

DEMOCRACY IN GLOBAL INSTITUTIONS

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A central criticism of global financial institutions such as the International Monetary Fund (IMF) and the World Bank (WB) is that they are insufficiently democratic. In particular, it has been suggested that they are not democratic because they utilize weighted voting and impose conditions on loans. In the IMF and the WB, votes are weighted by economic status. Richer countries such as the United States and the United Kingdom have more votes than poorer countries such as Burkina Faso and Bangladesh. The IMF and the WB also impose conditions, in the form of policy conditions, on the money they lend. Distribution of money is contingent upon taking up certain policies such as liberalization and privatization of the economy. I have two basic projects in this dissertation. The first and main project is to provide an explanation of why weighted voting and conditionality of loans are not consistent with foundational democratic values. The second project is to suggest some means of overcoming the deficit of democracy in global institutions in both current and future generations.

In the first chapter of my dissertation, I develop an account of the value of democratic institutions within nation-states. The account that I argue for here is broadly Rawlsian. I follow Rawls in emphasizing the value of exercising our two moral powers as citizens (i.e., the capacity for justice and the capacity for a conception of the good) and the value of having a secure sense of self-respect as foundational democratic values. My arguments depart from Rawls's in two main respects. First,

while Rawls emphasizes the cognitive aspect of our capacity for a conception of the good, I focus on the practical aspect of this capacity, arguing that experientially testing out our tentative ends and aims is integral to the formation of a rational conception of the good. I argue that exercise of this more practical aspect of the capacity for a conception of the good requires democratic decision-making procedures. Second, I move beyond Rawls's own arguments regarding self-respect, and argue that self-respect is undermined when political arrangements are not conducive to the equal advancement of citizens' interests and that the equal advancement of interests requires democratic procedures.

In chapter 2, using and extending the arguments that I develop in chapter 1, I explain why both weighted voting and conditionality of loans are not consistent with basic democratic values. My arguments here are largely negative. I consider what I take to be the most plausible arguments for weighted voting and conditionality of loans and I show that they fail. For instance, I argue against the claim that developed countries should have more votes simply because they contribute more funds to the IMF and the WB. I also argue against the suggestion that conditionality of loans can be justified on the basis of the IMF and the WB's similarity to corporate or private banks. In responding to these arguments, my aim is to show that weighted voting and conditionality of loans are incompatible with citizens' exercise of their capacity for a conception of the good and with their secure sense of self-respect.

In chapter 3, I discuss the prospects that I find most promising in ending the deficit of democracy. I argue that there is a real challenge to democratic values that is not met by procedural mechanisms and that, at least in current generations, the solution is largely an economic one: egalitarian measures in the global economy will promote democratic values. Only when countries are closer to being economic equals can democratic values be expressed in global financial institutions. Until this point is

reached, I suggest that it is best that global financial institutions be dismantled. Given that countries (particularly the poorer ones) will still need loans for growth and development, I also suggest that, for the time being, commercial banking and regional institutions should take the place of global financial institutions.

However, things will not always be as they are. If egalitarian measures are pursued, then eventually countries will be much closer in economic status to one another. I argue that, at this point, global financial institutions will be better able to express democratic values and can be reinstated. Questions of procedure and policy now become important, for questions remain about how to distribute votes and what form loans should take. Using the domestic sphere as my model, I argue that votes should be distributed equally, and that majority rule should be used but, because of worries about persistent and predictable minorities, that it should be tempered by a bill of rights, bicameralism, and legislative districting. I also suggest that, because it is more consistent with democratic values, structural adjustment loans should be conditional on reaching desired outcomes, that is, outcomes mutually decided upon by borrowing countries and lending agencies (e.g., certain levels of growth, inflation, international reserves).

BIOGRAPHICAL SKETCH

Meena Krishnamurthy did her undergraduate degree in Philosophy at the University of Western Ontario. She won the gold medal for her studies there. She then did her master's degree in Philosophy at the University of Toronto. Meena did her doctoral degree in Philosophy at the Sage School of Philosophy at Cornell University. She is now a Research Post-Doctoral Fellow at Novel Tech Ethics, Dalhousie University.

I dedicate this volume to my beloved, who was the inspirer of all that is best in my writings . . .

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Introduction

§1. Explanation and Context

In the era of increasing economic globalization – the closer integration of the countries in the world economy through increased flow of goods and services, capital and labour – global institutions have become of great importance. This is because economic globalization and its effects are managed or governed in significant part by global financial institutions such as the International Monetary Fund (the IMF) and the World Bank (the WB). However, more recently, these global financial organizations have come under heavy criticism. A central criticism of global financial institutions is that they suffer from a deficit of democracy. Critics often argue that these organizations do not manage globalization in a way that is consistent with democratic values.

The clearest examples of the democracy deficit within the IMF and the WB are weighted voting and conditionality of loans. In the IMF and the WB, votes are weighted by economic status. Richer countries such as the Japan and the United Kingdom have more votes than poorer countries such as Burkina Faso and Bangladesh. Because of its great economic status, a single country, namely, the United States, has effective veto. Critics such as Joseph Stiglitz (chief economist of the World Bank from 1997-2000) worry that weighted voting is not consistent with democratic values because “little weight is given, for instance, to the voices and concerns of the developing countries.”¹ The IMF and the WB also impose conditions on the money they lend. These conditions take a variety of forms. Generally, they involve economic policies and reforms that are meant to lead to growth and development and to ensure repayment of the loan. The economic policies associated

¹ Joseph Stiglitz, *Globalization and Its Discontents* (New York: W.W. Norton & Company, 2003), p. 12.

with the IMF and the WB's structural adjustment loans are not chosen by the borrowing countries' elected officials; they are usually determined by economists who work for the IMF or the WB, who, in turn, are influenced by the US and other developed countries who have the greatest number of votes. Because there is little opportunity for citizens of the borrowing countries to influence which economic policies are pursued, critics worry that conditionality is not consistent with democratic values.

This dissertation is an attempt to explore the charge of a democracy deficit through the lenses of weighted voting and conditionality of loans in global financial institutions. In this dissertation, I have two basic projects. The first and main project is to develop and to explain the charge of a democracy deficit by providing a nuanced explanation of why weighted voting and conditionality of loans are not consistent with foundational democratic values and why both arrangements would be rejected by those who accept a liberal conception of justice. The second project is to suggest some means of overcoming the democracy deficit in global institutions.

§2. Justification of Project

I have chosen to focus on the deficit of democracy within global financial institutions for a number of reasons. The first is a desire to respond to those who are sceptical of any talk of democracy at the global level. Traditionally, many liberals have viewed "democracy" as referring to a regulative ideal governing decision-making about collective affairs among *members of a shared community*, where the shared community is *a people*, a group of people who share in common a language, a culture, and a delimited territory. It is quite clear that, at the global level, there is no *demos* in this sense. Hence, some argue that the notion of democracy at the level of global institutions is senseless. As will become clear, my arguments are in opposition to

those (within the liberal tradition) who are sceptical of any talk of democracy at the international level.

My second reason for exploring this topic is a genuine discontentment with the way the charge of a democracy deficit is applied in international ethics. On the one hand, many popular critics of global financial institutions, such as activists, journalists, and policy makers who are engaged in the evaluation of global institutions, simply take for granted that, because they do not allow all countries to have an equally effective and influential voice, weighted voting and conditionality of loans are objectionable. For this reason, the charge of a democracy deficit is often difficult to pin down. It isn't always clear how they see global arrangements as being inconsistent with underlying democratic values or what underlying democratic values are being appealed to by those who lay the charge of a democracy deficit. This is understandable because the idea of democracy is itself a loose and contested notion; there have been many different ideas about what constitutes a democracy and what its justification is. As a result, it is unclear which of the various understandings of and justifications for democratic arrangements are relevant in the global context. Given that the charge of a democracy deficit is one of the main criticisms launched against global financial institutions, it seems important to fill in the gaps and to address these further issues. I take my work to be a step in this direction. My aim is to give an account of underlying democratic values and to explain how exactly the structure of global financial institutions is inconsistent with these values.

On the other hand, as Thomas Pogge notes, philosophical discussion of international ethics has focused on important questions relating to just war (particularly the rules governing the use of force) and individual duties to aid (to

donate to) needy non-compatriots.² For the most part, it has not been concerned with questions about the design and conduct of existing international organizations such as the IMF and the WB. Philosophical discussion of global ethics has been unconcerned with the apparent deficit of democracy within global financial institutions. This is another gap that I wish to fill.

One might wonder why philosophers should be engaged in the moral assessment of global institutions such as the IMF and the WB. We come now to my third reason for pursuing this project: it stems from a genuine concern with justice at the global level. If we are concerned with justice at the global level, then we must also be concerned with the structure and organization of global institutions such as the IMF and the WB and hence with the apparent deficit of democracy within such institutions.

Two points are important here. First, Rawls argues that “the basic structure is the primary subject of [domestic] justice because its effects are so profound and present from the start.”³ Something similar can be said of global financial institutions and their effects. People’s life prospects and expectations are determined in significant part by the global economy and the benefits it produces. Global financial institutions are part of the global basic structure: global financial institutions manage the economy and the benefits it produces and, as a result, have a profound effect on people’s everyday lives and how well they go. In this sense, the IMF and the WB are the global analogue to those institutions that are part of the domestic basic structure. Global financial institutions, such as the IMF and the WB, have a profound effect on peoples’ life prospects and for this reason should be the primary subject of global justice.

² Thomas Pogge, “Introduction: Global Institutions and Responsibilities,” *Metaphilosophy* 36.1/2 (2005), p. 1.

³ John Rawls, *A Theory of Justice* (Cambridge, Mass: Belknap Press of Harvard University Press, 1999), p. 7; hereinafter *ATJ*.

Second, Rawls argues that “justice is the first virtue of social institutions.”⁴ On his view, “laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust.”⁵ However, justice is not only a virtue of social institutions at the domestic level; it is also a virtue of institutions at the global level. If we are concerned with justice in international relations, then we will want to consider whether global institutions suffer from a deficit of democracy. This is because, as I will try to show in some detail, democratic institutions are a demand of justice not only at the domestic level but also at the global level. In short, if we are concerned with just international relations, then we should be concerned with the structure of global institutions and whether they suffer from a deficit of democracy. This is the fundamental reason for considering and developing the charge of a democracy deficit.

§3. The Argument

My project proceeds in the following manner. Part I focuses on the value of democratic procedures in the domestic setting. I focus on the domestic setting because my hope is that once we have an understanding of the values that support democratic decision-making procedures at the domestic level, we will be able to see more clearly how these same values support democratic decision-making procedures at the global level and, in turn, how these values are violated in current (undemocratic) decision-making processes at the global level. Since it provides the foundations for the rest of the dissertation, this part is much longer and more detailed than the rest.

In Part I, after giving a brief definition of democracy in §1, I turn, in § 2, to the question of what makes democracy morally important. Here, I give a detailed account

⁴ Ibid., p. 3

⁵ Ibid., p. 3.

of why democracy is something to be valued. I explore and defend the case for democratic decision-making procedures within constitutional democracies. The account that I argue for here is broadly Rawlsian. I develop and defend arguments that are implicit in Rawls's work but that are not well developed there.⁶ I also go well beyond Rawls's own arguments, offering additional arguments of my own, which, for the most part, I take to be consistent with the spirit of Rawls's work.

I follow Rawls in emphasizing the value of developing and exercising our two moral powers as citizens (the capacity for justice and the capacity for a conception of the good) and in securing a sense of self-respect as foundational democratic values. My arguments go beyond Rawls's arguments in three main respects. First, unlike Rawls, I develop an argument for democratic procedures on the basis of our higher-order interest in developing and exercising our capacity for justice. I argue that the development and exercise of our capacity for justice requires a sense of ownership and that a sense of ownership is most likely to develop under democratic institutions. Second, while Rawls emphasizes the cognitive aspect of our capacity for a conception of the good in his arguments, I focus on the practical aspect of this capacity, arguing that experientially testing out tentative ends is integral to the formation of a rational conception of the good. I argue that exercise of this more practical aspect of the capacity for a conception of the good requires democratic decision-making procedures. Third, moving beyond Rawls's own arguments regarding self-respect, I argue that self-respect is undermined when political arrangements are not conducive to

⁶ There has been little sustained discussion of Rawls's arguments for democracy. There are a few exceptions: Joshua Cohen, "For A Democratic Society," in Samuel Freeman (ed.), *The Cambridge Companion to Rawls* (Cambridge: Cambridge University Press, 2003), pp. 86-138; Amy Gutmann, "Rawls on the Relationship between Liberalism and Democracy," *The Cambridge Companion to Rawls*, pp. 168-199; and Harry Brighouse, "Political Equality in Justice as Fairness," *Philosophical Studies* 86.2 (1997), pp. 155-184. The three of these papers are largely in support of Rawls's arguments. Challenges to Rawls's arguments are raised in Steven Wall, "Rawls and the Status of Political Liberty," *Pacific Philosophical Quarterly* 87(2006), pp. 245-270.

the equal advancement of citizens' interests and that the equal advancement of interests requires democratic procedures.

In Part II, sections §1, §2, and §3, I outline a critique of weighted voting and imposed loan conditions in the IMF and the WB that will play a central role in my construal of the democracy deficit. Using (and perhaps extending) the arguments that I develop in Part I, I try to explain why both weighted voting and the conditionality of loans are not consistent with basic democratic values. I focus on weighted voting and the conditionality of loans because, as I mentioned, they are the clearer examples of the democracy deficit within global financial institutions.

In Part III, I end by briefly sketching the issues that I find most pressing and the prospects that I find most promising in ending the democracy deficit. In §1, I argue that there is a real challenge to democratic values that is not met by procedural mechanisms. I argue that, initially in current generations, the solution is largely an economic one: egalitarian measures in the global economy will promote democratic values. Only when countries are closer to being economic equals can democratic values be expressed in global financial institutions. Until this point is reached, I suggest tentatively that it is best that global financial institutions be dismantled.

If current institutions are dismantled, then there arises a further question: what is to be done in the meantime? After all, countries (particularly the poorer ones) will still need loans for growth and development. In answer to this question, I briefly suggest that commercial banking and regional institutions present the most viable option.

However, things will not always be as they are. If egalitarian measures are pursued, then eventually countries will be much closer in economic status to one another. So, in §2, I argue that, at this point, global financial institutions such as the IMF and the WB will be better able to express democratic values and can be

reinstated. Questions of procedure and policy become important here, for there are still questions about how to distribute votes, how collective decisions are to be made, and what form loans should take.

With respect to the questions about voting procedures, using the domestic sphere as my model, I argue that votes should be distributed equally, and majority rule should be used but that, because of the problem of persistent and predictable minorities, it should be tempered by a bill of rights, bicameralism, and legislative districting.

Finally, I discuss the structure of loans. Here, I suggest that, because it is more consistent with democratic values, structural adjustment loans should be conditional on reaching desired outcomes. That is to say, money should be dispersed mainly on the basis of reaching desired economic objectives, objectives mutually decided upon by borrowing countries and lending agencies (e.g., certain levels of growth, inflation, international reserves, etc.). Insofar as what must be agreed upon are only objectives and not the content of policies aimed at reaching the desired objectives, outcome based conditionality would give borrowing countries the space they need to implement economic policies of their own choosing. Since dispersal of money is contingent on reaching desired outcomes agreed to by the lender, outcome based conditionality will also serve to safeguard the money of lending agencies.

Part I

Domestic Institutions and The Value of Democracy

§1. A Definition of Democracy

I will begin by saying something about what I take democracy to mean. This will set the stage for the arguments that I make in the following sections. Democracy is not easy to define. As Amy Gutmann notes, “it is among the most contested of moral and political concepts.”⁷ So, what I say here about the concept of democracy should be taken as preliminary and as something to be filled out further as we progress.

Democracy is sometimes defined simply as majority rule. For reasons that I will explore at the end of this chapter, I am reluctant to immediately link democracy with winner-take-all majority rule or any other decision-making rules such as consensus or supermajority decision-making.⁸ The definition of democracy that I start with here leaves it an open question as to what counts as democratic decision-making rules or procedures.

As I see it, democracy has four features. First, democracy is commonly understood as a form of collective decision-making. Collective decision-making is concerned with making decisions for groups that are binding on the members of the group.⁹ Democratic decision-making can occur within a variety of groups; there can be democracies within families, the workplace, the state, and global institutions. I focus on the last two. Second, democracy is associated with equality: political equality implies equality among members, at least at some stage, in the process of political decision-making. What exactly this means will become more clear as we

⁷ Gutmann, “Rawls on the Relationship,” p. 169.

⁸ Gutmann is also reluctant to identify democracy with majority rule or other alternative decision-making rules and procedures. See *ibid.*, p. 169.

⁹ Thomas Christiano, “Introduction,” *Philosophy and Democracy: An Anthology* (Oxford: Oxford University Press, 2003), p. 4.

proceed. Third, democracy is also usually associated with certain liberties such as the liberty to vote and the liberty to run for public office. Fourth, democracy is usually associated with the value of deliberation; engaging in reasoned deliberation about how society should be arranged is a central democratic ideal.

§2. Arguments for the Value of Democracy

In the following section, I develop and defend Rawls's arguments for democracy, exploring how Rawls's arguments for equal political liberty and its fair value support a democratic system of government. These arguments will provide a basis for criticizing weighted voting and the conditionality of loans in later sections.

Rawls argues for what he calls “the special conception of justice.”¹⁰ This conception consists of three principles: *the principle of equal liberty*, *the principle of fair equality of opportunity*, and *the difference principle*.

The first principle, *the principle of equal liberty*, states that “each person is to have an equal right to the most extensive system of equal basic liberties compatible with a similar system of liberties for all.”¹¹ This principle requires protection of liberties such as freedom of speech and freedom of assembly, freedom of conscience and freedom of thought, freedom of the person, and the right to hold property; it also requires protection of the political liberties such as the rights to vote and to hold public office.¹²

¹⁰ Rawls's special conception of justice, which prioritizes liberty, is to be put into practice only after society has reached a certain level of material well-being. Prior to this point, the general conception of justice applies and the difference principle arranges the distribution of all social primary goods, including liberty.

¹¹ *ATJ*, p. 220. For Rawls, “liberty” simply means that persons are not under a constraint (or a set of constraints) to do (or not to do) a particular act (or particular acts). Rawls is concerned with liberty in the sense of constitutional and legal restrictions.

¹² *Ibid.*, p. 53.

Also included in the first principle is *the proviso* which states that the political liberties, and only the political liberties, are to be guaranteed their fair value. This means that the worth (or usefulness) of political liberties must be sufficiently equal in the sense that all citizens have a fair opportunity to hold public office and to affect the outcomes of elections.¹³ The fair value of political liberties ensures “that citizens similarly gifted and motivated have roughly equal chance of influencing the government’s policy and of attaining positions of authority irrespective of their economic and social class.”¹⁴

The second principle states that social and economic inequalities are to be arranged so that they meet two conditions: (i) social and economic inequalities must be attached to offices and positions open to all under conditions of fair equality of opportunity, which means that those who have similar levels of talent and motivation should have the same prospects of success regardless of socioeconomic position (this is the principle of *fair equality of opportunity*); (ii) social and economic inequalities must be to the benefit of the least advantaged (this is the *difference principle*).¹⁵

Moreover, Rawls argues that the first principle is prior to the others; that is, the principle of equal liberty is to be satisfied first – this is *the doctrine of the priority of liberty*. For Rawls, the priority of liberty means that “liberty can only be limited for the sake of liberty itself.”¹⁶ Basic liberties can only be restricted when they come into conflict with other basic liberties. They cannot be limited for the sake of greater social or economic advantages, for example.¹⁷

¹³ John Rawls, *Justice as Fairness: A Restatement* (Cambridge: Harvard University Press, 2001), p. 149; hereinafter *JF*. C.f., *ATJ*, p. 197.

¹⁴ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), p. 358; hereinafter *PL*. The proviso is essentially fair equality of opportunity applied to the political realm.

¹⁵ *JF*, pp. 44-46.

¹⁶ *ATJ*, p. 214.

¹⁷ It is worth noting that the priority of liberty holds only when social and economic development is enough for effective exercise of basic liberties. Until this point, it may be permissible to forgo certain political rights for the sake of significant social or economic returns. For example, if citizens are

The special conception of justice supports a democracy because the first principle of justice requires it. This principle supports a constitutional democracy, in particular, not only because it requires protection of the political liberties but also because it requires protection of the nonpolitical liberties as well. As Cohen notes, “Rawls’s idea is that the nonpolitical liberties, will be, in some way, entrenched in a constitution (perhaps in a bill of rights) along with the political liberties and not be up for consideration in normal politics.”¹⁸ Rawls writes,

the first principle of equal liberty is the primary standard for the constitutional convention. Its main requirements are that the fundamental liberties of the person and liberty of conscience and freedom of thought be protected and that the political process as a whole be a just procedure.¹⁹

Rawls’s arguments for a constitutional democracy are found, primarily, in his arguments for the first principle of justice and the proviso, that is, in his arguments for the protection of equal basic liberty (political and non-political). So, given our interest in Rawls’s argument for democracy, our focus here will be on Rawls’s arguments for the principle of equal liberty and the fair value of liberty, placing special emphasis on the political liberties. Turning to Rawls’s justification for this principle, his arguments suggest two strategies. The first focuses on the content of some of our “fundamental aims,” aims which are commonly part of our conceptions of the good. The second strategy focuses on our “higher-order” interests, interests which flow from our moral powers as citizens.²⁰ In a sense, Rawls offers these arguments as a package. He believes that a few different arguments can be given for the value of democratic institutions and that these arguments work together to support the value of democratic

starving and only a benevolent dictator would be able to provide enough food for everyone, then an undemocratic political order might be permissible on Rawls’s view.

