

# Rawlsian Toleration among Peoples and Its Critics

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## Abstract

This paper examines Rawlsian toleration among peoples, the two major criticisms it faces and tries to outline responses to both challenges from cultural relativists and communitarians. Generally speaking, the responses are outlined according to Rawls's idea of the law of peoples as "a realistic utopia", meaning that Rawlsian toleration is both a normative ideal and feasible and claims that it provides a third way between the two extremes of cultural relativist and communitarian ideas of toleration.

**Keywords :** Rawls, Toleration, Peoples, Criticism

In his book, *The Law of Peoples* (*LP* as the abbreviation in this paper below), Rawls develops an idea of toleration among peoples, as an answer and guide to proper international relations in the globe. In this paper, I will examine this idea of toleration among peoples and through examining and responding to the main criticism it faces, I will conclude its strength lies in that it is a great manifestation of the idea of "a realistic utopia".

## I. Toleration among Peoples

Toleration is established as a principle in Rawls's law of peoples. It is not toleration among individuals, but toleration among peoples. Toleration among peoples is an important extension of the law of peoples to a world-society composed of different peoples. More specifically for Rawls, toleration among peoples means liberal peoples' toleration of decent peoples. That is to say, the essential subject of toleration is liberal peoples and its object non-liberal but decent peoples. Rawls says, "A main task in extending the Law of peoples to non-liberal peoples is to specify how far liberal peoples are to tolerate non-liberal peoples." According to him, toleration of non-liberal peoples means "not only to refrain from exercising political sanctions—military, economic, or diplomatic—to make a people change its ways", it also means "to recognize these non-liberal societies as equal participating members in good standing of the Society of Peoples, with certain rights and obligations" (*LP*: 59). In short, toleration of peoples means non-intervention and respect.

The principle of toleration is a very important part in the law of peoples. According to Rawls, there are two steps to extend the law of peoples. The first extension is among liberal peoples, while the second one is extension from liberal to non-liberal but decent peoples. Toleration is the basic principle in treating decent peoples. But why should this second step, the extension of the law of peoples to decent people adopt a different principle—toleration? Why is toleration important in the relation between liberal and non-liberal but decent peoples? For Rawls, the principle of toleration is based on several considerations.

First of all, since “the fact of reasonable pluralism” is obvious in the inter-peoples<sup>1)</sup> context, toleration is inevitable. Even in a society of liberal peoples, Rawls points out, there are “reasonable and expected differences of peoples from one another, with their distinctive institutions and languages, religions and cultures, as well as their different histories, variously situated as they are in different regions and territories of the world and experiencing different event” (*LP*: 54-55). There is even greater diversity in comprehensive doctrines between liberal and non-liberal but decent peoples. “The effect of extending a liberal conception of justice to the Society of Peoples, which encompasses many more religious and other comprehensive doctrines than any single people, makes it inevitable that, if member peoples employ public reason in their dealings with one another, toleration must follow.” (*LP*: 19) If all peoples are required to be liberal in the same way, Rawls says, “then the idea of political liberalism would fail to express due toleration for other acceptable ways (if such a there are, as I assume) of ordering society” (*LP*: 59).

Second, decent peoples are qualified to be tolerated as equal members in the world society. It's true that a decent hierarchical society is not as reasonable and just as a liberal society, and in the domestic context in treating its own people, it “fail(s) to treat persons who possess all the powers of reason, intellect, and moral feeling as truly free and equal” (*LP*: 60). However, its “basic institutions meet certain specified conditions of political right and justice and lead its people to honor reasonable and just law for the Society of Peoples” (*LP*: 59-60). In the domestic case, decent people recognizes and protects basic human rights of its own people, provide its members “the right to be consulted or a substantial political role in making decisions” through a decent consultation hierarchy, and it allows dissents in its societies to express their disagreements and those dissenting opinions will be taken seriously, they won't be neglected or dismissed. (*LP*: 61) Moreover, in the inter-peoples context, decent people “honor a reasonable and just law of peoples, the same law that liberal peoples do”. (*LP*: 83) It is not aggressive towards other peoples and does not force other peoples to change in the way it favors.

