accessed 9 December 2014).

The World Bank (WB), 'Country and Lending Groups', URL: http://data.worldbank.org/about/country-classifications/country-and-lending-groups, (accessed 9 December 2014).

—, 'Data: Samoa', http://data.worldbank.org/country/samoa, (accessed 9 December 2014).

—, 'Data: Solomon Islands', URL: http://data.worldbank.org/country/solomon-islands, (accessed 9 December 2014).

—, 'Data: Tuvalu', URL: http://data.worldbank.org/country/tuvalu, (accessed 9 December 2014).

—, 'GDP Ranking', (25 September 2013), URL: http://data.worldbank.org/data-catalog/GDP-ranking-table, (accessed 9 December 2014).

—, 'GNI, Atlas method (current US$)', URL: http://data.worldbank.org/indicator/NY.GNP.ATLS.CD , (accessed 9 December 2014).

—, 'GNI per capita, Atlas method (current US$)', URL: http://data.worldbank.org/indicator/NY.GNP.PCAP.CD?order=wbapi_data_value_2012+wbapi_data_value+wbapi_data_value-last&sort=desc, (accessed 9 December 2014).

—, 'GNI per capita, PPP (current international$), URL: http://data.worldbank.org/indicator/NY.GNP.PCAP.PP.CD, (accessed 9 December 2014).

—, 'Net official development assistance and official aid received (current US$)', URL: http://data.worldbank.org/indicator/DT.ODA.ALLD.CD, (accessed 9 December 2014).

—, Net ODA received (% of GNI), URL: http://data.worldbank.org/indicator/DT.ODA.ODAT.GN.ZS?order=wbapi_data_value_2011+wbapi_data_value+wbapi_data_value-last&sort=asc, (accessed 9 December 2014).

—, 'Net ODA received per capita (current US$), URL: http://data.worldbank.org/indicator/DT.ODA.ODAT.PC.ZS?order=wbapi_data_value_2011+wbapi_data_value+wbapi_data_value-last&sort=asc , (accessed 9 December 2014).

—, 'World Bank Atlas Method', URL: http://data.worldbank.org/about/country-classifications/world-bank-atlas-method, (accessed 9 December 2014).

World Trade Organization Publications

World Trade Organization, 'Ministerial Declaration', (22 December 2005), URL: http://www.wto.org/english/thewto_e/minist_e/min05_e/final_text_e.htm, (accessed 9 December 2014).