¹⁸ Cohen, “For a Democratic Society,” p. 92.

¹⁹ Ibid, p. 92. *ATJ*, pp. 174-175.

²⁰ *ATJ*, p. 475. See also Cohen, “For a Democratic Society,” p. 104.

institutions. Some of these arguments are not as strong as others, but Rawls believes that when taken together, as a package, these arguments offer strong and persuasive reasons for supporting democratic institutions.

§2.1 An Argument from our Fundamental Aims

Let us begin with the first argument based on our fundamental aims. The original position is very important to Rawls's argument. The original position is a purely hypothetical situation in which we picture ourselves as choosing the appropriate principles of justice, the principles by which major social or public institutions are to be arranged which are suited toward free and equal people. In the original position, we are rational and self-interested. We have some knowledge of the world and ourselves. We know general facts about science, human psychology, and sociology. Particularly important for our project here, we also know that we have certain fundamental interests, interests that are commonly part of our determinate conceptions of the good. For example, we know that we have an interest in the expression of our religious attitudes.²¹ From the original position, we do not know the particular forms these interests will take, but we are certain that we have such interests and that we would not willingly sacrifice them.

The restrictions imposed by the original position are meant to represent "equality between human beings as moral persons."²² They "define principles of justice as those which rational persons concerned to advance their interests would consent to as equals when none are known to be advantaged by social and natural contingencies."²³

²¹ *ATJ*, p. 131.

²² *Ibid.*, p. 17.

²³ *Ibid.*, p. 17.

Rawls makes his case for equality of liberty by focusing on liberty of conscience.²⁴ From the original position, we know that we have a deep interest in protecting our religious and moral freedom. Yet, we do not know what our religious or moral convictions are. We do not know whether we do in fact hold a particular religious outlook, but we might or we might hold a more secular moral outlook. We do not know, however, how our religious or moral views fare in society. Our views might be in the minority or in the majority. Given this limited information, we are to decide what principle should be adopted to regulate our religious and moral interests.

Rawls argues that equal liberty of conscience is the only principle that we would accept. It could happen that our particular religious or moral convictions are in the minority and are open to suppression by the majority. Given the deep importance we place on protecting our religious and moral convictions, we would not be willing to take this chance, even if it is more than likely that our views will belong to the majority and will not be suppressed. This unwillingness to gamble with our convictions is not, as is sometimes supposed, a matter of what we would choose when we do not know the possibilities.²⁵ It is a matter of integrity. It is a matter of seeing our own fundamental interests as being of great value, and properly expressing this value. We would not properly express the value of our religious and moral convictions if we were willing to take a chance with them (“by permitting the dominant moral or religious doctrine to persecute or to suppress others if it wishes”).²⁶ As Rawls states, “to gamble in this way would show that one did not take one’s

²⁴ The argument, as I present it, is extrapolated mainly from *ATJ* §33, pp. 180-186.

²⁵ c.f., John C. Harsanyi, “Can the Maximin Principle Serve as a Basis for Morality,” *American Political Science Review* 69 (1975), pp. 595-606.

²⁶ *ATJ*, p. 181. I wouldn’t wager my mother in a poker game, even if it was very unlikely that I was going to lose the game. To wager her would not be consistent with my deep valuing of her. Indeed, it would suggest that I didn’t value her. I think something similar applies in the case of the religious interest. My suggestion is that we attach so much value to our religious interest that we know that we cannot properly express this valuing if we gamble with it.

religious or moral convictions seriously, or highly value the liberty to examine one's beliefs."²⁷ Rawls argues that "in order to secure their unknown but particular interests from the original position, they are led, in view of the strains of commitment (§29), to give precedence to the basic liberties."²⁸

Only one more point is needed to make Rawls's argument for the principle of equal liberty complete. Rawls argues that when we enter into an agreement we must take into consideration the "strains of commitment," that is, whether we could hold to our agreement even if the worst possibilities prove to be the case. If we could not hold to it under such conditions, then we have not made an agreement in good faith.

When we couple the considerations of the strains of commitment with our fundamental interest in expressing religious and moral attitudes, we have compelling reason for choosing equal liberty of conscience. If we were to choose a conception of justice that did not ensure equal liberty of conscience, there would be great risk that we would not be able to uphold the agreement. This is because it might require us to disregard what we take to be in our fundamental interests. As Cohen puts it, "we cannot, therefore, make good faith agreement to a conception that does not ensure liberty of conscience."²⁹

Rawls claims "that the reasoning in this case can be generalized to apply to other freedoms, although not always with the same force."³⁰ This would suggest that a similar argument can be given in the case of the political liberties. Rawls, however, never actually gives such an argument. So, we might wonder, how would such an argument proceed?

²⁷ *Ibid.*, p. 181.

²⁸ *Ibid.*, p. 475.

²⁹ Cohen, "For a Democratic Society," p. 106.

³⁰ *ATJ*, p. 181.

As Cohen notes, a parallel argument would need to start with a fundamental aim, a certain interest that is “especially important in the way that religious and moral views present interests in fulfilling their own fundamental requirements as of special importance.”³¹ Cohen points out that one cannot appeal to the Aristotelian view that humans are political animals who realize their good only by participating in political life, or to the Rousseauian view that freedom is the supreme good and that we only achieve freedom when we participate in collective decision-making.³² This is because, from the original position, we know that we have determinate conceptions of the good life, but we do not know their content. In turn, both of these views about what is our good are unavailable to us from the original position, for both appeal to a particular view of what the best human life consists in. In short, appeals to either the Aristotelian or the Rousseauian views are in violation of the restrictions placed on us (and our reasoning) by the original position. As a result, Cohen suggests that Rawls’s argument concerning equal liberty of conscience cannot be generalized to the case of equal political liberty.

Cohen’s dismissal of Rawls’s arguments is too quick. There is at least one fundamental aim that we can appeal to in support of equal political liberty and its fair value: namely, the interest in political participation. On the face of it, this seems to be an interest that is commonly part of our determinate conceptions of the good. It also seems to be an interest that people would not tend to give up willingly. Moreover, the interest in political participation does not depend on any particular conception of the good. It could arise from an Aristotelian or Rousseauian conception of the good; it could also arise from any number of other conceptions of the good. As a result, an

³¹ Cohen, “For A Democratic Society,” p. 106.

³² On Rousseau’s view see Joshua Cohen, “Reflections on Rousseau: Autonomy and Democracy,” *Philosophy and Public Affairs* 15.3 (1986), pp. 275-297 and Frederick Neuhauser, “Freedom, Dependence, and the General Will,” *The Philosophical Review* 102.3 (1993), pp. 363-395.

appeal to an interest in political participation would not violate the conditions of the original position. If we appeal to the interest in political participation, then I think an argument that parallels Rawls's arguments for equal liberty of conscience can be given for equal political liberty.

From within the original position, we know that we have a fundamental interest in political participation, but we do not know how our interest in political participation will fare. It could happen that members of society have unequal rights of political participation. For example, we might live in a society where women and racial minorities are denied voting rights. Given the deep importance we place on protecting our interest in political participation, we would not be willing to take this chance, even if it is more than likely that we will belong to the majority and that we will have the right to vote. As a result, we would not agree to a scheme of justice that fails to ensure equal political liberty.

We might legitimately wonder whether this line of argument supports the *fair value* of political liberty (not just having a say, but having an equally effective say). It is important to note that this line of argument was not initially intended to support the fair value of equal political liberty. This line of argument is derived from Rawls's arguments in *ATJ*, and he did not come to accept the fair value of political liberty until he wrote *PL*. However, given that Rawls eventually does endorse fair value as part of the principle of equal political liberty, and that he thinks this endorsement is consistent with his arguments in *ATJ*, it is important to see if this line of argument can be expanded to support the fair value of political liberty.

Imagine that society is arranged so that all individuals have a say in political decision-making, but that some individuals have less of a say in it than others. For example, imagine a society where the government consists solely of men and that only they have the power to make decisions about the arrangement of social institutions.

Imagine that there is also a procedure of consultation in which the voices of women are heard. Women, through this consultative procedure, can express political dissent and the government has an obligation to take this dissent seriously, to provide a conscientious reply, and to make institutional changes where necessary. The government is responsive to the views of women. Call this a *consultative assembly*.³³ In this case, women are able, through the process of consultation, to participate in political decision-making. The decisions that are made are responsive to and are, in this sense, a result of women's intelligent reflection about justice and the common good. Would parties, within the original position, wish to protect themselves from such an arrangement by ensuring the fair value of political liberty?

It seems that, in theory, we can properly express the value we place on political participation and accept having less of a say than others in political decision-making. Under a genuine consultative assembly, though we are unable to do so to an equal extent, all individuals are able to genuinely participate in political decision-making. If the government is in direct and real consultation with its people, it considers and is responsive to their views, then people are able to satisfy their fundamental interest in political participation.

However, in order for our interest in political participation to be satisfied by participation in a consultative assembly, it is integral that consultations be genuinely responsive. To see that this is the case, consider a mock consultative assembly. Just as before imagine that citizens are part of a consultative assembly but that the consultations are not genuine. Individuals give voice to their political opinions and dissent, but political officials do not genuinely listen to these concerns and only pretend to give conscientious responses. Participation in this kind of mock

³³ I borrow this example from John Rawls, *Law of Peoples* (Cambridge: Harvard University Press, 1999), pp. 71-78; hereinafter *LP*.

consultative assembly does not satisfy our interest in political participation. There is a relevant difference between genuine participation and pretend participation in political decision-making. If I share my political views and dissent and they are not heard or taken seriously, then I am not in fact participating in political decision-making. I am simply an observer. It is much like standing on the sidelines at a game of football. If I am on the sidelines, then I am not playing football. I am only watching football. In the case of a mock consultative assembly, we would be standing on the side-lines, watching politics take place, and not genuinely participating in political decision-making. This kind of arrangement would not satisfy our interest in political participation. To satisfy our interest in political participation, we must genuinely participate in political decision-making. Only a genuine consultative assembly, with genuinely responsive consultations, can satisfy our fundamental interest in political participation.

While one can certainly imagine a political process, such as a genuine consultative assembly, in which individuals without an equally effective vote are able to adequately satisfy their fundamental interest in political participation, in the real world deep and pervasive facts of human psychology make this an unrealistic option. It is very unlikely that there are or that there will be any real-life examples of a genuine consultative assembly. As a result, in the real world, our fundamental interest in political participation is not likely to be satisfied by any other principle than equal political liberty and its fair value.

As Rawls himself emphasizes, the tendency toward partiality is an ineliminable characteristic of human nature.³⁴ The tendency towards partiality makes meeting the

³⁴ Consider one of Rawls's arguments against utilitarianism. Rawls suggests that promoting average utility is not the right social standard. It leads people to be governed by calculations that they will tend to get wrong because of being partial to themselves. In other words, it is hard for us to calculate what is in the best interests of all because we tend to be partial to our own interests.

conditions of a genuine consultative assembly, especially that of genuine responsiveness, very difficult. In particular, non-democratic political elites are not likely to yield to good consultative arguments in important matters. They are more likely to favour their own views over others', even when they are in consultation with others. Political elites are often blinded by self-interest and greed. Yet, even when this is not the case, and those in power have good motives, it may still be difficult for them to give way to or be responsive to good consultative arguments. For example, even those who are well-meaning have gotten it wrong when it comes to the place of racial minorities in the political order. Genuinely responsive consultations are difficult because it is often hard to listen to those who have different backgrounds and viewpoints from our own. It is also easy to see the downside, without seeing the upside, of other people's views, especially when they are very different from our own. For these reasons, it will likely be hard for those in power to be genuinely responsive to the arguments and positions of those they are in consultation with. In the real world, consultative assemblies are likely to be a "sham".

Given our tendency toward partiality and the unlikelihood of genuine consultations, if we, as parties within the original position, wish to ensure that our fundamental interest in political participation is satisfied, then we would wish to ensure that both equal political liberty and its fair value are protected. This is because we would not be willing to risk the satisfaction of our fundamental interest in political participation by allowing for the possibility of bogus consultations (which would fail to satisfy our fundamental interest). Our unwillingness to gamble with our fundamental interest in political participation is part of what it is to deeply value political participation and to properly express this valuing.

Objection.

Rawls has been criticized for grounding his conception of justice in contingent facts of empirical psychology rather than in moral arguments.³⁵ This general worry might be applied to Rawls's attempt to ground the arguments for equal political liberty and its fair value in our fundamental interests.

The argument that justice requires equal political liberty and its fair value is grounded in, what Rawls takes to be, an empirical fact about our psychology: we commonly view certain interests as being fundamental to our good. Rawls argues, given these interests, parties within the original position will choose the principle of equal liberty and its fair value. One might question this methodology. It might be an empirical fact that many individuals value political participation, for example, but why should this interest rather than some other interest be the basis for claims about the requirements of justice? For example, it might also be the case that many individuals commonly value segregation, domination, or servility. Why shouldn't we focus on these interests in our attempts to determine the requirements of justice? Rawls gives us no answer to this question. He fails to give us reasons or arguments for focusing on any particular set of fundamental interests (for focusing on an interest in religious expression or political participation, for example).

On Rawls's behalf, one might be tempted to claim that the interests in religious expression and political participation are somehow more fundamental than others to our essential human nature. But, Rawls wishes to stay away from such metaphysical claims about the person. One might also be tempted to claim that possessing these

³⁵ The most important criticisms of Rawls for over-reliance on empirical psychology in the original edition of *A Theory of Justice* are his own. See, for example, (the "Preface") ATJ, p. xiii. G.A. Cohen might also be seen as a critic of over-reliance of a sort, since he criticizes Rawls for letting justice be determined by the incentive structure of people who are insufficiently concerned with justice. This is a major theme of Cohen's work that culminated in *Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2008).

interests is an ineliminable characteristic of human nature (much like the tendency toward partiality), but this seems false. Many of those we consider to be human do not see themselves as having such interests.

In response, I think it is important to note that Rawls seeks to take into account and, in turn, takes for granted certain “considered judgments” and “fundamental intuitive ideas” that are implicit in the public culture of a democratic society. For example, central considered judgments include the beliefs that racial discrimination and slavery are morally objectionable. Rawls thinks that any appropriate theory of justice must take into account these considered judgments and fundamental intuitive ideas. His aim is to construct the original position so that it adequately expresses these considered judgments and fundamental intuitive ideas, and then to build an argument on the basis of the original position to support the principles of justice.

From this perspective, it seems right to think that an argument for just institutional arrangements must take into account our interests in religious expression and in political participation. The belief that such interests are vital and ought to be protected by social institutions is both implicit in and fundamental to the public culture of a democracy. Something similar cannot be said of segregation or domination. Indeed, the belief that these interests are antithetical democracy is central to the public culture of a democracy.

In the end, Rawls becomes somewhat unsatisfied with his methodology, and attempts to refine his arguments by basing them more closely on a political conception of the person as a democratic citizen who is free and equal. This later justification for equal political liberty and its fair value no longer appeals to the fundamental interests of people, but rather to the higher-order interests of free and equal citizens.

§2.2 An Argument from our Higher-Order Interests.

The second strategy (which comprises three different arguments) focuses on what Rawls calls higher-order interests, rather than fundamental aims. Unlike fundamental aims, these interests are not grounded in a particular notion of what is commonly part of conceptions of the good. Rather, they are interests that are grounded in a political conception of the person.

On Rawls's view, from within the original position, we are to conceive of ourselves as citizens who are in possession of two moral powers: a sense of justice and a capacity for a conception of the good. A sense of justice is the capacity to understand, to apply, and to willingly act from the principles of justice.³⁶ The capacity for a conception of the good is the capacity to form, to revise, and to rationally pursue a determinate conception of the good, a conception of what is valuable in human life.³⁷ In addition to these two moral powers, persons are conceived as having, at any given time, a determinate conception of the good that they try to achieve.

Rawls's conception of the person (or citizen) is a political conception in the sense that it is "a conception that is suited for the basis of democratic citizenship."³⁸ Following in the tradition of liberal democratic thought, Rawls views citizens as free and equal persons. The equal status of citizens is a function of their possession of the two moral powers: having the two powers to the required minimum degree necessary to be a fully cooperating member of society makes citizens equal (not socioeconomic position or natural abilities).³⁹

³⁶ *PL*, p. 19.

³⁷ *Ibid.*, p. 19. A conception of the good usually "consists of a more or less determinate scheme of final ends, that is, ends we want to realize for their own sake, as well as attachments to other persons and loyalties to various groups and associations" (*ibid.*, p. 19).

³⁸ *Ibid.*, n. 20, p. 18.

³⁹ C.f., *ibid.*, p. 19.

Return to Rawls's argument for the equality of political liberty. Rawls argues that, as citizens, we have higher-order interests in the development and exercise of the two moral powers. "To say that these interests are 'higher-order' interests means that, as the fundamental idea of the person is specified, these are interests that are viewed as basic and hence as normally regulative."⁴⁰ It also means that they are interests that would not willingly be sacrificed. Rawls argues that we have a higher-order interest in the development and exercise of the two moral powers because it is either a means to, or a part of, our good (what exactly this means will become more clear as we proceed). Moreover, Rawls argues that equal political liberty and its fair value guarantee equally for all persons the social conditions necessary for the adequate development and the full exercise of the two moral powers. Hence, he concludes, persons would not accept anything less than equal political liberty and its fair value.

The Argument Concerning the First Moral Power

Let us begin with considerations relating to the first moral power, the capacity for justice, that was earlier defined as the capacity to understand, to apply, and to willingly act from the principles of justice. Rawls argues that parties will be moved to adopt the principles of justice which most effectively secure the development and exercise of the capacity for justice.⁴¹ And they "are moved not from the desire to realize this moral power for its own sake, but rather view it as the best way to stabilize just social cooperation and thereby to advance the determinate conceptions of the good of the persons they represent."⁴² On Rawls's view, from the perspective of the original position, the value of developing and exercising the first moral power is purely instrumental.

⁴⁰ Ibid., p. 74.

⁴¹ Ibid., p. 317.

⁴² Ibid., p. 318.

A stable conception of justice is one where all citizens regularly comply with the principles of justice. However, Rawls is concerned not with simply general compliance, but with compliance for the right reasons. That is to say, he is concerned with citizens' wholehearted and willing adherence, adherence that represents complete sincerity and commitment, to the principles of justice rather than reluctant adherence that results as a part of a *modus vivendi* or from some type of coercion.

Furthermore, Rawls argues that we have greater ability to advance our own determinate conceptions of the good when everyone adheres to the principles of justice willingly; "and a scheme of just social cooperation that is made stable by an effective sense of justice is a better means to this end than a scheme which requires a severe and costly apparatus of penal sanctions, particularly when this apparatus is dangerous to basic liberties" (i.e., when it involves coercion).⁴³ So, because this is the best way of advancing citizens' determinate conceptions of the good, we will want to ensure that citizens will act from the principles of justice willingly, i.e., that citizens have an effective sense of justice.

Rawls suggests that these considerations support equal political liberty and its fair value. For reasons having to do with ensuring the development and exercise of the capacity for a conception of the good (something I discuss in the next section) and for reasons having to do with ensuring the social bases of self-respect (which is something I discuss later but will put aside for the time being), the only system of justice that citizens will willingly agree to uphold is one that secures equal political liberty and its fair value. Citizens will only willingly uphold a scheme of justice if it ensures that they will be able to fully develop and exercise their second moral power. Rawls thinks that citizens will only be able to fully develop and exercise their second moral power when they have equal political liberty and its fair value.

⁴³ Ibid., p. 316.

This argument for equal political liberty and its fair value is not an independent argument. It stands and falls with the other arguments based on the capacity for a conception of the good. Rawls never considers whether an independent argument can be given. This may be because he thinks nothing further can be said for equal political liberty and its fair value regarding the capacity for justice that does not also depend on the capacity for a conception of the good (or self-respect). This presumption would be false, however. Rawls misses out on a plausible independent argument concerning the capacity for justice in his arguments for democratic procedures. To the extent that a further argument from the capacity for justice would bolster his position, this is a weakness of Rawls's arguments.

In what follows, I supplement Rawls's arguments by giving an argument for equal political liberty and its fair value that concerns the capacity for justice, and is independent of considerations relating to the capacity for a conception of the good (and self-respect). Take as our starting point Rawls's claim that a developed or effective sense of justice is required for a stable society and that a stable society will advance citizens' determinate conceptions of the good. The next point is that having one's sense of justice come to bear on political decisions will lead to a stable society. The general idea is this: stability for the right reasons involves having a sense of ownership. If citizens actually participate in the development and application of fair terms of cooperation, then they will come to feel a sense of ownership over them, and this sense of ownership will, in turn, make them more likely to adhere willingly to these terms and to the institutions they support.