Third, with the recognition that decent peoples are moral agents in the world society, there should be due respect and toleration toward them. As Rawls argues, one of the basic features of peoples is their moral nature. Peoples are the actors in the Society of Peoples, “just as citizens are

the actors in domestic society”. (LP: 23) Analogous to citizens’ moral feelings in the domestic context, peoples have “a certain proper pride and sense of honor” (LP: 62). The self-respect of peoples should not be ignored or violated without good reasons. Therefore, throughout LP, Rawls emphasizes many times that due respect should be given to peoples, including non-liberal decent peoples, and he argues that lack of respect—especially between liberal peoples and decent peoples—would result in negative consequences. “[I]f liberal peoples require that all societies be liberal and subject those that are not to politically enforced sanctions, then decent non-liberal peoples—if there are such—will be denied a due measure of respect by liberal peoples. This lack of respect may wound the self-respect of decent non-liberal peoples as peoples, and may lead to great bitterness and resentment.” (LP: 61) The respect of non-liberal but decent peoples does not only mean the absence of “politically enforced sanctions”, it also means respecting their self-determination and recognizing their equal status in world society.

Fourth, decent peoples have the ability of “moral learning”, therefore significant room should be preserved for them to determine themselves. Coercion from outside won’t work well in this process. In *A Theory of Justice*, Rawls believes that in a domestic society, the toleration of the intolerant individuals will make these people eventually appreciate and support the liberal institution. (TJ: 219) Parallel to this, Rawls is confident that in inter-peoples context, the toleration of non-liberal decent peoples will be conducive to “mutual trust and confidence in one another”. In this way, decent peoples will gradually learn that the norms prescribed in the law of peoples are “advantageous for themselves and for those they care for”, and thus stick to be a qualified member in the world society. This process of moral learning or “psychological process” is “an essential element” for the Law of Peoples (LP: 44). It cannot be realized through coercion or sanction from liberal peoples. The latter would only provoke the mistrust of decent peoples and hinder this process.

The last point is based on Rawls’s historical perspective. Rawls points out, “All societies undergo gradual changes, and this is no less true of decent societies than of others. Liberal peoples should not suppose that decent societies are unable to reform themselves in their own way.” (LP: 61) The idea that liberal peoples should shape the future for decent peoples is only self-complacency and indicates lack of historical perspective.

Until now we have seen that Rawlsian toleration among peoples is based on the consideration of decent peoples’ basic features and their specific historical, social and cultural conditions. This idea of toleration is not a *modus vivendi* based on the balance of powers, but a normative principle. Essentially, toleration of decent peoples’ pluralism is based on decent peoples’ “decency”. As it was mentioned, “decency” contains two substantial aspects. First, the People honors and respects human rights. As Rawls claims, “the special class of human rights” “such as freedom from slavery

and serfdom, liberty (but not equal liberty) of conscience, and security of ethnic groups from mass murder and genocide” “set a limit to the pluralism among peoples” (*LP*: 80). This aspect distinguishes decent peoples from the so-called “outlaw states” that deny their members basic human rights and thus cannot be tolerated in the law of peoples. Second, it is—in Rawls’s term—“well-ordered”, which means it provides to its members a meaningful role in making political decisions. In this way, decent peoples distinguish themselves from “benevolent absolutism” that denies its members any kind of political role and thus doesn’t meet the criteria of decency. However, it is still worthwhile to note, that for Rawls, the opposite of toleration is not direct intervention. That is to say, though Rawls claims certain criteria should be fulfilled by peoples in order to be tolerated, it does not mean that if peoples do not meet these criteria, they are bound to be subject to intervention by liberal peoples. A lot more factors should be considered in the case of intervention.

## II. Its Critics

Rawlsian toleration among peoples invoked a large amount of criticism. Here, I will examine two major kinds of criticism: one comes from cosmopolitanism<sup>2)</sup> and the other from cultural relativists and communitarians.

### Cosmopolitan Criticism

Cosmopolitans such as Charles R. Beitz, admits that Rawls’s view in *LP* “is consistent with the most revolutionary developments in international law in the twentieth century” (Beitz, 669). However, they still think Rawls’s view in *LP* is too conservative, does not sufficiently stick to liberal principles, and is distant from core liberal commitments. On the issue of toleration, they claim that “Rawls’s limit of toleration is wrongly placed”. They doubt the legitimacy of the extension of toleration to non-liberal decent peoples and think there is something morally wrong about it. They question Rawls, asking why there inconsistency between the design of original positions in the domestic case and in the international case. More concretely, their question is, if in the former case actors in the original position are individual persons, then why in the latter case should actors in the original position have changed and turn out to be peoples?

Sticking to their commitment to the liberal rights of individuals, cosmopolitans’ main argument for opposing toleration of decent peoples is that decent peoples merely respect basic human rights of individuals, but do not respect their liberal rights, which include the right to political participation, equal political representation, equal liberty of conscience and so on. The problem of not respecting these liberal rights, in Kok-Chor Tan’s words, is that decent peoples “fail to offer sufficient protection to individuals···whose aspirations to become free and equal persons are being thwarted by their state.” (Tan, 86) In short: “The problem of tolerating decent peoples is that it lets

down dissenting individual members in these non-liberal societies.” (Tan, 85) Rather than agreeing on Rawlsian toleration, they advocate “cosmopolitan conception of international toleration”, which protects the rights of individuals, no matter where they are—in a liberal society or in a non-liberal society—to choose a life for themselves (Tan, 86), and they insist that cosmopolitan toleration “is more consistent with liberalism’s core commitments” (Tan, 77). In cosmopolitans’ mind, individual rights are a more pressing moral issue than other issues, including peace and peoples’ self-determination.

### **Cultural Relativists and Communitarians’ Criticism**<sup>3)</sup>

Ironically, on the one hand, Rawlsian idea of toleration among peoples is criticized by cosmopolitans as being not liberal enough; on the other hand, it is also criticized by cultural relativists and communitarians for imposing liberal values as universal values and it is thus viewed as a form of imperialism. Both cultural relativists and communitarians emphasize the particularity of different cultures and historical circumstances. They oppose the idea that there is an abstract toleration principle that can be applied to all cultures and all circumstances, especially in a pluralist world. Methodologically, they are also suspicious of any “thought experiment”, and are more in favor of a *modus vivendi* approach.

In cultural relativists’ views, such as John Gray’s, because the whole project of *LP* is an extension of a liberal conception of justice, “it cannot escape its origins, and may not be acceptable to non-Western cultures. It is little more, in the end, than an expression of cultural imperialism.” (Audard, 59-60) Moreover, Gray criticizes liberal toleration in general. His main argument is based on value-pluralism and claims that liberal toleration does not take pluralism seriously and is thus problematic. He says, “Liberal toleration was a restraint on diversity of beliefs and practices among people who had a common understanding of morality and religion. It cannot promote coexistence among people who lack any such common understanding. It is ill-equipped to guide people who doubt, or deny, that one form of life could (even ideally) encompass the human good.” (Gray, 324) According to this criticism of liberal toleration in general, it can be reasonably expected that he thinks Rawlsian toleration among peoples is based on liberal criteria and it is only a form of monopoly liberalism. Opposing Rawlsian toleration and sticking to value-pluralism, Gray advocates an ideal of *modus vivendi* toleration instead of liberal toleration. He says, “What follows from value-pluralism is not liberalism but an ideal of *modus vivendi*, which is the natural successor of liberal toleration.” (Gray, 329) In his interpretation, the ideal of *modus vivendi* can overcome liberal toleration’s dogmatic universalism that prescribes liberalism as the best human good. He says, “An ideal of *modus vivendi* may be understood as an adaptation of the liberal project of toleration to an historical context—our own—in which the belief that there is one right or best form of life for humans has ceased to be credible.” (Gray, 332)