As a free and equal citizen, I see the exercise of my two moral capacities as being constitutive of my identity. It is my capacity for the two moral powers that makes me what I am, that makes me a free and equal citizen. When I take part in making a decision, my exercise of my first moral capacity – that is, my capacity for

intelligent reflection about justice and the common good – is taken into account and given weight in the decisions that are made. In this way, it can be said that the decision that is made is joined with an essential part of myself (namely, my exercise of my moral powers). Insofar as an essential part of myself is joined with that decision, I will properly come to feel that the decision, at least in part, is part of or belongs to me. I will properly come to feel a sense of ownership over the decision made.

If citizens feel a sense of ownership over political decisions and institutions, then they will be more likely to adhere to them willingly (without penal sanctions, for example). Feelings of ownership will encourage citizens to be loyal to the scheme of justice. If citizens care about themselves, then they will want themselves and whatever they view as being part of (or associated with) themselves to do well and to be successful. In turn, they will be willing to put their efforts and energy into ensuring that this is the case. This is simply part of what it is to care about oneself. So, if citizens care about themselves, and they feel a sense of ownership over the scheme of justice, then they will want the scheme of justice to be successful and will be willing to do what they can to ensure its success. This, in turn, will motivate citizens to adhere to the scheme of justice. So, if we wish to ensure that citizens feel a sense of ownership over the scheme of justice, then we must ensure that citizens are able to participate in the development of the scheme. For this reason, I would argue, we need to ensure equal political liberties (such as equal voting rights) and their fair value.⁴⁴

⁴⁴ Some might worry that these claims, about ownership and what underwrites an effective sense of justice, are psychological in nature and as such need to be verified by empirical data. In response, I follow Rawls in emphasizing that “it is a *moral* psychology drawn from the political conception of justice as fairness. It is not a psychology originating in the sciences of human nature but rather a scheme of concepts and principles for expressing a certain political conception of the person and an ideal of citizenship” (PL, p. 87; my italics). I believe that the kinds of considerations that I appeal to here, such as the sense of ownership and what underwrites it, for example, are not only reasonable but justified given that citizens conceive of themselves in a particular way, that is, as having the two moral powers.

One might wonder whether the argument from ownership supports the fair value of political liberty. Reconsider a consultative assembly where women can express political dissent, through a consultative procedure, and the government has an obligation to take this dissent seriously, to provide a conscientious reply, and to make institutional changes where necessary. In this case, women are able, through the process of consultation, to participate in political decision-making. The decisions that are made are responsive to and are, in this sense, a result of women's intelligent reflection about justice and the common good. In this case, it seems that a sense of ownership and, in turn a sense of justice (a genuine desire to adhere to the laws and decisions) would develop among the women.

Nevertheless, a consultative assembly is not a compelling way of ensuring a stable society. Rawls argues that, other things being equal, persons in the original position will be moved to adopt the most stable system. On his view, "one conception of justice is more stable than another if the sense of justice that it tends to generate is stronger and more likely to override disruptive inclinations and if the institutions it allows foster weaker impulses and temptations to act unjustly."⁴⁵ In this sense, a democracy seems more stable than a consultative assembly. This is because a democracy is likely to engender stronger feelings of ownership over political decisions. While members will certainly feel some sense of ownership over the decisions made in a consultative assembly, in the sense that their intelligent reflection and values play a significant role in the outcomes of decisions, it seems obvious that they will feel a greater sense of ownership when their participation in decisions is equal to that of others.

⁴⁵ *ATJ*, p. 398.

Argument Concerning the Second Moral Power

Let us now turn to the second moral power, the capacity for a conception of the good. Our capacity for a conception of the good enables us “to think of ourselves as affirming our way of life in accordance with the full, deliberate and reasoned exercise of our intellectual and moral powers.”⁴⁶ Rawls argues, this relationship between our way of life and our deliberative reason becomes part of our determinate conception of the good.⁴⁷ Because we have the capacity to intelligently and reflectively form our ends, we come to want our conceptions of the good to be the result of our own moral and intellectual reflection, rather than their being forced on us or handed down to us. As Rawls puts it, we “seek to make our conception of the good our own;” and we will not be content “to accept it ready-made from our society or social peers.”⁴⁸ “This possibility is contained in the conception of the person.”⁴⁹

To ensure that our ideals, attachments, and loyalties are really our own (shaped by our own moral and intellectual faculties, that is), we must have room to fall into error, to revise our existing conceptions of the good or to form other and more rational conceptions of the good. For as Rawls points out, there is no guarantee that we will identify all aspects of our present way of life as the most rational for us.⁵⁰ For instance, there is no guarantee that all aspects of our present way of life best cohere with our other commitments and priorities. So, it may happen that our conception of the good is in need of some kind of revision.⁵¹ Thus, Rawls argues, in order to allow for this possibility, we would adopt principles that protect the liberty of conscience.

⁴⁶ *PL*, p. 313.

⁴⁷ *Ibid.*, p. 313.

⁴⁸ *Ibid.*, p. 313.

⁴⁹ *Ibid.*, p. 313.

⁵⁰ *Ibid.*, p. 313.

⁵¹ This is not to say that, on Rawls’s view, we must always revise our conceptions of the good. We may affirm a conception of the good that we have been raised and educated in, and “which we find, at the age of reason, to be a center of our attachments and loyalties. In this case what we affirm is a tradition that incorporates ideals and virtues which meet the tests of our reason and which answers to our deepest desires and affections” (*ibid.*, p. 314).

Rawls never fills this argument out fully, but the idea seems to be something like this: Imagine that we are essentially handed down a religion and forced to accept it, no questions asked (say, on pain of being persecuted, or subject to hostility or ill treatment by state officials). In such a state, we would have little if any understanding of alternative religious and secular traditions. Without an understanding of alternative practices and traditions, we could not be certain that the state enforced religion is most rational for us. To make a rational decision about whether the state enforced religion is part of our conception of the good, we must have access to a variety of rich and diverse practices and traditions, both secular and religious. We must acquire a real understanding of alternative practices and traditions in order to know which we would most identify with as rational and moral agents, that is, in order to determine which best coheres with our other commitments, values, and priorities. Insofar as a state enforced religion would prevent this, we would not agree to such an arrangement. In short, we need freedom of conscience to ensure that we will have the space to form rational conceptions of the good that are genuinely our own.⁵²

Rawls has focused on the liberty of conscience in arguing for equal liberty. We must now determine how and whether this kind of argument can apply in the case of equal political liberties, such as equal voting rights. It is not clear that an analogous argument can be made. After considering the argument for the freedom of conscience, it seems that, on Rawls's view, the capacity for a conception of the good is largely a cognitive capacity. I exercise this capacity by thinking about what is most rational for me and choosing in this light.⁵³ It is hard to see how this kind of exercise could

⁵² This argument illustrates that the social conditions necessary for the development and full exercise of the second moral power are quite demanding. It, for example, implies that much more is required than simply "no persecution." Indeed, much more is required than liberty of conscience.

⁵³ For example, when discussing our capacity for a conception of the good, Rawls suggests that our final ends are the result of "conviction, reason, and reflection" (*PL*, 312). He also speaks of "examining our beliefs" and determining whether our ends meet the "tests of our reason" (*ibid.*, 314). This suggests that, for Rawls, the capacity for a conception of the good is largely a cognitive capacity.

require equal voting rights. After all, as long as I have freedom of conscience, I can think about what is most rational for me even if I do not have a vote in political decision-making. It isn't clear, then, that Rawls's argument concerning equal liberty of conscience can be generalized to the case of equal political liberty and its fair value.

Though Rawls's own arguments regarding the capacity for a conception of the good fail, I believe that an alternative argument can be given in its place. The cognitive or intellectual capacity to choose final ends in one's head is intimately connected with a practical capacity, a capacity to implement or put into practice final ends. It is this more practical aspect that supports equal voting rights. Rawls ignores or at least misses out on this kind of argument for equal voting rights. This is largely because Rawls over intellectualizes the capacity for a conception of the good.⁵⁴ He is mainly concerned with the cognitive aspect of this capacity. However, I do think that Rawls would grant the importance of the practical element in the capacity for a conception of the good. Though he never discusses this matter in any detail, in describing the capacity for a conception of the good, he describes it not only as the capacity "to form" and "to revise" one's determinate conception of the good but also as the capacity to "rationally *pursue* a determinate conception of the good."⁵⁵

On my view, barriers to implementing one's ends can be barriers to rationally revising one's ends. This is because, in order to determine if my ends are most rational for me, I need to be able to implement or put into practice my ends. As Mill says, we need "different experiments of living."⁵⁶ On Mill's view, conceptions of the good must be tested by trying them out. He writes, "the worth of different modes of

⁵⁴ The practical component is something that Raz emphasizes in his work. See Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), p. 371.

⁵⁵ *PL*, p. 19; my italics.

⁵⁶ See John Stuart Mill, *On Liberty*, Vol. 18 (1832), in J.M. Robson, *Collected Works of John Stuart Mill* (Toronto: University of Toronto Press, 1963-1991), pp. 260-267.

life should be proved practically.”⁵⁷ For example, I cannot appropriately determine if being a doctor is part of my good just by thinking about and reading books about being a doctor. I need to experience, at least in some sense, what is it like to be a doctor. I need to engage in some kind of practice. To make an informed decision about whether being a doctor is the most rational end for me, I need to participate in frog dissections in high school biology and volunteer at hospitals and clinics.⁵⁸ Similarly, to make an informed decision about whether literature and music are parts of my conception of the good, I need to experience what it is like to read books and to hear music. It is essential to pick up books and to read them, to try my hand at a variety of instruments, to hear a variety of music, contemporary and classical. Similar things can be said with respect to religion as well. I cannot determine if Christianity or Islam is right for me just by reading and studying about these religions. Without putting religious customs and traditions into practice – without actually going to church services, or praying, for example – I cannot be certain which religious conceptions are most rational for me. My suggestion is that appropriately determining which ends are most rational for me requires some kind of experience or practice; it is a matter of putting my tentative ideas about the good to a kind of experiential test.

Experience is essential to forming a rational conception of the good because it gives me access to information that is new and different from what I acquire when I simply think about what is best for me. The information is of a specific qualitative kind; it is a what-it-is-like experience. Having this kind of information is important to making an informed decision about what is right for me. After all, the what-it-is-like experience of hearing classical music is part and parcel of what it is to listen to

⁵⁷ Ibid., p. 261.

⁵⁸ This may explain why a variety of programs, including medical and teaching programs require (among other things) a significant amount of volunteer hours in related areas (e.g., in the hospital or at schools) before granting admittance. Before admitting you, they want you to be sure that this is the right career for you.

classical music. The what-it-is-like experience of cutting into flesh is an essential part of being a surgeon. Without an understanding of the qualitative aspect of listening to music or of dissection, I cannot make an informed decision about whether listening to classical music or being a doctor is genuinely right for me. In short, being able to put into practice or to experience a determinate conception of the good is essential to finding out whether a particular conception of the good is the one I identify with most as a rational and moral agent.

In forming a rational conception of the good, I not only need to make decisions about what career or which religion is right for me but I also need to make decisions about the value of participating in political life and whether it is right for me. This seems particularly important for those who view themselves as free and equal citizens. As in the other cases, practice is important to making such decisions. In order to make an informed decision about whether participation in political life is part of my rational conception of the good, I need to try my hand at it. It is only by actually participating in political decision-making with fellow citizens that I can come to understand its value and the feeling of fellowship with other citizens that it underwrites.

This argument supports equal political liberty and its fair value. If each citizen is given a vote in political decision-making, then each can participate in the process of political decision-making and, in turn, each can make an informed decision about whether such participation is part of her rational conception of the good.

Objections.

As with the previous arguments, one might wonder whether these arguments do support something more than just some kind of political participation (i.e., not just having a say, but having an equal and effective say). Return to the notion of a consultative assembly. In a consultative assembly, the government is responsive to

the views of minorities. For example, racial minorities are able, through the process of consultation, to participate in political decision-making. They are able to experience what-it-is-like to participate in political life and political decision-making. In turn, it might seem that considerations relating to the capacity for a conception of the good cannot explain why racial minorities should have equal voting rights rather than being part of a consultative assembly.

I concede the point. It follows from my arguments, regarding our capacity for a conception of the good, that each citizen should have a say in political decision-making, but it does not necessarily follow that every citizen must have an equally effective say in political decision-making. In short, these arguments do not necessarily require democratic decision-making procedures. They support any political arrangements that allow citizens to have first-hand experience of participation in political decision-making. Participation in political life through a consultative assembly can be sufficient to determine whether such participation is part of one's rational conception of the good. If citizens are able, through consultation, to discuss their political views, and have others genuinely listen to and conscientiously respond to these views (which will at times involve institutional changes), then citizens will have first-hand experience of what-it-is-like to take part in political decision-making. Consequently, I would argue, participation in a consultative assembly can provide citizens with sufficient experiential basis for determining whether participation in political life is right for them.

In order for citizens' interest in exercising their capacity for a conception of the good to be satisfied by participation in a consultative assembly it is integral that consultations be genuinely responsive. Participation in a mock consultative assembly, for example, would not satisfy citizens' interest in exercising their capacity for a conception of the good. As I argued earlier, there is a relevant difference between

genuine participation and pretend participation in political decision-making. If I share my political views and dissent and they are not heard or taken seriously, then I am not in fact participating in political decision-making. I am simply an observer. If, for example, I am on the sidelines at a football game, then I do not experience what-it-is-like to play football. I only experience what-it-is like to watch football. Watching football isn't enough to determine if football is the right sport for me. I need to actively play football to make an informed decision about whether it is right for me. Similarly, standing on the sidelines in political decision-making is not sufficient to determine if participation in political life is right for me. To determine if political life is right for me, I must experience what-it-is-like to take part in political life. This means that I must actively take part in political decision-making. Only a genuine consultative assembly, with genuinely responsive consultations, allows for this possibility. So, only when a consultative assembly is genuine, can it realize citizens' interest in exercising their capacity for a conception of the good.

As I argued earlier, genuine consultative assemblies are very unlikely. It is very unlikely that there are or that there will be any real-life examples of a genuine consultative assembly. This is because tendency towards partiality makes meeting the conditions of a genuine consultative assembly, especially that of genuine responsiveness, very difficult. In particular, I suggested that, non-democratic political elites are not likely to yield to good consultative arguments in important matters. They are more likely to favour their own views over others', even when they are in consultation with others. Given our tendency toward partiality and the unlikelihood of genuine consultations (and our knowledge of these facts), if we, as parties within the original position, wish to ensure that our higher-order interest in exercising our capacity for a conception of the good is satisfied, then we would wish to ensure that both equal political liberty and its fair value are protected. This is the only way to

ensure that citizens are able to genuinely experience what-it-is-like to participate in political decision-making.

Even if the argument from the capacity for a conception of the good does not in itself provide reason for preferring equal voting rights over a consultative assembly, the other arguments do. As I noted earlier, Rawls's gives different arguments to support equal political liberty and its fair value, and they are meant to work together. This is to say, the matter of ownership is still relevant and provides reasons for preferring equal voting rights rather than a consultative assembly.⁵⁹ Even if minorities are able to participate in political decision-making through consultation, they play less of a role than those in power. To this extent, they will lack a sense of ownership over decisions made and they will be less apt to adhere to them willingly. So, if we wish to ensure the most stable system, we will still want to ensure equal political liberty and its fair value, for this will support a greater sense of ownership and hence a more effective sense of justice among citizens.

An Argument from Self-respect

I would now like to consider Rawls's argument from self-respect. Rawls is concerned with the self-respect of citizens as free and equal persons.⁶⁰ On his view, self-respect is a sense of oneself as having equal status or equal value as a citizen, which "is rooted in our self-confidence as a fully cooperating member of society capable of pursuing a worthwhile conception of the good over a complete life."⁶¹ Self-respect involves two elements: (i) a sense of one's equal worth rooted in the capacity to develop and exercise the two moral powers (the capacity for justice and the capacity for a conception of the good) necessary to be a fully cooperating member of

⁵⁹ The argument from self-respect will also be relevant. See n. 72, p. 45.

⁶⁰ *PL*, 319.

⁶¹ *Ibid.*, p. 318.

society; (ii) a sense of one's equal worth rooted in the belief that one's conception of the good and plan of life are worth carrying out.⁶²

Rawls argues that self-respect is important to citizens because “without self-respect nothing may seem worth doing or if some things have value for us, we lack the will to strive for them. All desire and activity becomes empty and vain, and we sink into apathy and cynicism.”⁶³ If we do not have a secure sense of self-respect, then we will no longer see our ends and aims as worth pursuing; they will cease to be of value to us. When we feel that our ends have little value, we will not be motivated to pursue them. In turn, I suggest, we will not be motivated to develop and to exercise our two moral powers, for we have an interest in developing and exercising the two moral powers only because they can be a means to, as well as a part of, our good. In short, without a secure sense of self-respect, we will not be motivated to develop and to fully exercise our two moral powers. To the extent that we have a higher-order interest in exercising and developing these two powers, “parties in the original position would wish to avoid at almost any cost the social conditions that undermine self-respect.”⁶⁴

For this reason, Rawls argues that self-respect is a primary good – a good that is necessary to realizing the two moral powers and that the state is responsible for distributing. However, he has in mind here “not self-respect as an attitude toward oneself but the social bases of self-respect.”⁶⁵ “The social bases of self-respect are those aspects of basic institutions that are normally essential if citizens are to have a lively sense of their own worth as moral persons.”⁶⁶

⁶² *Ibid.*, p. 319.

⁶³ *ATJ*, p. 386; *PL*, p. 318.

⁶⁴ *ATJ*, p. 386.

⁶⁵ *JF*, p. 60.

⁶⁶ John Rawls, *Collected Papers*, Samuel Freeman (ed.) (Cambridge: Harvard University Press, 1999), p. 366; hereinafter *CP*. See also *CP*, p. 314 and *ATJ*, p. 256.

Rawls focuses on the social bases of self-respect rather than the personal attitude of self-respect for two reasons. First, it is not the role of the state to distribute self-respect as an attitude toward oneself, because this is not something that the state can in itself distribute. The most that society can legitimately do (i.e., without too much interference in private life) is to provide the social bases for realizing self-respect. Second, certain social bases of self-respect are essential to citizens' secure sense of self-respect. Self-respect is not something that we are born with. It is something that must be learned and encouraged over time. As Rawls writes, "basic institutions must educate people to this conception of themselves . . . Acquaintance with and participation in . . . public culture is one way citizens learn to conceive of themselves as free and equal, a conception which, if left to their own reflections, they would most likely never form, much less accept and desire to realize."⁶⁷ Thus, Rawls suggests, "self-respect depends upon and is encouraged by certain public features of basic social institutions, how they work and how people who accept these arrangements are expected to (and normally do) regard and treat one another."⁶⁸ On Rawls's view, citizens' sense of self-respect is diminished unless social institutions express equal respect.

We must now consider what it is to be respected by others. We are respected when we are treated and regarded in ways that "confirm the sense of our own worth."⁶⁹ We regard ourselves as having equal worth by virtue of our having (i) the capacity to develop and exercise the capacity for justice and the capacity for a

⁶⁷ *JF*, p. 56.

⁶⁸ *PL*, p. 319. The fact that self-respect is supported or encouraged by social institutions seems particularly plausible when we think about how people initially develop their sense of self-respect. Self-respect is not something that we are born with. It is something that is learned over time. And it is through our interactions with others that we learn to conceive of ourselves as having equal worth. Insofar as social institutions shape the way we interact with others, they seem important to the development of self-respect.

⁶⁹ Rawls uses this phrase in *ATJ*, p. 389. Joshua Cohen makes a similar suggestion in "For a Democratic Society," p. 109.

conception of the good and (ii) a conception of the good that is worth pursuing. In turn, we must be treated and regarded by others in ways that express an acknowledgment of our being an equal member in the system of social cooperation by virtue of our having (i) and (ii).

With this background information in mind, Rawls argues that a less than equal liberty would establish people's position in public life, or social institutions, as inferior. He suggests that people's equal worth is respected by social institutions when all individuals have the same political rights and liberties. Thus, if we wish to ensure a secure sense of self-respect, we would not accept anything less than equal political liberty.

Though commentators have generally failed to notice this, part of having the capacity for a conception of the good involves having a conception of the public good, a conception of what is valuable in public life. The capacity for justice and the capacity for a conception of the good overlap: both involve a vision of the way in which society is to be arranged. Suppose that racial minorities are denied the right to vote. It would then be difficult for racial minorities to maintain a secure sense of their equal worth. Our sense of equal value is grounded in our ability to exercise the capacity for justice and the capacity for a conception of the public good. So, to respect us is to treat and to regard us in ways that take our exercise of these two powers to be of equal value. If racial minorities are denied the right to vote while others are not, then the equal worth of racial minorities is not affirmed. As Charles Beitz aptly puts it, inequalities in political liberty convey "social acceptance of a belief in the inferiority or lesser merit of racial minorities as distinct from others."⁷⁰ Denying voting rights to racial minorities suggests that their views on the public good

⁷⁰ Charles Beitz, *Political Equality: An Essay in Democratic Theory* (Princeton, Princeton University Press, 1989), p. 110. Beitz has a rather different explanation of why unequal political liberties convey acceptance of such a belief. See ch. 5 of *Political Equality*.

and justice are of less value than other's. For example, it suggests that their views on such things are of less value than white people's. It suggests that the exercise of racial minorities' two moral powers is less important, less valuable than others'. The equal worth of racial minorities is degraded by this kind of social institution. Under these conditions, it would be difficult for racial minorities to sustain a secure sense of self-respect. Thus, racial minorities would not be able to support institutions that did not support the equal liberty to vote.⁷¹

From the original position, we do not know whether we will be part of the racial minority or not. It may happen that we are part of the racial minority and that we may suffer accordingly. Given that we are concerned to ensure "at all costs" the social bases necessary for a secure sense of self-respect, we would not be willing to take chances by permitting lesser political liberties to racial minorities. Taking such chances would not be consistent with a deep and proper valuing of self-respect. Thus, we could not make a good faith agreement to uphold institutions that did not guarantee equal political liberty. The only acceptable choice is equal political liberty.⁷²

⁷¹ These arguments are not meant to suggest that all exclusion from public decision-making is insulting. For example, denying voting rights to inmates, particularly those who have committed severe crimes like murder or sexual abuse, does not seem insulting in the same way that denying voting rights to minorities is. As with minorities, denying voting rights to those who have committed grave crimes certainly will suggest that their exercise of the two moral powers is of less significance or of less value. But, unlike with minorities, it will not undermine inmates' sense of self-respect as citizens. Remember that as citizens we see ourselves as having equal worth in virtue of our having the two moral powers to the level necessary to be fully cooperating members of society. In committing such severe crimes, inmates have shown that they are not able to exercise the two moral powers – particularly the sense for justice – at this level. And so, as rational agents, we can suppose that inmates will recognize this and will see the denial of their voting rights as consistent with this fact and as a proper valuing of their capacities as citizens. In turn, I suggest, inmates will not have their sense of self-respect as citizens undermined even if they are denied equal voting rights.

⁷² This example illustrates that self-respect seems to turn on having equal authority. It is interesting to note that we now have further reason for rejecting a consultative assembly and for favouring equal voting rights instead. In a consultative assembly, non-racial minorities have greater authority over collective decisions. This, however, is degrading of racial minorities' sense of self-respect. If non-racial minorities have more power than racial minorities over political decisions, it singles them out as inferior. It suggests that their exercise of the two moral powers is somehow of less value than others.' This is damaging of racial minorities' sense of self-worth. So, to ensure a secure basis for self-respect, citizens will reject a consultative assembly and will wish to secure to equal voting rights.

Though he never explores this suggestion in any detail, Rawls suggests that an analogous argument can be made with respect to the fair value or equal worth of liberty: inequalities in the worth of political liberty undermine self-respect in the way that inequalities in political liberty do.⁷³ Imagine a society where the poor have the right to vote, but are less able to make effective use of their right to vote, say, because the wealthy are able to make greater contributions to political campaigns and, in turn, are more able to influence legislation.⁷⁴ If the poor have less of an opportunity to influence political outcomes than the rich, the suggestion is, their self-respect would be undermined for reasons similar to those in the last case.

The private financing of political campaigns is not consistent with ensuring self-respect. To take *me* to be of equal value is to take *my exercise* of the two moral powers to be equally valuable. Since the poor lack the funds to contribute to private political campaigns, private financing of political campaigns allows the views of rich citizens, on justice and the common good, to shape the course of public life to a much greater extent than those of the poor. Moreover, there are other equally feasible arrangements that are available and that allow the views of both the rich and the poor on justice and the common good to influence public life relatively equally – for example, one option is the public financing of political campaigns. Insofar as we choose not to take up such alternative arrangements, it suggests that the views of the poor on justice and the common good are not of significant value. If they were of significant value, we would not implement arrangements that give unequal weight to the views of the poor. We would implement institutions that allowed citizens to influence the course of public life in a more equitable manner. Insofar as a different

⁷³ Rawls did not discuss the fair value of liberty and its connection to self-respect in *ATJ*, but he says later in *PL*, n. 29 p. 318, that “it should have been.” This development is in response to Norman Daniels, “Equal Liberty and Unequal Worth of Liberty,” in N. Daniels (ed.), *Reading Rawls* (Oxford: Basil Blackwell, 1975), pp. 253-281.

⁷⁴ This is an example that Rawls is particularly concerned with. See *PL* VII, §7, §12.

and more equitable scheme is available and isn't taken up, it is suggested that the poor's exercise of the two moral powers is somehow less important than the rich's exercise of the two moral powers. Assuming that the poor are aware of these points, the poor's sense of self-respect will be undermined.⁷⁵ Thus, insofar as agents within the original position are concerned to accept principles that ensure the social bases of self-respect, they would not permit unequal worth of political liberties. They would only accept equal worth of liberty.

Self-respect is damaged in such a case for reasons unrelated to the two moral powers. Our self-respect can be damaged when others do not treat us in ways that are consistent with regarding us as having a conception of the good that is worth pursuing. Suppose, that because of their contributions to political campaigns, the rich are able to control the course of legislation to their advantage. Also imagine that the poor tend to live in one state or province. Because of the greater political influence of the rich, the poor persistently lose out. Many of the country's garbage dumps are built there, less money is spent on schools, the maintenance of roads and other public buildings, for example. It seems clear that, under this kind of institutional arrangement, an undue burden is placed on one social group – the burden of social cooperation falls much more on the poor than the rich.⁷⁶ It seems to me that any procedural arrangement that has this effect or was likely to have this effect would be rejected by parties in the original position. This is because the interests of the poor are disregarded by this kind of social arrangement, and the poor are encouraged to feel that this disregard exists at

⁷⁵ I assume that the publicity condition is satisfied here. Rawls, believes that in a fully just society the relevant pattern of benefits is sought for publicly available reasons. This is to say, the basic justification for social arrangements in a fully just society is one that is available to everyone. This justification includes everything that would be said when the system of justice is set up and why we would proceed in one way rather than another (*PL*, 67).

⁷⁶ In discussing the fair value of liberty, Rawls suggests that “instituted arrangements must not impose any undue burdens on various political groups in society and must affect them all in an equitable manner” (*PL*, p. 357). I take myself, here, to explain why this is a requirement of equal respect.

public sanction. This, I suggest, is likely to be undermining of the poor's sense of self-respect.

Private financing of political campaigns allows the rich to control the electoral process to their advantage. As a result, the poor are less able to advance their own interests. There are other arrangements, such as public financing of political campaigns, that are feasible and more conducive to the equal advancement of interests. Insofar as we choose not to take up such alternative arrangements, it suggests that the poor's interests are not of significant concern. For if they were, we would not implement institutions that allowed (or were likely to allow) their interests to be ignored. We would implement institutions that allowed the poor's interests to be advanced in a more equitable manner. Awareness of these points is likely to be undermining of the poor's sense of self-respect. As Beitz argues, it is hard to see ourselves as having equal value when social institutions establish or reinforce the view that our interests deserve less concern simply because of our membership in one rather than another social group.⁷⁷ Our interests and aims are part of our determinate conception of the good. They are part of our conception of what is valuable in human life. To dismiss our interests as being less worthy than others' is to suggest that our conception of the good is not as valuable as others', is not as worthy of pursuit as others'. This is undermining of our sense of self-respect.⁷⁸ Thus, given that agents wish to ensure the social bases of self-respect, they would not permit unequal worth of political liberties.

⁷⁷ c.f., Beitz, *Political Equality*, p. 110.

⁷⁸ A person can continuously lose out simply because she doesn't know how to exercise influence, say because she lacks charisma, or because she simply can find no support for her views in larger society. But perpetual loss under these circumstances is not undermining of self-respect. Perpetual loss in these cases seems more a matter of bad luck than it is a matter of being ignored or discounted. Because unlike in the last case, there isn't much that society can do to change things, at least without too much interference. (For example, society could brainwash others into sharing your views, but this significantly interferes with citizens' liberties.)

Objections.

I have suggested that racial minorities' sense of self-respect is undermined when non-racial minorities have greater power or authority over collective decision-making. This suggestion may raise a concern, however. If this argument holds, why isn't it the case that other inequalities in authority are undermining of self-respect? For example, people who hold public office, like those who are President or Supreme Court Judges, have more authority than average citizens, but this is not usually considered to be undermining of their sense of self-respect (assuming, of course, that equality of opportunity holds – that is, assuming that everyone has a fair chance of attaining public office). What can account for this? I think the following can: I am not a Supreme Court Judge and I do not have the authority of a Supreme Court Judge for any number of reasons – because I do not have the knowledge and skills that are required, or I do not have the opinions or the temperament that is necessary to gain support, etc. My failure to be a Supreme Court Judge is not because of the exercise of my two powers or because my interests are less important or less valuable than others. Similar points can be made in relation to not being President. For this reason, my not having as much authority as a Supreme Court Judge or the President is not undermining of my sense of self-respect

Moreover, one might object that societies can have other ways of affirming self-respect than ensuring equal basic liberty and its fair value. Consider, for example, a feudal society. In a feudal society, those who hold land (on the basis of heredity) have administrative and judicial power. Yet, it seems possible for all members of such a society, even the serfs, to maintain their sense of self-respect. As Rawls puts it, in such a society, “each person is believed to have his allotted station in the natural order of things . . . Men resign themselves to their position should it ever occur to them to question it; and since all may view themselves as assigned their vocation, everyone is

held to be equally fated and equally noble in the eyes of God.”⁷⁹ In this society, people’s sense of self-respect comes from a belief of having equal worth in the eyes of God. And so, even though serfs have unequal political liberties – in the sense that they have less influence over political outcomes than others such as the landholding elite – they are able to maintain self-respect. It seems, then, that equal political liberty and its fair value is not necessary for self-respect.

Rawls attempts to respond to this objection. He argues, from the original position, “our problem is how society should be arranged if it is to conform to principles that rational persons with true general beliefs would acknowledge.”⁸⁰ In other words, when we are attempting to decide the principles of justice that are to guide the arrangement of social institutions, we are not to be guided by obviously false beliefs. Thus, Rawls argues, “when the belief in a fixed natural order sanctioning a hierarchical society is abandoned, assuming here that this belief is not true, a tendency is set up in the direction of the two principles of justice in serial order.”⁸¹ Rawls’s view is that once the belief in a fixed natural order is given up, “the effective protection of the equal liberties becomes increasingly of first importance in the protection of self-respect.”⁸²

Rawls’s response here is unsatisfying. Insofar as his response relies on the view that belief in a fixed natural order or hierarchy is false, it seems to be inconsistent with the value and importance that both we and Rawls usually place on religious belief. But Rawls has the means for providing a more plausible response. I think, in the end, he would admit that there are some who derive their sense of self-respect from other spheres of life than the political sphere. Some will derive a secure sense of

⁷⁹ *ATJ*, p. 479.

⁸⁰ *Ibid.*, p. 480.

⁸¹ *Ibid.*, p. 480.

⁸² *Ibid.*, p. 480.

self-respect purely from being a good Christian or being a good Buddhist (i.e., from their religious beliefs and practices), others from being a good mother or a good doctor or a successful lawyer, for example, and not at all from the development and exercise of the two moral powers. But Rawls seems to suggest that we should not be concerned with this kind of person when making decisions about the basic structure of social institutions. Why might this be? He is making a judgment about what constitutes a proper sense of self-respect among those who view themselves as free and equal citizens. On Rawls's view, free and equal citizens value themselves properly only when they "care about . . . opportunities in order to develop and exercise their moral powers [as citizens]" and "they show a lack of self-respect and weakness in character in not doing so."⁸³ Properly valuing oneself as a citizen involves valuing the development and exercise of the two moral powers.

It seems clear that from this perspective the serfs' (proper) sense of self-respect will be undermined by a feudal system. As part of properly valuing themselves, serfs will take their participation in political decision-making to be as valuable as others.' A feudal society does not support or affirm this valuing. In feudal society, the landholding elite make decisions about the arrangements of social institutions, while serfs are deemed as unworthy of participation in decision-making. In this scenario, the serfs' exercise of the two moral powers is branded as inferior to the landholders'. For this reason, peasants will find it hard to maintain their (proper) sense of self-respect within a feudal society (a society where there is neither equal liberty nor fair value of liberty).

⁸³ *PL*, pp. 76-77.

More Objections.

On the view I have argued for, disrespect is shown when not everyone is valued equally. The disrespect associated with unequal voting rights is relative or comparative; it is a matter of some being viewed and treated as inferior relative to others. What if there is anarchism? In this case, no one has a vote and so, it would seem to follow, that no one is insulted or degraded. If this is right, then it is not clear that Rawls's arguments are enough to explain the general importance of having a right to vote. So, how might Rawls's arguments get us out of anarchy?

Part of the picture is the importance of the rule of law and its protections. On Rawls's view, the rule of law and its protections are an important ingredient in having maximum equal liberty. He suggests that certain regulations can maximize the effectiveness and meaningfulness of the liberties. For example, certain rules of order are necessary for regulating discussion: Rawls suggests that "without the acceptance of reasonable procedures of inquiry and precepts of debate, freedom of speech cannot serve its purpose."⁸⁴ If, for example, everyone were to speak at once, speech would lose its point. It would be neither meaningful nor purposeful. Thus, certain regulations or, rather, rules of order, are necessary for effective and meaningful freedom of speech. In a similar fashion, the rule of law seems necessary for effective and meaningful basic liberty.

The argument is this: in the state of nature there is no rule of law that will restrict liberty in the way necessary to ensure effective and meaningful equal basic liberty. Thus, if we wish to secure maximum equal liberty, we will not choose to be in a state of anarchy. We will choose to live under the system of law and the protections afforded by it.

⁸⁴ *PL*, p. 296; c.f., *ATJ*, p. 178.

Rawls's insistence on our higher-order interest in developing our capacity for a conception of the good is of importance here, and provides perhaps the strongest argument against anarchy. Citizens view themselves as free in virtue of their being capable of revising and pursuing their conception of the good.⁸⁵ It seems that in a Hobbesian state of nature, the level of violence is so great that one has to put all of one's efforts into simply surviving and this is not consistent with liberty. This is because one would not be able to exercise the capacity for a conception of the good in a Hobbesian state of nature. To take a parallel example from Raz, imagine a woman who shares a small desert island with a fierce carnivorous beast who perpetually hunts for her.⁸⁶ All the woman's energies and efforts are aimed at escaping the beast. This woman is significantly unfree. All her efforts are put toward survival and not toward forming and pursuing freely chosen goals. For this reason, she is not able to exercise her capacity for a conception of the good. Something similar can be said of us in the state of nature. In the state of nature, so much effort would be put into sheer survival that our freedom would not be effective and meaningful. The sort of freedom Rawls is concerned with is restricted if the processes of forming and pursuing life goals is too difficult, as it would be in a state of anarchy. We need a system of law and governance in order to form, revise, and rationally pursue our conceptions of the good; we need it in order to be free.

Steven Wall raises a further concern in relation to the argument from self-respect. Wall writes, in *ATJ*, "Rawls seemed to deny that the political liberties must be equal for society to be well-ordered. In discussing Mill's proposal for plural votes [for the educated], he allowed that 'plural voting may be perfectly just.'"⁸⁷ Wall aptly asks, how can Rawls's claim about plural voting be squared with his claim that the fair

⁸⁵ On this see *PL*, p. 30f.

⁸⁶ Joseph Raz, *The Morality of Freedom*, p. 374.

⁸⁷ Steven Wall, "Rawls and the Status of Political Liberty," p. 258.

value of liberty must be guaranteed for citizens to have a secure sense of self-respect? In what follows, I will try to answer Wall's question. That is to say, I will try to illustrate how these two claims can be reconciled.

Let us begin by considering Mill's argument. Mill argues that those with greater education, which is supposed to be a mark of superior knowledge and intelligence, should have plural or more votes.⁸⁸ Mill agrees with Rawls to the extent that he thinks that everyone has a claim to a voice and cannot, without great insult, be excluded from matters of common interest, such as national affairs. However, Mill argues that this does not entail that everyone ought to have an equal voice in such matters. The voice of those with superior knowledge and intelligence, which is measured by one's level of education, should be given greater weight. Although everyone should have a say, those with a greater capacity for the management of joint interests should have a greater say. Mill suggests that the superior influence of the educated should be enough to protect them from the class legislation of the uneducated, but not so much as to allow them to enact their own class legislation. As Rawls puts it, on Mill's picture, ideally those with superior knowledge "should act as a constant force on the side of justice and the common good, a force that, although always weak in itself, can often tip the scale in the right direction if the larger forces cancel them out."⁸⁹ As a result, Mill thinks that everyone, even the uneducated who have less of a vote, will benefit from weighted voting.

Mill suggests that plural or weighted voting of this kind is not insulting or damaging of the uneducated's sense of self-respect. He writes,

⁸⁸ For this argument see John Stuart Mill, *Considerations on Representative Government*, Vol 18 (1861), in J.M. Robson, *Collected Works of John Stuart Mill* (Toronto: University of Toronto Press, 1963-1991). Rawls considers Mill's arguments in *ATJ*, pp. 204-206.

⁸⁹ *ATJ*, p. 204.

entire exclusion from a voice in the common concerns is one thing: the concession to others of a more potential voice on the ground of greater capacity for the management of joint interests is another . . . Everyone has a right to feel insulted by being made a nobody and stamped as of no account at all. No one but a fool, only a fool of a peculiar description, feels offended by the acknowledgement that there are others whose opinion, and even whose wish, is entitled to greater amount of consideration than his.”⁹⁰

Rawls considers Mill’s proposal.⁹¹ Here, Rawls insists that unequal votes, if justifiable at all, must be justifiable from the standpoint of those with fewer votes – the uneducated in the Millian context. Rawls takes Mill to accept this burden of proof. The high burden of proof stems from our concern with self-respect. Remember on Rawls’s view, we ought to be able to regard ourselves as equal participants in the system of social cooperation. Being an equal participant, in turn, involves being able to exercise our two moral powers as equals (i.e., to the extent that others are). Our sense of self-respect turns on this. Rawls suggests that weighted voting can only be permitted if it is consistent with our sense of self-respect. For weighted voting to be consistent with self-respect, there must be a powerful (and not just a plausible) argument that unequal suffrage will serve the interests of the uneducated as a whole. To show that we value the uneducated as co-participants, we must give a powerful argument showing that the interests of the uneducated will be advanced more systematically if they are given less votes, if they are given less of an ability to exercise their two moral powers. And, on Rawls’s view, “the gain to the uneducated is to be estimated in the first instance by the larger security of their other liberties.”⁹² Unequal suffrage can only be justified if it serves to make basic liberties more secure

⁹⁰ Mill, *Representative Government*, p. 474.

⁹¹ *ATJ*, pp. 204-206.

⁹² *Ibid.*, p. 204.

and effective.⁹³ Rawls concludes, “admitting these assumptions, plural voting may be perfectly just.”⁹⁴

While such an argument could be given in principle, I doubt that Rawls thinks the high burden of proof could be met in reality. Even if unequal suffrage were to serve the basic liberties, that is, to make them more secure and effective, it is unlikely that weighted voting would serve citizens’ interests as a whole. While Rawls argues that people’s interests are respected in the first instance when the basic liberties are more securely protected, he also argues that people’s interests are only absolutely respected when the difference principles is observed. The difference principle is hard to apply and there are many judgment calls that need to be made – empirical and otherwise. The most fundamental threat to justice is, perhaps, not being appropriately impartial. Different groups of people are going to have different conceptions of how to apply the difference principle. Furthermore, there is a tendency for our conceptions of how to apply the difference principle to represent our own interests disproportionately.⁹⁵ This seems only natural given that people have a more intimate and sensitive understanding of their own interests than of others’.⁹⁶ No education level, or qualification of any kind for that matter, is going to help us overcome this fact. An education from Cambridge or Oxford, for example, will not guard against partiality. So, if people tend to advance conceptions of how to apply the difference principle that reflect their own interests, it follows that those who lack equal

⁹³ This coincides with what Rawls says about self-respect in *ATJ* § 82.

⁹⁴ *Ibid.*, p. 205.

⁹⁵ This is similar to one of Rawls’s arguments against utilitarianism. He suggests that promoting average utility is not the right social standard. This is because it leads people to be governed by calculations that they will tend to get wrong because of being partial to themselves. In other words, it is hard for us to calculate what is in the best interests of all, because we tend to be partial to our own interests. Thomas Christiano (in “An Argument for Democratic Equality,” in Thomas Christiano (ed.), *Philosophy and Democracy* (Oxford: Oxford University Press, 2003), p. 57) also raises concerns about partiality. Note again that this tendency toward partiality is not a contingent matter. It seems to be part of our nature as human beings.

⁹⁶ A similar point is made by Christiano in “An Argument for Democratic Equality,” p. 57.

opportunity to advance their own conceptions of how to apply the difference principle will tend to lose out. If, for example, those with superior education are given a greater say, it is likely that the interests of the uneducated will be ignored. Consequently, it seems unlikely that weighted voting will ever meet the high burden of proof that Rawls requires. For this reason, if weighted voting were adopted, it would be damaging to the self-respect of the uneducated. Fair value of political liberties must be guaranteed if we wish to secure citizens' sense of self-respect.

I have argued that agents who seek to ensure a secure sense of self-respect will reject weighted voting procedures. But why assume that arguments related to self-respect require voting procedures of any kind. Might not citizens' sense of self-respect be consistent with certain non-voting procedures?

David Estlund has recently argued that there is no strong moral argument for favouring standard voting procedures over his Queen for a day proposal.⁹⁷ Under the Queen for a day proposal, one voter is picked at random from the set of all voters to be monarch and is required to decide one political issue. Each citizen is regarded and treated equally: each citizen has the same chance of her views on justice and the common good influencing public affairs. It would seem that Queen for a day expresses an equal valuing of citizens' exercise of their two moral powers and, in turn, is consistent with their sense of self-respect. One might legitimately wonder whether, from within the original position, there are any grounds for rejecting such a proposal.