Communitarians stand with cultural relativists in opposing any universalistic approach. On the issue of toleration, they are against Rawlsian procedural approach. In his book *On Toleration*, at the very beginning, Michael Walzer<sup>4)</sup> expresses his opposition in this approach. He says, “Philosophical argument in recent years has often taken a proceduralist form: the philosopher imagines an original position…” In contrast, his approach is quite different. “I have adopted a different approach… I shall not attempt a systematic philosophical argument” (Walzer,1). “Procedural approach argument won’t help us here precisely because they are not differentiated by time and place. The alternative that I mean to defend is a historical and contextual account of toleration”. (Walzer, 3) It can be expected that the Rawlsian designs of original positions and an imagined “Kanzanistan” people which does not exist in actual history, seems excessively fictional and imaginary and unable to help the discussion of toleration in Walzer’s eyes.

Besides opposing to Rawlsian methodology, Walzer to a great degree disagree with Rawls’ conclusions on toleration. While in *LP*, toleration is established as a principle, Walzer denies there can be any universal principle of toleration. “[T]here are no principles that govern all the regimes of toleration or that require us to act in all circumstances, in all times and places, on behalf of a particular set of political or constitutional arrangements.” (Walzer, 2-3) Rather, his attitude toward toleration is relativistic. He argues that various different arrangements of toleration can not be ranked by their values, because he doesn’t believe there is any objective or unified criterion. He says, “So long as there is no superior standpoint or authoritative participant, how can we possibly arrive at a critical standard? How can we rank and order the different regimes?” (Walzer, 3) In his discussion of international society, his standard for toleration is quite loose. “All the groups that achieve statehood and all the practices that they permit are tolerated by the society of states.” That is to say, sovereignty of a state in a great extent guarantees it is tolerated by the international society. “Sovereignty guarantees that no one on that side of the border can interfere with what is done on this side.” (Walzer, 19) However, it is fair to say that when he claims this, he is not advocating that sovereignty can absolutely guarantee toleration. “Humanitarian intervention” is legitimate, and there are limits to toleration, “Acts or practices that ‘shock the conscience of humankind’ are, in principle, not tolerated.” (Walzer, 21)

### III. A Realistic Utopia

As we may be seen above, critics of Rawlsian toleration articulate their criticism very clearly. How did Rawls respond or how might he have responded to these criticisms? In this section, this paper will use Rawls’ term “a realistic utopia” as a clue and try to make a response.

#### Realistic

Rawls describes his law of peoples as a realistic utopia. I think this description has very

thoughtful meanings. It emphasizes two aspects, which are equally important and can be seen as responses to the two above criticisms respectively. On the one hand, the law of peoples is realistic, meaning that it considers adequate realistic factors that may have influence on the making and feasibility of the law of peoples. It is not a product of a “pure” thought experiment. On the issue of toleration, realistic factors taken into account include “the fact of reasonable pluralism” in the inter-peoples society; concrete historical, social and cultural conditions of different people. Also, it is very careful about how the performance and realization of the law of peoples would contribute to world peace.

Now let’s go back to the cosmopolitan criticism. It has its worth when cosmopolitans emphasize and value individual rights – actually there is no divergence between Rawls and cosmopolitans in this point as Rawls never denied that all humans should be regarded as free and equal – in the case of decent peoples, they show deep moral concern for dissenting individuals. However, their universalistic adherence to the priority of individuals’ liberal rights tends to make them neglect the large “realistic” part necessary in political theorizing.

The “realistic” part which cosmopolitans tend to neglect or with which they are not able to adequately cope firstly includes “the fact of pluralism”. Beitz admits, “Recall that the Law of Peoples takes it for granted that some degree of diversity in conceptions of the social goods is a permanent fact of international life.” And he agrees that Rawls’s two-level structure “capitalizes on this fact”. By contrast, he admits, “It is not clear that a cosmopolitan theory can accommodate to it at all.” (Beitz, 695) To make the commitment to individuals a priority, when facing a choice or even simply a dilemma between this commitment and the commitment to toleration, cosmopolitans will actually abandon their commitment to toleration. This dilemma is a very big challenge that cosmopolitans have to face. In this point, Beitz remarks, “To have made this challenge unavoidable, and to have framed it so clearly, is one of the main achievements of Rawls’s work.” (Beitz, 695)