Rawls has available to him at least two grounds for rejecting Estlund's proposal. Recall that the principle of equal basic liberty requires not only that equal political liberties are guaranteed but also that equal civil liberties (such as free speech, freedom of conscience, and so on) are guaranteed as well. Rawls suggests that equal

⁹⁷ David Estlund, "Beyond Fairness and Deliberation: The Epistemic Dimension of Democratic Authority," in Thomas Christiano (ed.) *Philosophy & Democracy: An Anthology* (Oxford: Oxford University Press, 2003), pp. 81-83.

basic liberty, both political and civil, are required for the self-respect of citizens. In light of this, it seems that agents within the original position would not opt for Queen for a day.

In a sense, being Queen for a day is like being Supreme Court Justice for a day with the assumption that you only had one case to decide. The main task of a Supreme Court Justice is to ensure that the basic liberties are protected. To be a good at her job, a Supreme Court Justice must know certain things and have certain skills. For example, she must have an extensive knowledge of the constitution, precedent, and the rule of law. Assuming that equality of opportunity holds (that everyone has a fair chance of attaining public offices), there doesn't seem to be anything wrong with having these types of requirements. If a Supreme Court Justice is chosen at random from the set of all citizens, there is no guarantee that the person chosen would have the required knowledge or skill set. Without the specific knowledge and skills, the person is unlikely to be very good at securing the basic liberties. Similar things can be said about Queen for a day. There is no guarantee that the person chosen to decide an issue will have the knowledge and skill set required to ensure that equal basic liberty is protected. Equal basic liberty would be jeopardized by Queen for a day. Because of the importance of the basic liberties to citizens' sense of self-respect, this isn't a risk that we would be willing to take. We would not accept such a scheme, from within the original position.

I also think Rawls has something further to offer when we consider his argument against F.Y. Edgeworth.⁹⁸ Edgeworth believes that the principle of utility would be chosen by rational self-interested agents in the original position as a political principle to assess social policies. One would wish to promote utility with each

⁹⁸ See *ATJ*, pp. 147-148. What I say here is more in the spirit of Rawls's argument than an exact recapitulation of his argument.

choice, whether it is about taxation, property legislation, and so on. On Edgeworth's view, this is the best procedure for all. Even if one doesn't benefit now, say when a certain taxation policy is chosen, one's time will come later, say when a certain policy concerning property is chosen. Therefore, by adopting a principle of utility, self-interested and rational parties have assurance that they will not lose out in the end and will best improve their life prospects.⁹⁹

To a certain extent Rawls agrees with Edgeworth. He suggests that Edgeworth's reasoning seems plausible in the case of lesser policy issues, that is, in cases where decisions have relatively small and temporary influence on the distribution of advantages and where there is some institutional device insuring randomness to prevent disadvantages from perpetually accruing to a small few, for example.¹⁰⁰ If, for example, it is decided that the electricity will be cut in a particular area for a few hours, it seems reasonable to respond to those who lose out from such an arrangement with "Don't worry you're time will come."

However, in other cases, where questions of social policy are more vital, where they are likely to result in large and enduring shifts in the institutional distribution of advantages, Rawls suggests that Edgeworth's reasoning isn't appropriate. For example, imagine that, for some reason, utility would be maximized by burning all of the Christian churches down. It seems inappropriate to say to Christians, "Don't worry you're time will come later. You'll benefit from some other decision later down the line." The impact of such a decision is simply too pervasive and too continuing in influence. Its effect will go beyond days and weeks, and might even go beyond months or years (depending on whether Christians are allowed to rebuild their churches and how long it would take). It is irrelevant whether Christians will benefit

⁹⁹ Ibid., p. 147.

¹⁰⁰ Ibid., p. 148.

over the long run. There are certain fundamental interests, such as our interests in expressing religious attitudes, that we would not be willing to sacrifice even if we would benefit over the long run. Some things need to be off the bargaining table; they need to be guaranteed. So, Rawls holds, Edgeworth's argument fails when it comes to vital questions of policy. Insofar as they have certain fundamental interests, rational people wouldn't choose the principle of utility when it comes to the most important matters of social justice.

A similar argument applies to the case of Queen for a day. Sometimes the issue to be decided will be trivial in its impact, such as the decision about whether electricity should be cut for a few hours in a particular neighbourhood. Other times the decisions will be significant in its impact, it may concern whether certain religious practices should be permitted, for example. Queen for a Day may be acceptable in the case of trivial decisions, but it does not seem so in the case of more vital concerns. Just as with the principle of utility, people would be unwilling to accept Queen for a day because there is always the possibility that their fundamental interests could be threatened in a significant way.

This argument might be taken to support weighted voting or some other arrangement that allows smart and skilled people to rule. But the previous arguments against weighted voting rule out this type of arrangement. Even very smart and skilled people (including judges) need to be restrained by citizens, who know best about their own interests. So, when we combine the arguments against weighed voting with those against Queen for a day we seem to have at least some reason for supporting a representative democracy. Under this scheme, the skilful are able to make decisions, but they are also restrained by the citizenry.

§2.3 An Argument from Freedom as Non-domination

Our higher-order interests in exercising the second moral power, the capacity for a conception of the good, and in securing the social bases of self-respect underwrite a third and different kind of argument for equal political liberty and its fair value, namely an argument concerning the value of freedom as non-domination.

Philip Pettit argues that the antonym of liberty is subjugation or domination. An agent X dominates Y if and only if (1) X has the capacity to interfere on an arbitrary basis, that is, without regard to Y's perceived interests, (2) with impunity and at will, (3) in certain (and perhaps not all) choices that Y is in a position to make.¹⁰¹ On Pettit's view, having power over another does not necessarily mean that one actually interferes with the individual she has power over (though actual interference would constitute domination). In fact, she needn't have any inclination toward such interference; interference may even be rather unlikely. Pettit argues that dominating power can interfere with one's liberty even if it is never exerted. The idea is that, usually, the (potential) victim of power and the power bearer are aware of their relationship; both are usually aware that the power bearer could interfere in the victim's choices arbitrarily, without regard for her perceived interests. This means that the victim relies on the goodwill of the power bearer not to exert her power. The victim of power lives at the mercy of the power bearer; they are not on equal terms. This is a bad situation to be in.

So, on Pettit's view, a dictatorship, however benign, is objectionable. He writes, "a prince who is capable, if only within certain broad limits, of doing what he wills" is free to ignore the interests of the people "in the coercive legislation and taxation that he subjects them to and so will hold a dominating position in the

¹⁰¹ Philip Pettit, "Freedom as Antipower," *Ethics* 106.3 (1996), p. 578.

society.”¹⁰² As an example, Pettit describes Joseph Priestly’s articulation of the complaint made by American colonists against the British government:

On his reading of that complaint, it is little consolation that the government may be fairly benign, taxing the Americans only for ‘one penny’; the problem is that this government has the power, without being forced to look to the interests of Americans, to tax them for their ‘last penny.’¹⁰³

Though well disposed at the moment, there is nothing about the American subjects that provides motivation for the continued benevolence of the British government. The British can freely withhold their benevolence at any time, without repercussion. In short, Pettit argues, because it can be taken away freely, dependence on the benevolence of another, when it is one sided, is always objectionable, even when it is not actualized.

So, on Pettit’s view, domination is the capacity to interfere on an arbitrary basis in another’s affairs; “it is the capacity to interfere in a person’s life without regard to their perceived interests.”¹⁰⁴ But, one might wonder, what is so objectionable about this? Pettit suggests three things.

First, without freedom as non-domination (FND), people lack certainty. We cannot predict when interference will strike. This not only leads to anxiety but it also makes it harder for people to organize their affairs and to make plans on a systematic basis. Second, without FND, one must

keep a weather eye on the powerful, anticipating what they will expect of you and trying to please them, or anticipating where they will be and trying to stay out of their way; it is to have strategic deference and anticipation forced upon you at every point. You can never sail on,

¹⁰² Philip Pettit, “Republican Freedom and Contestatory Democratization,” in Ian Shapiro and Casiano Hacker-Cordon (eds.), *Democracy’s Value* (Cambridge: Cambridge University Press, 1999), p. 172.

¹⁰³ *Ibid.*, p. 173.

¹⁰⁴ *Ibid.*, p. 165.

unconcerned, in the pursuit of your own affairs; you have to navigate an area that is mined on all sides with dangers.¹⁰⁵

This is a serious cost. This kind of strategic disposition requires agents to “curtail their own choices.”¹⁰⁶ In other words, people must deny themselves certain choices in order to prevent interference from others. Third, Pettit suggests that “the victim of power cannot enjoy the psychological status of an equal.”¹⁰⁷ It is difficult for a subject to see herself as having equal worth when she knows that the Prince can interfere in her life without any regard for her interests. So, it would be hard for the subjects to maintain a secure sense of their self-respect under this kind of political arrangement.

As framed, Pettit’s argument is not entirely plausible. It seems to me that what does the work here is not just the possibility of interference as such, but the fact that interference is a *realistic possibility*. Imagine that the British were a group of monks, who lived frugally and were committed to the virtues of self-sacrifice, peace, and compassion. I doubt that in this case any of the bad effects that Pettit describes would arise. Because there is no realistic possibility of the British (monks) actually interfering, we will not be motivated to keep a “weather eye” on the British nor will we be likely to take up strategic deference, and without these things occurring people’s self-respect is not going to be undermined in the way that Pettit describes. Rather, it is only when British interference is a realistic possibility, that fear becomes a rational motivator and leads to the bad effects that Pettit outlines. What leads to the bad effects is that the Americans, at the time, felt that British interference was a real

¹⁰⁵ Philip Pettit, *Republicanism: Freedom as Government* (Oxford: Oxford University Press, 1997), p. 86.

¹⁰⁶ *Ibid.*, p. 87.

¹⁰⁷ Pettit, “Freedom as Anti-Power,” p. 586.

possibility. This is what is objectionable about the British, not just the possibility of their interference as such.¹⁰⁸

As long as there is a real possibility of interference, it seems clear that as citizens we are going to be concerned to prevent relations of domination, like those of a dictatorship, even when they are rather benign. As argued earlier, we are moved to secure the social bases of self-respect at all costs. Insofar as domination threatens self-respect, we will wish to secure freedom as non-domination. However, it also seems particularly important for those concerned with a higher-order interest in developing and exercising the second moral power, the capacity for a conception of the good, to prevent relations of domination. Persons are conceived of as having certain ends and goals that they wish to pursue as part of a valuable life, and, as Pettit notes, pursuit of these things “is going to be facilitated by their having an ability to make plans.”¹⁰⁹ Yet, as was already argued, the ability to make plans is undermined by the kind of uncertainty that is associated with being in a relationship of domination. Moreover, as part of our interest in developing and exercising our capacity for a conception of the good, we must ensure room for agents to develop and pursue self-chosen goals, goals that they identify with as moral and rational agents. This requires that agents have available to them a variety of alternative options. To know that certain religious ends are truly ones that you identify with, for example, you must have available to you a variety of alternative religious practices to test out. I think that something like this holds generally. To know that certain goals and ends are really your own, ones that you identify with as a rational and moral agent, you must have available to you a variety of options. To know whether pink is really your favourite colour to wear

¹⁰⁸ This is not to say that where there is no real possibility of interference a benevolent dictatorship (one that tracks its citizen’s interests in the decisions it makes) is permissible. I think my arguments against a consultative assembly apply here.

¹⁰⁹ Pettit, *Republicanism*, p. 91.

(rather than something your parents pressed on you, for example) you should have open to you the option of trying other colours, of wearing a blue dress one day and perhaps yellow pants the next. Domination doesn't seem to allow this in the sense that, in order to ensure non-interference, one will deny oneself certain options. For example, if my master dislikes blue and yellow, then in order to ingratiate myself with him and to lessen the likelihood of his interference, I will not wear those colours. I close myself off from certain options. In short, allowing domination to persist is not consistent with leaving room for agents to develop and pursue self-chosen goals, goals that they identify with as moral and rational agents.

Pettit argues that freedom as non-domination requires democratic arrangements. He writes,

the promotion of freedom as non-domination requires . . . that something be done to ensure that public decision-making tracks the interests and the ideas of those citizens whom it affects; after all, non-arbitrariness is guaranteed by nothing more or less than the existence of such a tracking relationship. The decision-making must not represent an imposition of their will on us, as the citizens are likely to think about the matter. It must be a form of decision-making which we can own and identify with: a form of decision-making in which we can see our interests furthered and our ideas respected. Whether the decisions are taken in the legislature, in the administration, or in the courts, they must bear the marks of our ways of caring and our ways of thinking.¹¹⁰

Pettit argues that the need for government to track the interest of the citizens suggests an electoral government. "Under such democratization, the occupants of key positions in government are determined by periodic elections, where no competent adult is excluded from participating in them . . . and no one's vote is worth more than anyone

¹¹⁰ Ibid., p. 184.

else's.”¹¹¹ The establishment of an electoral government is central to ensuring FND because it is a way of forcing the government to track the interests of the populace. The governed are given the power to choose and to reject a government, and they do so on the basis of whether their interests are furthered or not.¹¹²

One might wonder at this point why, on this argument, it is important for all citizens to have an equally influential say (i.e., to have equal voting rights and their fair value) in decision-making. The main point is this: in order to ensure FND for all citizens, it is important for all citizens to have an equally effective say in the electoral processes. If a certain group, say racial minorities, is excluded from votes or their votes have less weight, then they will have less of an ability to ensure that the government tracks their interests and to this extent they will be dominated. To ensure that this is not the case everyone must have an equally influential say. How this can be accomplished is a matter I will discuss later.

§3. The value of Public Deliberation.

Rawls has been criticized by deliberative democrats such as Michael Sandel for failing to account for the value of public deliberation. The main thesis of deliberative democrats is that participation in political discussions with fellow citizens is an important good. Arguments for the value of public deliberation take different forms. Some argue for the intrinsic value of public deliberation, while others argue for the instrumental value of public deliberation. On the intrinsic view, there is

¹¹¹ Pettit, “Contestatory Democracy,” p. 173.

¹¹² If the electoral government is popular in nature, then there is always the possibility that the interests of minorities will not be tracked by the government, and will thus be open to arbitrary interference. So, it seems to me that we would need some kind of procedure that would work to ensure that governments cannot ignore or flout minority interests. This may suggest that we should not take up popular or majoritarian electoral processes. I discuss majority rule and the protection of minority interests in section 4. I believe that both the procedural and non-procedural mechanisms that I argue for in § 4 will work to protect minorities’ interests against arbitrary interference. Pettit himself thinks that a popular electoral process along with a contestatory process would be the best way of ensuring that minority interests are tracked. On this point see his “Contestatory Democratization.”

something inherently valuable about participating in the process of deliberation. On the instrumental view, public deliberation is valuable because of its contribution to just outcomes.

In many cases, the importance of political deliberation is established by an appeal to a comprehensive conception of the good. Consider Sandel's argument. Sandel argues for the intrinsic value of public deliberation. He argues "it is only as participants in political association that we can realize our nature and fulfill our highest ends."¹¹³ Sandel's argument is Aristotelian in structure. It is the view that man is a social-political animal and that his essential nature is realized most fully in a democratic society where participation in political life is pervasive.¹¹⁴ On Sandel's view, taking an active part in public political discussion is not just one good among many but, rather, is a necessary part of the good life. This kind of argument is not available to Rawls. The Aristotelian view is a comprehensive conception of the good; it is a particular view of what the best human life consists in. In the original position agents know that they have determinate conceptions of the good life, but they do not know their content. Consequently, any appeal to a comprehensive conception of the good, such as the Aristotelian one, is in violation of the restrictions placed on agents (and their reasoning) by the original position. These considerations suggest that Rawls, as he is traditionally interpreted, is unable to account for the value of public deliberation.

If we extend his arguments in the ways I have suggested, then Rawls can account for the value of public deliberation. Consider the argument from ownership. Citizens feel a sense of ownership over political decisions when they play a role in the

¹¹³ Michael Sandel, *Democracy and Its Limits* (Cambridge: First Harvard University Press, 1996), p. 7. Charles Taylor outlines a similar argument in *Philosophical Papers*, Vol. 2 (Cambridge: Cambridge University Press, 1985), p. 334f.

¹¹⁴ *PL*, p. 206.

making of these decisions. This is because citizens' exercise of their sense of justice is given weight and taken into account in political decision-making. So, in order for citizens to feel a sense of ownership over the decisions that are made, it is essential that they exercise their sense of justice; it is essential that they reflect intelligently on the common good and justice. It is the connection between this exercise and political decision-making that gives rise to a sense of ownership among citizens.

Public deliberation is vital to the exercise of one's sense of justice in two respects. First, public deliberation encourages citizens to exercise their sense of justice. Hearing others' views on the requisites of justice and the common good and being in a sphere that encourages citizens' response to these views, will encourage citizens to think about what their own views on such matters are. Second, public deliberation is necessary for the exercise of the sense of justice. In support of this claim, consider the kinds of skills that are required to exercise one's capacity for justice. In reflecting on what justice and the common good require, one must take into account the impact of various schemes and policies on a diverse populace. To do this properly it is important to take other people's interests and points of view into account adequately. Deliberating with others and hearing their views is essential to this process, for it is by discussing with others and hearing their views that we are able to understand their interests (what they are, what weight they give them, and so on). As Rawls suggests, "no one . . . knows everything the others know, or can make all the same inferences that they can draw in concert. Discussion is a way of combining information and enlarging the range of arguments."¹¹⁵ In this way, deliberation is essential to intelligent reflection about justice.

The practical argument also supports the value of public deliberation. I argued earlier, in order to make an informed decision about whether participation in political

¹¹⁵ *ATJ*, p. 315.

life is part of their rational conception of the good, citizens need to experience what-it-is-like to participate in political life. If citizens were only to vote, then they would not experience what-it-is-like to participate in political life. Taken in itself, the act of voting is much like standing on the sidelines and watching a football game. Voting requires only that one tick a box, and to tick a box is not to take an active role in political life. It is more like watching politics take place than it is actually participating in politics. For this reason, voting is not in itself sufficient to determine if participation in political life is right for me. In order to make such a decision, I must take a more active role in political life. Active participation in political life requires reflection about justice and the common good (i.e., the exercise of our sense of justice). It also requires that we discuss and confer with fellow citizens about what justice and the common good require. I must actively engage in political deliberations and other facets of political life to genuinely experience what-it-is-like to engage in political life. This is essential to making an informed decision about what is right for me. In short, insofar as it allows citizens to make an informed decision about the value that participation in political life holds for them, participation in public deliberation is essential to the exercise of their capacity for a conception of the good.

My arguments suggest that, insofar as it facilitates the exercise of the two moral powers, participation in political discussions and deliberations is an important good. At this point one might wonder whether I can make such claims without falling into the kind of civic humanism that Rawls rejects.

Recall that civic humanists, like Rousseau and Aristotle, assign special importance to political participation; they see political participation as the chief, if not sole, human good. My arguments do not make a similar claim. It does follow from my arguments that a politically impoverished life would be missing something of value. In living such a life we would miss out on something valuable to the extent that

we would be less able to develop and exercise the second moral power, which is part of our higher-order interests. However, it does not follow from these arguments that a life without political participation cannot be good as a whole or that the best life is dominated by political concerns. As Rawls himself suggests, political life is but one sphere of life and in general it has, and indeed may reasonably have, a lesser place in the conceptions of the good of most citizens; that is to say, that participation in political life may not be the focus of life for most citizens.¹¹⁶ So, even though a life without political participation may be missing something of value, given that the political sphere is only one sphere of life and that, in many cases, it is not a central sphere of life, a life without political participation can still be good as a whole or overall.

The argument from self-respect also supports the value of public deliberation. Imagine that women and racial minorities are excluded from discussions about how society should be organized (e.g., only white men are able to participate in such discussions). The insult to women and racial minorities is similar to that involved in their being denied a vote. Given that there are other feasible and more equitable arrangements that could be taken up – such as allowing women and racial minorities to participate in national political deliberations – and they are not, this suggests that women’s and racial minorities’ exercise of the two moral powers is not of importance. It suggests that women’s and racial minorities’ exercise of the two moral powers is of inferior value. This is degrading.

Again, a life without participation in political life is not to be considered an impoverished form of life. This is because our valuing of participation in political discussions can be more a valuing of having access to or having an opportunity to participate in political discussion than it is a matter of actually participating in it. It

¹¹⁶ *JF*, p. 143.

seems plausible to think that even if women (as a group) didn't tend to participate in public political discussions, they would be greatly insulted if they were prevented or disallowed from participating in such discussion. Even if they don't tend to actually participate in public deliberations, it still suggests something negative about their exercise of the two moral powers (in particular) to exclude women. The insult is independent of whether they would actually participate or not.

The point becomes clearer when we consider a less controversial example. Imagine that you are a graduate student living away from your hometown, and that, for some reason, you have absolutely no desire to move back to your hometown after your studies are finished. Imagine that the Mayor of the town suddenly decides to bar brown-eyed people from living there ever again and that you have brown eyes. It seems to me that you are likely to be upset and to feel insulted. It even seems plausible to think that you might wish to confront the Mayor, to question and to object to his/her decision. When it isn't an issue as to whether you can live in your hometown or not, living there doesn't really interest you. But when you are suddenly denied access to the town, it seems to become more important. This example illustrates that being denied access to a sphere, even when you do not necessarily wish to participate in that sphere, is insulting. It suggests something negative about you and people like you. Being excluded from the town suggests that you and those like you (i.e., brown eyed people) are not worthy enough to live in the town. This is degrading.

I think a similar point applies in the case of public deliberation and discussion about basic social arrangements. It seems important in similar ways to have access to this realm. Even if you never intended to participate in political deliberations, being denied access would be insulting. It suggests something negative about your moral powers as a citizen; it suggests that your exercise of these two powers is not of significance. This is damaging of your self-respect as a citizen.

The account of the value of public deliberation that I have given here is instrumental but not straightforwardly so. The value of public deliberation is cashed out in terms of outcomes, but value is also placed on the process of public deliberation. Participation in public deliberation is instrumentally valuable because it ensures that citizens are able to satisfy their higher-order interests in developing and exercising their two moral powers and in maintaining a secure sense of self-respect. Participation in the process of deliberation is also valuable, for it is only by actively participating in the process of public deliberation that citizens are able to satisfy their higher-order interests in exercising their two moral powers.

§4. The Institutionalization of the Fair Value of Political Liberty

Rawls does not provide any detailed proposals about how the fair value of political liberty should be institutionalized. He fails to say much about how institutions should ensure that the votes of all citizens are equally effective and influential in political decision-making. It is to this matter that I would now like to turn. I think there are two aspects to the institutionalization of the fair value of liberty. The first aspect is procedural. Certain procedural arrangements will be most conducive to the fair value of political liberty. In particular, I argue that a bill of rights along with judicial review, bicameralism, minority conscious districting, and vote trading within the legislature will work toward instituting the fair value of liberty. However, I argue that even these procedural arrangements will not absolutely ensure the fair value of liberty for all people and groups. There is a particular worry, even with appropriate procedural arrangements, that the impoverished will not have equal worth of political liberty. So, the second aspect of my proposal is non-procedural. I argue that there needs to be greater economic equality before fair value of liberty can be fully established.

§4.1 Procedural Solutions

Let us begin with the question of what decision-making rule or procedures are most conducive to the fair value of political liberty and are most consistent with the values that support it. I suggested earlier that I was reluctant to immediately link democracy with any decision-making rule such as consensus, supermajority, or majority rule. I am now in a position to explain my reasons for being sceptical. In what follows, for the sake of simplicity and also because it seems to me to provide the strongest argument for democracy, I will focus on considerations relating to the argument from self-respect. I will try to show that from this perspective consensus, supermajority, and majority rule are all problematic.

One option in decision-making is to seek a consensus. Initially, consensus decision-making may seem appealing because it seems consistent with the fair value of political liberty. Consensus seeks unanimity (or near unanimity), and so each citizen (through her representative) has equal ability to veto decisions. In the end, however, this is not a compelling procedure. First, it seems to be an unviable option, given that unanimity (or near unanimity) is unlikely among a number of people with a variety of different viewpoints and opinions on matters of justice and the common good.

Second, as Christiano argues, on further examination, consensus doesn't seem to be consistent with fair value after all. He writes,

in the case of consensus decision-making rules, the rules are not democratic to the extent that they give minorities a kind of veto over the decisions. Instead of each having an equal say, a minority has a kind of veto power.¹¹⁷

Consensus decision-making actually gives the minority a more influential say than the

¹¹⁷ Thomas Christiano, "A Democratic Theory of Territory and Some Puzzles about Global Democracy," *Journal of Social Philosophy* 37.1 (2006), p. 103.

majority in the sense that it can veto any decision, even when the majority of people agree about what route to take. When the minority exercises its veto, it happens that only the members of a small group have a say in the decisions made. Christiano finds this problematic because only some of those whose interests are implicated have a say in the decisions made. Christiano suggests that this is not consistent with equal influence because it gives the minority too much influence over the political process.

I agree with Christiano to the extent that I also think that consensus based decision-making is not consistent with fair value insofar as it gives the minority too much influence over decisions. In contrast to Christiano, I think, what makes consensus inconsistent with fair value of political liberty, is not simply the fact that the interests of a significant number of people are ignored in the decisions made. This fact is not in itself a problem from the perspective of self-respect. After all, the constitution of the majority will change (i.e., who makes up the majority will alter) depending on the issues at stake. So, even if the minority exercises its veto power often, it may not be the same group of individuals that continues to lose out. Intermittent loss with respect to one's interests does not in itself conflict with self-respect. Rather, it is predictable and persistent loss that constitutes a problem. So, the real problem occurs when there is a well-entrenched minority that consistently and predictably blocks the majority. It is only in this case that the majority's loss is persistent and predictable and that their votes do not seem to have equal weight. For these reasons, this kind of scheme would be undermining of the majority's sense of self-respect.

An example will help to make the point. Imagine that the majority of people are not wealthy. Imagine that the rich minority vetoed a tax increase meant to support better transportation for the poor. I doubt that this would tend in and of itself to undermine the poor's sense of self-respect. But imagine that the rich minority vetoed

all decisions that were meant to benefit the poor majority. It seems that in this case the poor's sense of self-respect would be impaired. Persistent and predictable loss suggests that the poor's (the majority's) votes count less than those of the rich (the minority's). In such a case, consensus decision-making suggests that the majority's exercise of the two moral powers and their interests are not of equal concern. This suggests that if we are concerned with democratic values of self-respect, then we must be concerned with protecting the majority from persistent and predictable loss. Consensus decision-making is not consistent with this commitment. So, consensus is not consistent with fair value of political liberty. I think similar points apply in the case of supermajorities as well.

Many hold that democracy requires majority rule. Again, initially this seems quite compelling and perhaps even natural from the perspective of democracy. Consider Brian Barry's famous example.¹¹⁸ Imagine that five people are in a railway car and are trying to decide whether to permit or prohibit smoking. In this type of situation, majority rule seems the natural choice. It seems the simplest way of ensuring that everyone has an equally influential say over the final decision. While this may be true, it does not necessarily follow that majority rule is the most democratic under other conditions.

Consider Lani Guinier's example.¹¹⁹ It raises concerns parallel to those considered in relation to consensus decision-making. Guinier's case involves the Brother Rice High School in Chicago. The students were organizing the prom. The prom committee hired a disc jockey, and picked music for the prom by consulting

¹¹⁸ This example first appeared in Brian Barry, *Political Argument* (London: Routledge and Kegan Paul, 1965), p. 312.

¹¹⁹ Lani Guinier, *Tyranny of the Majority* (New York: The Free Press, 1994). Bernard Boxill raises somewhat similar worries about majority rule. See his "Majoritarian Democracy and Cultural Minorities" in Arthur M. Melzer, Jerry Weinberger, and M. Richard Zinman (eds.), *Multiculturalism and American Democracy* (Lawrence, KS: University Press of Kansas, 1998), pp. 112-119.

student preferences. “Each senior was asked to list his three favorite songs, and the band would play the songs that appeared most frequently on the lists.”¹²⁰ As Guinier notes, this “seems attractively democratic. But Brother Rice is predominantly white” and “as one black student put it: ‘For every vote we had, there were eight votes for what they wanted. . . [W]ith us being in the minority we’re always outvoted. It’s as if we don’t count.’”¹²¹ Under these circumstances, majority rule sends the message to black students (the minority) that they don’t count. Guinier’s case is important because it raises questions about whether majority rule supports the fair value of political liberty, for the votes of those who belong to the black minority do not seem to have equal weight (or equal influence).

Guinier’s case is different from the original railway car case in an important aspect. As I mentioned, in the railway car case only one decision has to be made. In contrast, in Guinier’s case, which closely resembles the normal political case, decision-making is continuous and voting continues over long periods of time. Guinier’s case illustrates that under these conditions majority rules faces a special problem, namely the problem of persistent minorities. Christiano writes,

a persistent minority is a group of persons within a society that always or almost always fails to get its way in democratic decision making. Since democratic decision making operates by the repeated use of majority rule, it is possible for such minorities to arise and indeed they have arisen on many occasions in democratic societies.¹²²

If the black students at Brother Rice only lost one vote, I doubt that such a message of disregard would be sent. Rather, it is the fact that such a result is a predictable and common occurrence that sends such a message. It is perpetually and predictably losing over long periods of time that sends a message of disregard to black students.

¹²⁰ Guinier, *Tyranny of the Majority*, p. 2.

¹²¹ *Ibid.*, p. 2.

¹²² Christiano, “A Democratic Theory of Territory,” p. 90.

Democratic values, such as equal respect, are put at risk by majority rule in this kind of scenario. The appeal of the majority principle in the railway car hypothetical is largely the result of the one-time nature of the decision (and use of majority rule). When this feature is absent, as is the case under normal political conditions, there no longer seems to be a democratic presumption in favour of majority rule.¹²³ Or it is at least the case that, while there may be a default assumption in favour of majority rule, it is overridden in special cases where there is a threat of persistent minorities.

I have tried to show that consensus, supermajority, and majority rule all face important problems. In the end, then, it isn't clear what decision-making procedure is most consistent with equal worth. Yet, for any account of democracy to be plausible it must provide an account of what decision-making rule will best embody the equal worth of political liberty and the values that underwrite it. This is my task in what follows.

In light of what has already been argued, majority rule seems more compelling than consensus decision-making. First, since it does not rely on unanimity, it is practically feasible. Second, in contrast to consensus decision-making (and supermajority decision-making), majority rule ensures that the majority is protected from persistent and predictable loss. Even if there is an entrenched minority, the majority is not at risk of losing predictably and persistently. In these two ways majority rule is more compelling than consensus rule. Nevertheless, as Guinier's case illustrates, majority rule still faces an important problem with respect to minorities and their persistent and predictable loss. However, given the advantages of majority rule, it is worth considering whether it can be repaired.

¹²³ Barry reaches similar conclusions. He also highlights others ways in which the hypothetical case is different from the normal political case. See his "Is Democracy Special," in Thomas Christiano (ed.), *Philosophy and Democracy* (Oxford: Oxford University Press, 2003), pp. 312-349. On this see also Gutmann, "Rawls on the Relationship," p. 191.

Let us proceed by taking a closer look at the kind of political case that worries Guinier. Consider the current situation in the US. Blacks are a minority group within the US, representing just under 14% of the total American population.¹²⁴ Because of their small numbers, blacks are less able to successfully elect candidates of their own choice to office than whites.¹²⁵ Moreover, as a result, there is only a limited amount of minority representation within the legislature. This means that blacks are likely to lose out continuously when it comes to legislative decision-making. Decisions within the legislature are made on the basis of majority rule. Since minority representatives are small in number, much like the blacks at Brother Rice high school, they will tend to lose out consistently and predictably in legislative votes.

As a means to resolving these problems, Guinier suggests a radical redefinition of majority rule. She suggests that majority rule should be restructured so as to allow the minority to share in the power. To this end, she suggests that minorities should be given a turn. “Giving the minority a turn does not mean that the minority gets to rule; what it does mean is that the minority gets to influence decision-making and the majority rules more legitimately.”¹²⁶

Guinier uses the example of family decision-making to explain her conception of “taking turns.” Family decision-making often uses a taking-turn approach:

When parents sit around the kitchen table deciding on a vacation destination or activities for a rainy day, often they do not simply rely on a show of hands, especially if that means that the older children always prevail or if affinity groups among the children (those who prefer video

¹²⁴ See US Census Bureau, “Newsroom,” URL = <http://www.census.gov/Press-Release/www/releases/archives/facts_for_features_special_editions/006088.html>.

¹²⁵ Typically these candidates tend to be black as well. This seems to make sense. After all, it seems to me that my interests are the interests of people like me (people of similar class, race, etc.). And so I am most sensitive to the interests, needs, views of people like myself. The idea is that, because a black candidate would be most sensitive to the interests of black people, a black candidate is the best representative of black people. In a similar vein, Boxill suggests that “people of minority cultures are more likely to be well represented by those who share their culture than by others.” See his, “Majoritarian Democracy and Cultural Minorities,” especially pp. 114-115.

¹²⁶ Guinier, *Tyranny of the Majority*, p. 5.

games to movies, or those who prefer baseball to playing cards). . . never get to play their activity of choice. Instead of allowing the majority simply to rule, the parents may propose that everyone take turns, going to the movies one night and playing video games the next . . . or they might do both on a given night.¹²⁷

In essence, Guinier wants the internal decision-making processes of legislatures to embody this principle of taking turns. In the end, even after considering the example of family decision-making, it isn't entirely clear as to how this might happen. The idea seems to be that the majority would share decision-making power with the minority on some issues. Guinier suggests that the taking-turns approach gives those with the most support the most turns.¹²⁸ So, the majority would prevail on the majority of the issues, but the majority would have to "take turns" with the minority, allowing the minority to prevail on some issues (presumably the issues that matter most to minorities). The number of "turns" the minority would be entitled to would presumably correspond to its proportion within the legislature.¹²⁹

On the one hand, it seems to me that this solution doesn't go far enough toward protecting minorities from persistent and predictable loss. With taking turns, the minority only gets to decide the number of issues that is proportionate to its population in the legislature. In turn, if the minority is small in number then taking turns will not do much in the way of preventing persistent and predictable loss. Return to the Brother Rice High School case. If there were 10 dances throughout the year and black students represent 10% of the student population, the taking turns principle would ensure that black students decided the songs for 1 dance. White students would still get to decide the songs for the other 9 dances. In these cases, the black students' loss

¹²⁷ Ibid., p. 6.

¹²⁸ Ibid., p. 6.

¹²⁹ Briffault, Richard, "Lani Guinier and the Dilemmas of American Democracy," *Columbia Law Review* 95.2 (1995), p. 452. This is a very clear review and critique of Guinier's work. Much of my reconstruction of Guinier's arguments is influenced by this article.

would still be predictable and persistent. Consequently, the self-respect of black students is still likely to be undermined, even with the use of the taking turns method. On the other hand, the principle of taking turns may go too far in protecting the minority. If there are 10 dances throughout the year, and black students represent 45% percent of the student population, then black students get to decide which songs are played for about 5 dances. If black students tend to pick the same kinds of songs again and again, then the white student's loss with respect to the songs chosen at the 5 dances will be persistent and predictable. This seems inconsistent with the self-respect of the white student majority. In short, the taking turns procedure has the potential to be undermining of citizens sense of self-respect much in the same way that both consensus and majority rule do.

More generally, Guinier's arguments in support of taking turns are meant to support positive sum solutions. She favours compromise alternatives in which all gain something. Taking turns is one such alternative. Guinier, however, also makes a further suggestion.¹³⁰ In particular, Guinier argues for cumulative voting, which is meant to embody the taking turns approach. Cumulative voting is a move toward proportional representation; it is what Guinier refers to as semi-proportional representation.¹³¹ Return to the Brother Rice case. The idea would be to give each of the students at Brother Rice as many votes as there will be songs played. If there are going to be ten songs played at prom, then each student is given ten votes to place on any number of songs in whatever arrangement he or she chooses.¹³² This would allow black students to cumulate or to aggregate their votes. They could each place ten

¹³⁰ At times Guinier also advocates a supermajority vote or a minority veto on critical minority issues (*Tyranny of the Majority*, pp. 108, 116). I think my arguments above count against these suggestions. So, I will not consider them here.

¹³¹ Boxill also advocates a version of proportional representation. See his "Majoritarian Democracy and Cultural Minorities" p. 119.

¹³² Guinier, *Tyranny of the Majority*, pp. 14-15.

votes on one song or place five votes on two songs. This would allow them to select at least one or two songs in the set.

In the political case, cumulative voting requires multi-member districts. Instead of having single member districts, Guinier thinks that districts should be expanded and should elect several candidates (she advocates at-large elections). In cumulative elections, the candidates with the most votes win. Voters have the decision of casting one vote for each seat to be filled or to cumulate their votes in support of the one candidate that they prefer most. This allows groups of voters to concentrate their votes to increase their chance of electing their most preferred candidate. To use an example from Briffault, if there is a city of 1000 people with a minority of 167 people, the minority can win one of the five available council seats as long as each member of the minority gives all of their votes to one candidate, even if none of the 833 other people cast a single vote for the minority's candidate.¹³³ The minority candidate would win with 835 (167 x 5) votes. The 833 majority voters would cast 4165 (833 x 5) votes. If these votes were spread equally over five candidates (833 for each), not one candidate would have as much as the 835 votes for the candidate preferred by the minority. The minority would win a seat. If, however, the majority gave more of its votes to only four of its most preferred candidates, those candidates would outpoll the minorities' candidate, but there would be fewer votes of the majority available for a fifth candidate, in turn, making it certain that the candidate preferred by the minority would outpoll the fifth place majority candidate and win a seat.¹³⁴

¹³³ Ibid., p. 432.

¹³⁴ This, however, would not be the case if the minority was 100 people. In this case, the majority could take all five seats. The majority would have 4,500 (900 x 5) votes and could place 900 on five different candidates. The minority would only have 500 (100 x 5) votes, and this wouldn't even be enough to take one seat. This illustrates that small minorities (under 16.7 %) will still be excluded even under Guinier's system of cumulative voting.

The basic suggestion is that cumulative voting would improve the ability of minorities to elect candidates of their choosing. The hope is that by having more representatives sitting at the table, so to speak, minorities would have more influence over political decision-making. Cumulative voting is meant to promote the fair value of political liberty.

In the end, Guinier suggests that cumulative voting is to be deployed as a remedy only “in extreme cases of racial discrimination at the local level.”¹³⁵ Since other people advocate some version of cumulative voting at the national level, I think it is useful to consider her suggestion and to consider whether it presents a plausible means of remedying the problem of majority rule in the national sphere.

There are many things that are plausible about Guinier’s arguments. In the main, she seems right about the fact that there are cases where certain people (namely persistent minorities) should be given a guarantee that their voice is heard and not ignored. In a representative democracy, this means that there should be a guarantee that other people’s representatives will listen to their representatives. Guinier’s scheme of cumulative voting is meant to ensure this. While I find this aspect of Guinier’s arguments compelling, I think that her approach faces at least two important problems.

Under Guinier’s scheme, voters have a choice about whether to bullet vote, that is, to put all of their votes on one candidate, or to spread their votes out, say by placing one vote on each candidate. So, hers is a scheme where politicians can make good careers for themselves by appealing to the cumulators (to those who bullet vote). If a politician can hook onto a group of cumulators with the same interests, then as long as it is of a minimum size – in the example we were considering, the group would have to consist of at least 167 people in 1000 people district with 5 seats open – the

¹³⁵ Guinier, *Tyranny of the Majority*.

candidate will win. Imagine that in the US two out of ten people are against interracial marriage and think that it should be illegal.¹³⁶ If it is a five seat at large election, this would be enough to guarantee the white racists a seat. So, under Guinier's scheme, there is a big pay off for politicians who appeal to racist interests.¹³⁷ This is problematic for two reasons. First, the scheme encourages people to run public campaigns on racist platforms. This is clearly bad for public life. In the sense that a racist campaign degrades or demeans certain groups of society, it makes it hard for people to maintain self-respect and to relate to one another as free and equal citizens. Second, it means that racists will get representation in legislative decision-making. This is worrisome for obvious reasons.

There is no clear solution to this problem. One solution is to give only certain minority groups more votes and to give others fewer votes (i.e., to weight votes in favour of certain minority groups).¹³⁸ This would be a more direct way of ensuring that, say, black interests are represented and not white racists', for example. I think this is problematic largely because it would be insulting to those who receive fewer votes. It would suggest that their exercise of the two moral powers and that their interests and aims are of less value than minorities'. Since, I say more about this in the next chapter, I won't pursue this matter any further at this time.

Another problem is that cumulative voting may tend to support the proliferation of fragmented political parties. Parties are useful in that they serve as a

¹³⁶ In Alabama, for example, the number of people against interracial marriage is actually very high. CNN reports that the vote on repealing the ban on interracial marriage in Alabama, "was running 59 percent to 41 percent [against repealing the ban], with 58 percent of the voted counted." See CNN, "Alabama Repeals Century-Old Ban on Interracial Marriages" (November 2000), URL = <<http://archives.cnn.com/2000/ALLPOLITICS/stories/11/07/alabama.interracial/>>.

¹³⁷ I think this worry applies to proportional representation or choice theory as well. In this system, votes are cast preferentially (ballots ask voters to rank-order their preferences). As long as white supremacists are above some minimum number, and they rank candidates similarly, they are likely to win representation. For a description of proportional representation or choice theory see Beitz, *Political Equality*, pp. 125-132.

¹³⁸ Beitz considers this as a possibility in *Political Equality*, p. 158.

focus for interest groups who form coalitions on the basis of opinions and interests. With cumulative voting, it happens that as long as a party can hook into an interest group above a certain minimum number it can survive. That is to say, as long as a party garners a minimum amount of support (167 of 1000 people in the example we have been considering), it will be likely to win representation in the legislature. The increased likelihood of success encourages the development of many different parties representing many different interests.

What is problematic about the proliferation of diverse political parties?