Furthermore, cosmopolitans tend to neglect or deny peoples’ varying moral and cultural features. In cosmopolitans’ view, the only moral actors—whether in the domestic case or in the international context—are individual persons. This abstraction or reduction in theorizing leads them to propose a global original position in which representatives are individual persons in the globe. However, we have to ask whether this reduction is right. Both Rawls and cosmopolitans recognize that basic human rights should apply to each individual in the globe, but the difference is that for Rawls, apart from these basic individual-based human rights, we cannot reduce every other aspect of the international context to the individual level; while for cosmopolitans, this reduction should be carried out everywhere. The absurdity of the neglect of peoples’ moral role and extreme reduction to individual level may be easily seen in this question: Should all individuals in the globe equally enjoy the right or power to have nuclear weapons?<sup>5)</sup> To make it more concrete, should

individuals in U.S and in North Korea equally have the right to own nuclear weapons? Generally speaking, if cosmopolitans admit proposition such as “nations have a right to self-defense” or “nations should keep their treaties”, they unavoidably face the inconsistency in their own theories and “they will have to explain why and in what circumstances the principles of their theories should be framed in terms of nations instead of persons.” (Wenar, 107)

Lastly and very importantly, cosmopolitans do not provide adequate evidence that they regard peace as a very important value. Throughout *LP*, global peace is a crucial issue and concern for Rawls. We can even understand the whole project in *LP* as a proposal for global peace for the rights reasons. By contrast, “The neglect by cosmopolitans of the issues of war and peace suggests that cosmopolitans have been underestimating the great importance of global political stability.” (Wenar, 110)

I think that we can now understand better why Rawls advocates the toleration of decent peoples. It is true as cosmopolitans point out, dissenting individuals in decent societies do not enjoy free and equal right as individuals do in a liberal society, but now we know the underlying reasons why this can be tolerated. Rawls does not bloodlessly ignore these individuals’ existence; he has more comprehensive considerations in mind taking into account many “realistic” factors. And, at least, the dissenting individuals’ basic human rights are protected, and their dissenting opinions have an institutional way to be expressed and get adequate attention. They are neither forbidden to speak out nor even persecuted because of their dissenting opinions. Moreover, compared to cosmopolitans, Rawls has more of a historical perspective, which makes him argues that all societies are undergoing changes and thus there is no reason to doubt decent peoples’ own abilities to change in the right way.

## Utopia

On the other hand, it is a “utopia”, meaning it is a normative ideal about “what we should do”, not simply a *modus vivendi*. It prescribes toleration as a peaceful coexistence for good reasons and thus toleration among peoples is reasonable and principled.

First of all, relativism’s standpoint in general often appears to be self-refuting. That is to say, it criticizes and tries to avoid other doctrine’s “dogmatism”, while it neglects that the doctrine of relativism may itself be another kind of dogmatism. On the issue of toleration, relativism’s position may make toleration not necessary at all. As to the term “toleration”, as in Gray’s quotation, “it is the logic of toleration that it be practiced in respect of evils” (Gray, 324), toleration itself necessarily contains a negative attitude or standpoint toward the object of toleration. But according to relativism, there is no such criterion to judge or rank values, and then there will be no negative attitude and thus no need for toleration at all. By contrast, Rawls’s normative “utopia” at least won’t



have this logical problem.

More concretely on the issue of international toleration, communitarians—such as Walzer are on better ground than pure relativists. He, at least, recognizes “the minimalist claim for the value of peace” and agrees with “the standard account of basic human rights” (Walzer, 2). He agrees that in the international case, toleration has its limits—“Acts or practices that ‘shock the conscience of humankind’ are, in principle, not tolerated.” (Walzer, 21) However, here it seems that he does not maintain his historical and contextual approach to interpret the so-called “the conscience of humankind”, but admits its universality. Therefore, if the logical difficulty of a relativist position is to be avoided, a certain degree of universality and normative ideal are entailed.