Political procedures are not just machines used to produce certain outcomes like the representation of certain groups (though this is important as well). In order to form rational and informed conceptions of justice and the common good – that is, in order to develop and exercise our sense of justice and our capacity for a conception of the good – it is important to have mechanisms that encourage politicians and voters to think about the common good, what is in the interests of all, and this requires being open to the legitimate interests of others. This is why it is especially important to ensure that people with distinctive interests that are vital to them have a political voice. To this extent Guinier's arguments for cumulative voting are compelling: cumulative voting strives to ensure that those with distinctive interests have representation and are given a voice in political decision-making. However, to the extent that the scheme is likely to lead to a multiplicity of political parties representing a multiplicity of different interests, it is not compelling. The problem with this is that parties and, in turn, voters will be isolated from one another. Insofar as a number of different parties or interest groups are likely to win seats, there is less motivation for politicians to advocate and to encourage voters to think about what they see as being in the common good. Insofar as they need to attract the votes of cumulators with a particular set of shared interests, politicians have more grounds to pander to the

particular interests of a group of cumulators than they do to advocate a conception of justice or common good. This is not consistent with citizens' interest in exercising their two moral powers in the sense that it does not encourage citizens to take into account the impact of various schemes and policies on a diverse populace.

I would now like to consider other more compelling means of tempering majority rule. Rawls suggests that the defects of majority rule can be mitigated by other sorts of procedural constraints. In the US, for example, "(bare) majority rule is restricted by the mechanisms of constitutionalism."¹³⁹ These devices serve to limit the scope of majority rule, the kinds of matters on which majorities have final authority."¹⁴⁰

I think, in the first place, what concerns us most about majority tyranny is the possibility of the majority threatening or thwarting the fundamental liberties of the minority. So, one strategy – embodied in a bill of rights – is to instate firm constitutional protections for certain liberties and the separation of powers with judicial review.¹⁴¹ This would put certain liberties, entrenched in a constitution, beyond the scope of majority regulation and, through judicial review, securing them

¹³⁹ There are also other measures that can be taken besides those contained in the US constitution. In Canada, for example, minority interests are protected by requiring a large majority in certain spheres of negotiation between provinces. Take, for example, the Meech Lake accord. The Meech lake accord was a set of proposed amendments to the Canadian constitution (that eventually failed). The bill was essentially aimed at changing relations between Quebec and other Canadian provinces. Certain sections of the Meech Lake accord fell under the 7/50 formula requiring the consent of seven of ten provincial legislatures which represent 50% of the Canadian population. This provision makes it more difficult to amend certain aspects of the Canadian Constitution, and can be used to protect the minority from majority rule by entrenching certain protections in the constitution.

¹⁴⁰ *ATJ*, p. 200.

¹⁴¹ Some might worry that a bill of rights and judicial review cannot sufficiently temper the majority. The bill of rights is interpreted by the judiciary. Supreme Court Judges are selected by those who are elected by the populace. So, for example, if a Republican US president picks three right winged judges and there are already two sitting on the bench, then in a sense the majority still has the ability to tyrannize the minority, even at the level of the Supreme Court. All judicial review can do here is slow down the pace of legislative change and force the majority (by encouraging public debate) and those representing the majority within the judiciary to carefully reflect on their position before voting. In this sense, a bill of rights and judicial review still work to temper majority rule, though they do not represent absolute protection against majority tyranny.

from majoritarian abuse. Together these mechanisms would work to limit the scope of the majority's authority.

Basic liberties are usually entrenched in a constitution through supermajoritarian requirements. I have suggested that, like consensus decision-making, supermajority decision-making is not fully democratic in the sense that it gives the minority too much influence over decision-making. While supermajoritarian requirements are a step away from fully democratic decision-making procedures, the use of such requirements is required in some circumstances, namely, circumstances that underlying democratic values pick out.¹⁴² In the case of basic liberties, supermajoritarian requirements seem called for because they will work to protect citizens' vital interests equally, interests which are integral to citizens sense of self-respect and to their development and exercise of the two moral powers.

A further option found in the constitution is federalism. Federalism divides authority between sub-units like states and a centre. Federalism "limits the issues that a majority of the entire society will determine, and, instead, allocates some issues to distinctive autonomous communities within the broader society."¹⁴³

Bicameralism also works against majority tyranny by limiting the ability of the majority to act. Bicameralism is a system of government where the legislature is divided into two chambers or houses, an upper and a lower house. In the US, the upper house or the Senate consists of 100 seats. Regardless of population, each state elects, through popular vote, two representatives to the Senate. The lower house or House of Representatives has 435 members. Again, members are elected by popular vote. Here, the number of seats given to each state is apportioned on the basis of population. The more populous states like NY (29) have more representatives in the

¹⁴² Christiano makes a similar point in "A Democratic Theory of Territory," pp. 103-104.

¹⁴³ Briffault, "Lani Guinier and Dilemmas of Democracy," p. 454.

House of Representatives than less populous states, like Idaho (2).

Having two chambers is important to protecting the interests of the minority in legislation. Imagine that there was just one chamber based on population. Because of their small populations, people of Idaho and Wyoming would consistently lose out. This is a loss that we should be concerned with. Just as black students have distinct and shared interests based on their race, shared history, culture, and so on, the people of Idaho and those of Wyoming have distinct and shared interests based on their shared territory. Geography is an important determinant of interests. As Briffault notes,

‘there is a spatial dimension to human organization.’ Many of the most important interests and concerns people have relate to their . . . immediate surroundings. People may choose to settle in territories in which, they believe, the current residents share their views and concerns, so that territorial and interest representation may be closely linked. Even when the choice of residence is constrained by income or discriminatory practice, neighbors will have common experiences. These common experiences may lead to a shared perspective on public affairs and political values. Territory, thus, can be an important determinant of interests.¹⁴⁴

Moreover, there are problems or issues that are specific to a state. For example, among those residing in Quebec, there is the special concern of being recognized as members of a distinct culture. It seems important for these interests to be represented in decision-making.

So, to ensure that these geographic interests are protected, we must ensure that certain parts of the country (the more populous) do not gang up on others (the less populous). For this reason, there needs to be two chambers. Within a two chamber system, for any bill to pass, it must pass through both the house and the senate by simple majority. This ensures that people in the more populous states (such as

¹⁴⁴ Briffault, “Lani Guinier and Dilemmas of Democracy,” p. 442.

California and New York) reach out to those in the less populous states (such as Idaho and Wyoming) and cannot afford to ignore them.

Within the House of Representatives there are also mechanisms that can protect minority interests from majority rule. In the US, states are divided into single member electoral districts. That is to say, states are divided into roughly equally populated geographic districts. One representative from each district is elected to the house by majority rule. Beitz mentions two strategies that can be employed in single member districts to protect minority interests. It is important to note that both options may require the use of gerrymandering techniques. First, Beitz suggests that the system can be designed to promote party competition. One way of doing this requires increasing the proportion of competitive districts, that is, the proportion of districts where expected partisan voting strength is evenly divided.¹⁴⁵ “The assumption is the more competitive the districts, the greater the incentives for parties and candidates to orient their programs to attract the support of disaffected minorities.”¹⁴⁶

Moreover, and in contrast to Guinier’s proposal, competitive districts encourage voters and politicians to consider the interests of others and what is in the service of the common good and justice. If districts are fairly diverse, a winning politician has to appeal to a fair number of interests and backgrounds within a district. There is real pressure to show that she is advancing the common good in that district. Even candidates who are in support of pro-minority policies (such as affirmative action) are under pressure to show why everyone in the district, including those who are not minorities, should support such policies in the name of the common good. This is important because this kind of mechanism puts pressure on politicians and voters to think about the common good and to be open to the legitimate interests of

¹⁴⁵ Beitz, *Political Equality*, p. 156.

¹⁴⁶ *Ibid.*, pp. 156-157.

others which is an important part of exercising their sense of justice and their capacity for a conception of the good.

Second, Beitz suggests that if it is likely that minority interests will be ignored even when normal party competition exists, the districting system can be structured so that minorities have an increased chance of legislative representation. One example found in the US is the creation of majority-minority districts.¹⁴⁷ In certain states where blacks (or other groups) are in the minority and unlikely to win representation, districts could be created so that a majority of residents are black (i.e., the district would concentrate black voters). This would virtually ensure black representation for that district.

The question that arises now is: by what criteria do we decide that the districts are properly apportioned?¹⁴⁸ For example, how many minority representatives and, in turn, how many majority-minority districts should there be? One answer is to try to make the proportion of minority representatives the same as the proportion of members of the minority group to the population in total.

As Christiano notes, the trouble with this kind of strategy is that there are many minorities in a society and to some extent they overlap.¹⁴⁹ “To ensure that women, African Americans, Polish Americans, Italian Americans, as well as Jews, Catholics, Protestants, and other minorities are proportionately represented in the legislature is impossible.”¹⁵⁰

The obvious answer is to say that only some minority groups ought to receive special consideration. The further question, then, is how do we decide who ought to

¹⁴⁷ Districts would be of equal populations and would have to be contiguous.

¹⁴⁸ Related points are raised by Thomas Christiano, *Rule of the Many* (Boulder CO: Westview Press, 1996), pp. 6-7.

¹⁴⁹ *Ibid.*, p. 6.

¹⁵⁰ *Ibid.*, p. 6.

receive special attention?¹⁵¹ I don't have a fully worked out answer to this problem, but it seems to me that there are two relevant groups that ought to receive special attention. First, those whose vital interests (e.g., basic liberties) are in jeopardy. Second, those who tend persistently and predictably to lose out in votes.

More needs to be said about this second category of people. It seems clear that we are not concerned with all persistent and predictable loss. In this context, two examples come to mind. (1) If a group of white supremacists consistently lost in votes about what songs to play at the prom – i.e., they were never able to get white power songs on the list of songs to be played – I doubt that we would be concerned. (2) In a sense, the rich constitute a vulnerable group. Imagine that, in general, the rich would like to be taxed less. The rich are in the minority in most countries and, on this matter, will tend to lose out consistently and predictably. Again, I don't think this is the kind of case that concerns us. I doubt that any of us think that white supremacists and the rich should get special attention because of their losses, even when they are consistent and easily anticipated. Why might this be?

I think part of the answer is that what we are concerned with is not simply persistent and predictable loss, but persistent and predictable loss with respect to legitimate interests. On my view, legitimate interests have two central features. First, legitimate interests are interests that are consistent with the freedom and equality of all citizens. The white supremacists' interest in playing white power music – which advocates the superiority of whites and the unequal status of other races – is, for this reason, not a legitimate interest. Second, legitimate interests are also interests that are consistent with the common good. They are interests that are consistent with (and do not thwart) the advancement of the common good and the benefit of all. The rich's interests in being taxed less are not legitimate interests in this sense because they

¹⁵¹ Ibid., p. 6.

benefit only the rich and are of detriment to others (though the rich would likely argue otherwise).

Who falls under the two categories of special attention is something that can only be determined by looking at historical and cultural circumstances. Clear candidates for special attention in the US are women, blacks, Native Americans, poor people, disabled people, gay men and lesbian women. Historically, these groups have either had their fundamental interests thwarted or have suffered from persistent and predictable loss with respect to their legitimate interests. In turn, my suggestion is that these groups would be entitled to increased chance of representation through majority-minority districts.

So, it is now clear that the kind of legislative districting that I have been advocating avoids a problem that Guinier's approach faced, namely the problem of racist groups having representation, for example. On my view, not just any minority is entitled to an increased chance of representation through gerrymandering techniques. Rather, only certain groups, groups that are vulnerable to having their vital interests thwarted or persistently and predictably losing out with respect to their legitimate interests, are entitled to majority-minority districts. So, with legislative districting there is no pay off for a politician supporting something like a ban on interracial marriage because there would be no district where this kind of view would garner enough support to improve his/her chances of winning.

There is still one problem, however: even if we implement a scheme of districting, and minority candidates are elected to the legislature, there is a worry that minority candidates will be ignored and won't have much influence over collective decision-making procedures within the legislature.¹⁵² After all, minority representatives will still be in the minority. If legislative decisions are made on the

¹⁵² Similar worries are raised by Guinier, *Tyranny of the Majority*, p. 64.

basis of majority rule, then it is likely that minorities will consistently and predictably lose votes. So, we need some kind of mechanism within the legislature to ensure that minority representatives are included in decision-making.

Guinier makes a suggestion that is worth considering here. She argues that legislative cumulative voting is a way of ensuring that minority representatives are included in decision-making. Under this scheme

votes on multiple bills would be aggregated or linked. By linking votes on several issues to allow both weighed and split issue voting, the black representatives could more reliably participate in the legislative process, plumping votes to express the intensity of constituent preferences on some issues and trading votes on issues of constituent indifference.¹⁵³

In the end it isn't clear as to how cumulative voting would work in the legislature.¹⁵⁴

In the case of electing representatives, cumulative voting relies on a determinant number – known in advance – of seats to be filled. If five representatives are to be elected, then voters are each given five votes that they can cumulate in any way they choose. In the legislature, there isn't an obvious analogue, for there is no determinate number of bills to be passed that is known at the outset of a legislative session. Any number of bills can be passed during a legislative session.

Even though her own solution fails, I think that Guinier's arguments are useful in that they can be seen as pointing to the virtues of standard legislative vote-trading which is often viewed as a threat to democracy. Vote trading will allow minority representatives a greater role in the legislative process. In this sense, its benefits are the same as those supposed of legislative cumulative voting. Consider an example. If a minority representative, for example, doesn't care much about issues other than X,

¹⁵³ Ibid., p. 108. Again, Guinier also suggests supermajority vote as possible remedy.

¹⁵⁴ Briffault, "Lani Guinier and Dilemmas of Democracy," p. 462 raises a somewhat similar worry.

let's say, X is what would help poor people in a minority group, the representative can trade her votes on those other issues, thus, allowing her to accumulate support from other representatives who don't care much about X either way, in exchange for voting in favour of their pet projects.¹⁵⁵

To summarize, in this section, I have argued that a number of concrete procedural mechanisms – namely, a bill of rights along with judicial review, bicameralism, minority conscious districting, and vote trading within the legislature – will work toward instituting the fair value of liberty. All of these mechanisms will work together to protect minorities against persistent and predictable loss, which is important when considering citizens' higher order interest in securing self-respect.

§4.2 Non-procedural Solutions

I think even with the kinds of decision-making procedures and other arrangements (such as districting, etc.) I have suggested, the votes of the poor will still tend to be less effective and less influential than those of the rich. On Rawls's view, this is a challenge to democracy that cannot be met by procedure. It can only be solved by something similar to state-subsidized financing of parties and election campaigns. For as Rawls's argues,

if society does not bear the costs of organization, and party funds need to be solicited from the more advantaged social and economic interests, the pleading of these groups are bound to receive excessive attention. And this is all the more likely when the less favored members of society, having been effectively prevented by their lack of means from exercising their fair degree of influence, withdraw into apathy and resentment.¹⁵⁶

¹⁵⁵ I thank Dick Miller for this point.

¹⁵⁶ *ATJ*, p. 226.

In the final analysis, though I think it would help the problem to some extent, I think that even this non-procedural solution is not sufficient. I think Rawls would have to admit that public campaign finance is not going to work miracles when it comes to the fair value of political liberty. Even with the public financing of campaigns, the votes of the poor are still likely to have unequal worth. Their votes are still likely to be less effective and less influential than the votes of the rich. Those with more resources usually have more leisure time available and more education, both of which allow for more persuasive public expression of their views.¹⁵⁷ Moreover, the wealthy also have more money to support well-organized lobbying efforts, which also works to promote their political views. To this extent, even with public financing of political campaigns, the rich are still likely to have greater influence over elections and political debates. This seems true even in light of the kind of majority-minority districting I have argued for. For reasons similar to those I have just given (leisure time, education, etc.), in majority-minority districts, it is likely that only the wealthiest of racial minorities, for example, will tend to have the greatest influence over politics. Similarly, even within majority-minority districts aimed at giving representation to the poor, it is the wealthiest of the poor that will tend to have the greatest influence over politics.

I think that there might be a different non-procedural solution to take here: what might help the poor to have fair value of political liberty is egalitarian measures in the economy. If there is no longer a concentration of cash in certain groups, then there will likely be rough equality in the use of political influence and power. Indeed, Rawls suggests something similar when he considers how the fair value of liberty is to be secured.¹⁵⁸ Here he suggests, inter alia, that if fair value of liberty is to be secured

¹⁵⁷ c.f., Harry Brighouse, "Political Equality in Justice as Fairness," *Philosophical Studies* 86.2 (1997), p. 157.

¹⁵⁸ *ATJ*, pp. 198-200.

then “wealth must be kept widely distributed.”¹⁵⁹ If this is right, then something like the difference principle may be appropriate. After all, it is meant to be an egalitarian principle governing the distribution of income and wealth. And to this extent it will diminish unequal political influence.

However, the difference principle may be insufficiently egalitarian to guarantee equality of political influence. The difference principle does allow for differences in wealth to occur (e.g., in the case of incentive effects which benefit the worst off) and if there are significant differences in wealth, then there will be significant differences in political influence.¹⁶⁰ So, something stronger than the difference principle may be required to secure the fair value of political liberty. Or minimally, the fair value of liberty may put a limit on the kinds of inequalities permitted by the difference principle. It may, for example, only allow sufficiently small inequalities in wealth and income.¹⁶¹

¹⁵⁹ Ibid., p. 198. It is clear that other things besides wealth are also important for equality of influence. As Brighouse (in “Political Equality in Justice as Fairness,” p. 160) points out, a very rich person can lack influence simply because she doesn’t know how to exercise influence, because she lacks charisma, or because she can find no support for her views in larger society. I take it that Rawls does not focus on such things because they are not things that can in and of themselves be provided by the state, at least without too much interference.

¹⁶⁰ As Rawls states: “some citizens have, for example, greater income and wealth and therefore greater means of achieving their ends” (*PL*, 326).

¹⁶¹ Harry Brighouse makes a similar suggestion in, “Political Equality in Justice as Fairness,” p. 176.

Part II

Global Institutions and the Democracy Deficit

§1. Weighted Voting

In this and the following section, I move beyond general arguments for the value of democracy and consider specific global institutions, namely the IMF and the WB, and some of their procedures. Here, as part of my construal of the democracy deficit, I discuss and critique the weighted voting procedures used by the IMF and the WB.

Before delving in, I want to make some background points about the structure of the IMF and the WB and their weighted voting procedures. The IMF and the WB are structured similarly. So, for the sake of simplicity, I will focus on the structure of only one institution, namely the IMF. There are two branches within the IMF: the Board of Governors and the Executive Board.

The Board of Governors, the highest decision-making body in the IMF [it makes decisions on all major policy issues], consists of one governor and one alternate governor for each member country. The governor is appointed by the member country and is usually the minister of finance or the governor of the central bank. The Board of Governors may delegate to the Executive Board all except certain reserved powers. The Board of Governors normally meets once a year.¹⁶²

The Executive Board (the Board) is responsible for conducting the day-to-day business of the IMF. It is composed of 24 Directors, who are appointed or elected by member countries or by

¹⁶² IMF, “IMF Members’ Quotas and Voting Power, and IMF Board of Governors” (June 2007), URL = <<http://www.imf.org/external/np/sec/memdir/members.htm>>. The IMF gives one vote for every \$100,000 of quota plus 250 basic votes. For a list of WB member’s quotas and voting power see, WB, “Voting Powers,” URL = <<http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/BODEXT/0..contentMDK:50004947~menuPK:64020025~pagePK:64020054~piPK:64020408~theSitePK:278036.00.htm>>.

groups of countries, and the Managing Director, who serves as its Chairman. The Board usually meets several times each week.¹⁶³

It is important to note that 8 of the Directors represent individual member countries: China, France, Germany, Japan, Russia, Saudi Arabia, the United Kingdom, and the United States (with Germany, Japan, the UK, and the US being the largest share holders). 16 of the Directors represent groups of countries that are similar in geographic location or language.¹⁶⁴

In the IMF, formal decision-making power is based on the size of a country's quota (or capital subscription). "The larger a country's quota in the IMF— determined broadly by its economic size – the more votes the country has, in addition to its 'basic votes,' of which each member has an equal number."¹⁶⁵ So, each member of the Board of Governors has a weighted vote equivalent to its country's IMF quota plus the basic votes. While each director belonging to the Executive Board has a weighted vote equivalent to its constituency's combined IMF quota plus the basic votes.

In the IMF, the G-7 countries together have over 44% of the vote, the G-10 countries with Switzerland have just over 51%, with the US holding just over a 17% share of the voting power. In the IMF this means that in a number of important categories of decisions (e.g., financial policy revisions (including how its resources are used), constitutional revisions, and changes in quotas and membership) that require special majorities of 85%, the US is the only single-country to retain veto power.¹⁶⁶ A

¹⁶³ IMF, "IMF Executive Directors Voting Powers" (June 2007), URL = <http://www.imf.org/external/np/sec/memdir/eds.htm>.

¹⁶⁴ For a detailed list of the Executive Directors see *ibid*.

¹⁶⁵ IMF, "What is the IMF?" (September 2006), URL = <http://www.imf.org/external/pubs/ft/exrp/what.htm>.

¹⁶⁶ It has been suggested by the IMF that formal votes rarely take place at the Executive Board. Instead, decisions are made by consensus, where the IMF's Managing Director determines the consensus from his "sense of the meeting," taking into account support from the various executive directors and their respective voting shares, such that if an issue were to be put to vote there would indeed be the required majority. It seems then that, even if formal votes aren't taken, the weighted voting system strongly influences the decisions that result from the consensus formation process (David P. Rabkin and Jonathan R. Strand reach a similar conclusion in "Reforming the IMF's Weighted Voting System," *The*

similar situation holds in the WB as well. In short, the IMF and the WB, through a weighted voting system, end up being controlled by a small group of developed (or rather rich) countries, and particularly by the US.