As to the relativists’ deep concern that the whole project of *LP* and accordingly Rawlsian toleration is ethnocentric or western-centric, Rawls answers, “[T]he reply is: no, not necessarily. Whether it is so turns on the *content* of the Law of Peoples that liberal societies embrace.” He admits that “The objectivity of that law surely depends not on its time, place, or culture of origin”. However, that does not mean *LP* is an arrogant imperialist extension or imposition of liberal or western values, because *LP* has the principle of reciprocity as a very solid basis (*LP*: 121). That is to say, when two or more societies are interacting with each other, the principle guiding their relations is reciprocal. “It asks of other societies only what they can reasonably grant without submitting to a position of inferiority or domination.” (*LP*: 121) For Rawls, this principle of reciprocity is crucial because it guarantees equality between peoples, including liberal and non-liberal but decent peoples. Indeed, Rawls admits that a liberal society is a more desirable arrangement, but he emphasizes throughout *LP*, that it is not right to require all societies to be liberal. “If a liberal constitutional democracy is, in fact, superior to other forms of society, as I believe it to be, a liberal people should have confidence in their convictions and suppose that a decent society, when offered due respect by liberal peoples, may be more likely, over time, to recognize the advantages of liberal institutions and take steps toward becoming more liberal on its own” (*LP*: 62). “[T]he Law of Peoples does not require decent societies to abandon or modify their religious institutions and adopt liberal ones” (*LP*: 121).

That Rawlsian toleration is not the monopoly of liberalism can be also seen from the emphasis on self-respect and respect in his idea of toleration. In the above paper, it is claimed that the meaning of the term “toleration” itself contains a negative attitude or judgment of the object of toleration. Without this negative judgment, toleration is not necessary. This is the so-called paradox of toleration. (Forst) It is true that for Rawls, the essential object of toleration among peoples is decent people. Cultural relativists and communitarians might make use of this point and argue that Rawls considers other values but liberal ones to be inferior and negative. But Rawls avoids this paradox by making toleration an institutional virtue. Tan clarifies this point and says, “Toleration in

the Law of Peoples is best read as an institutional virtue... That is, toleration in Rawls's international justice is a virtue of the background institutional rules and norms of international society—what Rawls calls 'the basic structure of the society of peoples,' against which independent peoples interact with one another." (Tan, 82) In this way, the institutional toleration on the one hand ensures basic mutual respect between liberal and decent peoples, on the other hand ensures enough room for personal disapproval among the individual persons between them.

To sum up, this paper examined Rawlsian toleration among peoples, the two major criticisms it faces and Rawls's actual or might-be responses to these challenges. The responses were outlined according to Rawls's idea of the law of people as "a realistic utopia". On the one hand, the toleration among peoples is a normative principle and ideal; and on the other hand, it combines the consideration of historical and realistic factors, and thus ensures the feasibility of this ideal. Unlike both cultural relativists and communitarian toleration, Rawlsian toleration among peoples can be regarded as a promising third way.

## Notes

- 1) Since Rawls emphasizes the difference between "peoples" and "states", in this paper, when talking about Rawls's ideal theory, I use "inter-peoples" instead of "international".
- 2) The term "cosmopolitanism" in this paper mainly refers to liberal cosmopolitanism.
- 3) Though there are distinctions between cultural relativists and communitarians, here for the sake of the issue of toleration, I emphasize their commonality and put them in the same category.
- 4) I haven't seen literature about Walzer's direct criticism to Rawlsian toleration among peoples, and his own book "*On Toleration*" was published two years before *The Law of Peoples*, but there is evidence that the two thinkers had communications on at least relevant issues. (For example, in *LP*: 95n, Rawls remarks on Walzer's *Just and Unjust Wars*, "This is an impressive work, and what I say does not, I think, depart from it in any significant respect." In *On Toleration* chapter 2's note, Walzer says, "These examples of intolerance short of armed intervention were suggested to me by John Rawls." (Walzer, 115)) Also, criticism here I am talking about does not merely refer to the direct criticism to Rawls, but also the possible and potential criticism.
- 5) This is Professor Leif Wenar's point which I learned in a semi-meeting in Beijing, October 2010.

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