Intuitively, I think, many of us tend to think that weighted voting is objectionable. In what follows, I try to give some support to this intuition. My argument is largely a negative one. I consider what I take to be the most plausible arguments for weighted voting and I try to show that they fail.

§1.1 The Competence Argument

The first argument that we will consider is one that concerns the competence of developing countries. This argument is very similar to Mill's argument for plural votes in the domestic case. It is sometimes argued that the votes of developed countries should be given greater weight because they have shown greater competence with respect to growth and development. That is to say, it is argued that developed countries have shown greater knowledge and better judgment when it comes to these matters (as is demonstrated by their advanced economic position), and, for this reason, should be granted greater weight in decisions.

Our answer to Mill's proposal in the domestic case suggests a plausible path of response in the international case. In the international case we have reasons that are analogous to those in the domestic case for rejecting weighted voting. When formulating the guidelines for setting up international cooperative organizations or setting standards for fairness of trade and provisions of mutual assistance, Rawls asks

World Economy 29.3 (2006), p. 309). Moreover, when no consensus can be reached, decisions are made on the basis of a simple majority. Abbas Mirakhor, one of the longest serving IMF board members, has suggested that, currently, this happens more and more because there has been a decline in consensus building (See Peter Chowla, Jeffrey Oatham and Claire Wren, "Bridging the Democracy Deficit" (Bretton Woods Project, February 2007), URL=<http://www.brettonwoodsproject.org/art.shtml?x=549743>>).

us to imagine an international original position.¹⁶⁷ In contrast to the domestic case where we imagine ourselves as representatives of individuals, we must imagine ourselves as representatives of *liberal peoples*, as members of a shared liberal state.¹⁶⁸ “Liberal peoples have three basic features: a reasonably just constitutional democratic government that serves their fundamental interests; citizens united by what Mill called ‘common sympathies’;¹⁶⁹ and, finally, a moral nature.¹⁷⁰ This third feature means that parties in the international original position have as their aim representing peoples as free and equal peoples in the Society of Peoples. As free and equal, peoples see themselves as having certain fundamental interests. One of these fundamental interests is “a people’s proper self-respect of themselves as a people resting on their common awareness of their trials during their history and of their culture with its accomplishments.”¹⁷¹ This “interest shows itself in a people’s insisting on receiving from other peoples a proper respect and recognition of their equality.”¹⁷²

This cannot be the full explanation of what grounds a people’s sense of self-respect, however. After all, Rawls suggests that a close parallel can be drawn to the domestic case. He says that “we do somewhat the same” in the international and the

¹⁶⁷ Rawls specifically discusses the WB and GATT in *LP*, pp. 42-43, and the IMF in *LP*, pp. 84-85.

¹⁶⁸ Rawls assumes that a state is representative of a nation or a peoples. I will follow him in making this assumption. Also, Rawls actually appeals to two original positions. The first represents the perspective of liberal peoples and the second represents illiberal peoples. In this section, I will be concerned with the first.

¹⁶⁹ Following Mill (*Representative Government*, ch. XVI), Rawls associates peoples with an idea of nationality. Mill argues that a people constitutes a nation “if they are united among themselves by common sympathies . . . which make them cooperate 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, 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 possession of 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 necessarily sufficient by themselves” (Mill, *Representative Government*, p. 546).

¹⁷⁰ *LP*, p. 23.

¹⁷¹ *Ibid.*, p. 34.

¹⁷² *Ibid.*, p. 35.

domestic cases.¹⁷³ And as Rawls points out here, in the domestic case, what grounds self-respect is that, inter alia, citizens “think of themselves as having the moral power to have a conception of the good, and to affirm or revise that conception if they so decide.” If something similar applies on the international level, it follows that the self-respect of peoples is, inter alia, grounded in their conception of themselves as having the capacity to collectively form a conception of the good and to revise it as they see fit.

Taking our lead from the domestic case, unequal votes in organizations such as the IMF and the WB, if justifiable at all, must be justifiable from the standpoint of those with fewer votes – the developing countries in this context. The high burden of proof stems from our concern with self-respect. Peoples ought to be able to regard themselves as equal participants in the system of global social cooperation. Being an equal participant, in turn, involves being able to exercise the two moral powers as equals. A peoples’ sense of self-respect turns on this. Weighted voting can only be permitted if it is consistent with peoples’ sense of self-respect. For weighted voting to be consistent with peoples’ self-respect, there must be a powerful argument that unequal votes will systematically serve the interests of developing countries as a whole.

I think, as in the domestic case, this high burden of proof is unlikely to be met. This is because partiality is a great concern at the international level as well the domestic level. In reality, when determining what are the best economic policies to take up, the representatives of each country at the IMF or the WB are likely to be partial toward their own citizens’ interests. This is because they are most aware of and sensitive to what is in the interests of their own citizens. Given that developed countries are similar, it is likely that they are going to have similar interests and, as a

¹⁷³ Ibid., p. 34.

result, will tend to vote together. So, if developed countries are given a greater number of votes, the organization of the IMF and the WB and the economic policies they recommend are likely to represent the interests of the developed world and not those of the developing world.

Indeed, when we consider the current operations and policies of the IMF and the WB, it is clear that the interests of the developed world have come to take precedence. Consider the example of capital mobility. Stiglitz writes, “the developed countries are rich in capital, which moves around the world in search of the highest returns . . . For the past couple of decades, the United States and the EU have pressed, with considerable success, for the liberalization of capital markets which enables investment to flow more freely around the world, arguing that this is good for global efficiency”¹⁷⁴ and “economic stability.”¹⁷⁵ The free flow of capital is to the advantage of those in the developed world. It allows investors from developed countries to move money – which they have a significant amount of – around freely which in turn allows them to make high returns. However, the free flow of capital is not necessarily in the interest of developing countries who tend to lack capital. Unrestricted capital flows can have devastating effects on those who need capital. This is because capital tends to flow out of a country when a period of recession occurs, that is to say, precisely when a country needs it most.¹⁷⁶ Just as countries need outside funds, the investors ask for it back. Without foreign capital, developing countries are less able to recover from a recession.

Consider the East Asian financial crisis. After the East Asian crisis, many countries including Thailand, Korea, and the Philippines turned to the IMF for

¹⁷⁴ Stiglitz, *Making Globalization Work*, p. 89.

¹⁷⁵ Joseph Stiglitz, *Globalization and Its Discontents* (New York: W.W. Norton & Company, 2003), p. 100.

¹⁷⁶ *Ibid.*, p. 100.

financial assistance. In order to spur recovery, the IMF had instructed the removal of all capital restrictions – restrictions placed on the flow of money into and out of a country. This, however, only exacerbated problems as investors pulled their money out of investments (that is, as capital flowed out of the countries). In contrast, the Malaysian Prime Minister Mohammed Mahathir did not take an IMF loan and imposed capital restrictions in the form of an exit tax that could be (and eventually was) gradually lowered. The tax discouraged investors from pulling their money out of the country. In comparison to Thailand, for example, who followed IMF prescriptions closely, Malaysia, through use of capital restrictions, recovered “more quickly, with a smaller downturn, and with a far smaller legacy of national debt burdening future growth.”¹⁷⁷ It isn’t clear then that capital market liberalization is in the interests of people in the developing world; rather, it seems to reflect the interests of corporate investors in the US and the EU.

As Stiglitz suggests, one of the main objections to globalization, as it currently exists, is that it “foisted on the world, including developing countries, a particular version of the market economy – a version that might not be well suited to their needs, values and circumstances.”¹⁷⁸ Capital market liberalization is an example of how distinct interest groups – those who do benefit from more liberal capital flows – can use ideology to advance their interests. In short, the worry is that with weighted voting certain kinds of interests, namely those of the powerful developed countries, will end up being in de facto control and even with goodwill this is not something that can be avoided. In short, on the international level, it seems clear that Rawls’s heavy burden of proof is not met. For this reason we should reject the Millian kind of argument for weighted voting within the IMF and the WB.

¹⁷⁷ Ibid., p. 125.

¹⁷⁸ Stiglitz, *Making Globalization Work*, p. 105.

§1.2 The Contribution Argument

The main defence of weighted voting in the IMF and the WB usually takes the following form: Countries such as the United States and the United Kingdom should have a greater number of votes than, say, countries such as India and China, because they contribute more funds to the IMF and the WB. The votes in the IMF and the WB are weighted according to contribution, and how much countries can contribute is broadly determined by their economic position relative to others. Call this the *contribution argument*. Given the stated functions or goals of the IMF and the WB, there seems to be two different ways of defending this kind argument.

The Corporate Model

On one view, the voting scheme of the IMF and the WB is modelled on the corporate sphere. In a corporation, each share of common stock entitles a stockholder to one vote on all matters submitted to a vote of all the stockholders of the corporation. On this view, the IMF and the WB are like corporations. They serve as vehicles for donors to contribute to development. It is like a joint stock company with a particular product, namely that of development and growth. In short, the suggestion is, because the internal operations of the IMF and the WB are conducted just like those of any other corporation, the votes of members are distributed just as they would be in any other corporation.

It would be objectionable to run a country in a similar fashion. Imagine a country where how many votes you had were contingent on how much you paid in taxes. Insofar as you pay more in taxes you would be contributing more than others to the running of the country and, on this argument, this would justify your having more votes than others who paid less in taxes. In the domestic scene, this kind of arrangement is objectionable. After all, as Rawls would likely argue, a country is not

a monopolistic firm.¹⁷⁹ The operations of the government are important to the interests and life prospects of all its citizens. This impact is broad in its scope, it shapes people's prospects in many different areas. It is also, in a sense, inevitable: one cannot usually just pick up and leave one's country. There is, of course, usually a right of exit in most countries, but the point is that it is usually rather difficult to exercise this right. A firm is different from a government. While it certainly does have an impact on its members' prospects, a firm's impact is much narrower than a government's. Its effects are not all encompassing like a government's. Moreover, one always has a real option for exit. Typically, one can easily (at least more easily than one can leave one's country) sell one's stock if one doesn't like how the company is being run.

Given the large scale and the broadness in scope of the impact of the state on citizens' life prospects, it is important that each citizen's interests are taken into account equally. The scheme should distribute burdens and benefits as equally as possible. It would be disrespectful to ask some to bear great burdens while others benefit greatly, for it would suggest that some people's interests or prospects are not as important or worthy of consideration as others.' It seems that the only way to ensure that everyone's interests are given equal consideration, is to give everyone an equal vote.

With all of this in mind, it is not clear that the IMF and the WB are simply corporations. The IMF and the WB's policies have a significant impact on people's life prospects. Usually their policies are not something that can be opted out of, at least not without great cost. The IMF and the WB are essentially the only lenders that offer loans (particularly for such large amounts) at below market interest rates. Most countries that receive financial assistance from the IMF and the WB are in desperate

¹⁷⁹ See *PL*, p. 264.

need of such loans (that is, loans with such low interest rates). For this reason, while they can opt out of IMF and WB policy, it could only be done so at great cost. In this sense, global financial institutions are more like governments.

However, on the other hand, global financial institutions are not exactly the same as governments in the scale and scope of their impact. After all, the IMF and the WB lend money to poor countries; they do not lay down the law. So, I think, the IMF and the WB are most like the Federal Reserve (the Fed) in the United States. The Fed is a big bank in many respects, but, in a sense, is more than a bank in that it has a serious impact on the life prospects of Americans.

The Fed is charged with maintaining the stability of the American financial system (this includes the maintenance of stable prices, full employment, etc.). The Fed is an independent entity within the government; it has both private and public aspects.¹⁸⁰ The Fed is an independent entity in the sense that its decisions do not have to be ratified by the President or anyone else in the executive or legislative branch of government.¹⁸¹ It has the freedom to formulate and implement monetary policy. It, for example, is free to change official interest rates. This kind of independence is necessary for the good functioning of the Fed.¹⁸² It allows the Fed to operate in a way that is insulated from the comings and goings of electoral politics.¹⁸³ If the Fed was less independent, it might be tempted to pursue easy credit policies or to finance the government's debt.¹⁸⁴

¹⁸⁰ See Federal Reserve, "Frequently Asked Questions: Federal Reserve System" (March 2007), URL = <http://www.Federalreserve.gov/generalinfo/faq/faqfrs.htm>.

¹⁸¹ Federal Reserve, "Frequently Asked Questions," URL = <http://www.Federalreserve.gov/generalinfo/faq/faqfrs.htm>.

¹⁸² What I say here about the importance of an independent Federal Reserve is influenced by William J. McDonough (President and Chief Officer of the New York Federal Reserve, 1999-2003), "The Importance of Central Bank Independence in Price Stability" (July 2002), URL = <http://www.newyorkfed.org/newsevents/speeches/2002/mcd020702.html>.

¹⁸³ The Supreme Court is independent for similar reasons. To ensure that it does its job well, that is, that it protects citizens' rights, it needs to be independent from electoral politics.

¹⁸⁴ McDonough, "The Importance of Central Bank Independence in Price Stability," <http://www.newyorkfed.org/newsevents/speeches/2002/mcd020702.html>.

However, the Fed is open to legislative oversight. For example, the Fed is required to present reports to congress semi-annually on monetary policy and the economy. Legislative oversight also has bearing when the Senate votes on and confirms nominees to the Fed's Board of Governors. So, though the individual decisions made by the Fed are not open to democratic voting procedures (in the sense that the people do not have a say over each and every decision the Fed makes), its runnings are ultimately responsive to democratic processes.¹⁸⁵ It is this democratic aspect that serves as the basis for the legitimacy of the individual decisions made by the Fed.

The Fed is neither a government nor is it simply a firm. It is something in the middle. In this light, its structure makes sense. The Fed needs a certain amount of independence for good functioning. Nevertheless, given that the Fed, much like the government, has significant and unavoidable impact on the life prospects of American citizens, it seems appropriate for the people to have, at some level, an equal say over its runnings. Two arguments seem to support this conclusion.

(1) If the Fed wasn't open to some kind of democratic oversight, then it would be much like a dictatorship. The argument against this kind of arrangement parallels the argument given above regarding plural votes for the educated. It would be objectionable because a dictatorship is unlikely to take everyone's interests into consideration equally; it is more likely to advance the interests of some (say the royal family's) to a greater extent than others (the peasant's); the interests of some are likely to be ignored. This kind of arrangement, however, is not consistent with equal respect and would be rejected by parties in the original position. The only way to ensure that everyone's interests are taken into equal consideration is to ensure that everyone has

¹⁸⁵ Also, though the Fed is an independent government agency, in principle, ordinary legislation could abolish or change it.

an equal and effective say in processes that affect their life prospects. So, in other words, insofar as many people's prospects will be affected significantly and that we must ensure that everyone's prospects are given equal consideration, the Fed's operations need to be open to some kind of democratic procedures.

One might not be convinced by my argument. One might argue that there have been benevolent dictators. For example, it is sometimes suggested that the British were one such dictatorship. They provided their colonies with education, transportation via establishment of a railway system, and so on. So, some might argue that the British were good to their colonies, even though the colonies did not participate in or have any say in political decision-making. Something similar could apply in the case of the Fed. As long as those who are running the Fed are benevolent, then everyone's interests will be given equal consideration, even without any kind of democratic rights of participation.

While the British may have ensured that some of the interests of its colony members were met, it is clear that they did not consider the interests of everyone equally. The interests of the British were given primary consideration while those of the members of their colonies were only of secondary importance, and at times ignored altogether. My point is that, I think, in the real world we would be hard pressed to find a benevolent dictatorship. In turn, to ensure that people's interests are given equal consideration, we will have to ensure that people have an equal say in political arrangements.

(2) Putting this point aside, imagine that the British Government was a benevolent dictatorship with respect to its colonies. Imagine that the British were able to make decisions by giving equal consideration to the interests of all (of those who are required to follow them). Despite all of this, I still think that a benevolent dictatorship of this sort would be objectionable.

Considerations relating to domination help us to explain what is objectionable about a dictatorship even when it is benevolent. Remember, on Pettit's view, the antonym of liberty is domination. Someone has dominating power over another if and only if (1) she has the capacity to interfere on an arbitrary basis – i.e., without regard to other's perceived interests; (2) with impunity and at will, (3) in certain (and not necessarily all) choices that the other person is in a position to make. And, importantly, on Pettit's view, having power over another does not necessarily mean that one actually interferes with the individual she has power over. Dominating power can interfere in one's liberty even if it is never actually exerted. Both parties in a relation of domination, the potential victim and the power bearer, are aware of their relationship; both are usually aware that the power bearer could interfere in the other's choices arbitrarily, without regard for her perceived interests. This means that the potential victim relies on the goodwill of the power bearer not to exert her power. She lives at the mercy of the power bearer. This is a bad circumstance for the victim to be in.

So, the idea is that even if the British government was genuinely benevolent and tended to take the interests of its colony members into equal consideration, being under the British government would still be objectionable. This is because the British government has dominating power over its colonies. Though currently benevolent, it seems a realistic possibility that the British government might decide at any time to interfere arbitrarily in the interests of its colonies. In this sense, the members of the colonies are at the mercy of the British government. Knowledge of this fact (on the part of those within the colonies) is likely to lead to some of the bad effects we discussed earlier. In particular, fear of arbitrary interference will lead to uncertainty and anxiety among colony members, tend to undermine the sense of self-respect of colony members (insofar as they know that they can be interfered with at any time

without regard for their interests), and colony members (in order to win the favour of the British government) will tend to cut themselves off from taking up certain ends and ways of life. To ensure that those within the colonies are protected against being dominated by the British government, they need to be involved in some kind of democratic processes. This will ensure that the decisions of the British government track the interests of their colony members. I think analogous arguments can be made in the case of the Fed.

Therefore, in light of the two above considerations, my suggestion in relation to the organization of the Fed is this: insofar as we would wish to ensure that American citizens are not defencelessly susceptible to arbitrary interference by the Fed, to interference that ignores or disregards their interests, it needs to be open, in some sense, to democratic processes.

I also think something similar can be said of the IMF and the WB. Like the Fed, the IMF and the WB are not governments, but surely they are not just firms either. Like the Fed, they seem to fall into some kind of a middle category. They have a significant impact on the life prospects of people who participate in them, and so we will want to ensure that people are protected against the possibility of arbitrary interference by the IMF and the WB. If this is right, then it seems that the procedures of the IMF and the WB need to be open to more democratic procedures. There should at least be democratic participation, in the sense that everyone should have an equal say over its functionings, at some level (i.e., some kind of democratic oversight), that will then serve as the basis for the legitimacy of the individual decisions made by the IMF and the WB.

This argument isn't complete, however. At this point, one might worry that my arguments extend too far. One might wonder, what kinds of economic institutions aren't subject to democratic control? For example, couldn't my arguments be

extended to multinational corporations, requiring some kind of corporate democracy? After all, multinational corporations such as GM, IBM, and Shell have a significant and profound impact on people's life expectations on a number of fronts.¹⁸⁶ Whether companies like these decide to stay in the US or to move production to Mexico, for example, has a substantial impact on how well people's lives go in both the US and Mexico. Increased prices in oil have a significant impact on the global economy. In oil consuming countries, increased prices in oil have been shown to lead to lower growth rates (GDP), increased debt, and inflation.¹⁸⁷ Also, if a country spends more money on oil, then there will likely be less money for other things such as social assistance programs. International firms, such as GM and Shell, have a significant impact on people's lives. So, aren't democratic processes required to ensure that the decisions of multinational corporations do not interfere arbitrarily in people lives and to ensure that decisions track people's interests?

There is also a worry that pushes in the other direction. Couldn't my arguments for democracy extend to the personal or private realm? Imagine that a student labour coalition is deciding what to do about Walmart's poor treatment of workers.¹⁸⁸ It seems clear that in their decision, the group is free to ignore the perceived interests of the owner of Walmart. They could, for example, collectively decide to boycott Walmart. Imagine that this is a realistic possibility, say, because the coalition has expressed a dislike of Walmart's anti-union policies as well as a desire to respond publicly. Imagining that the student's coalition is large enough (say the

¹⁸⁶ Iris Marion Young raises a similar worry in relation to Rawls's own arguments in "Taking the Basic Structure Seriously," *Perspectives on Politics*, 4.1(2006), p. 94. On her view, though there can be justification for departing from such procedures, there should be a presumption of democratic decision-making for all institutions, not only those associated with states or governments (p. 94).

¹⁸⁷ IMF Research Department, "The Impact of Higher Oil Prices on the Global Economy," (December 2000), URL = <<http://www.imf.org/external/pubs/ft/oil/2000/#III>>.

¹⁸⁸ This example was inspired by a related example in Simon Caney, "Cosmopolitan Justice and Institutional Design: An Egalitarian Liberal Conception of Global Governance," *Social Theory and Practice* 32.4 (2006), p. 728.

population of Cornell University), this would have very significant effects on Walmart. In Ithaca, for example, the Walmart would likely have to close down and the storeowner would be out of work. To the extent that the student's coalition could make this kind of decision at any time and there is a realistic possibility of them doing so, the Walmart owner lives at the mercy of the student's association. It would be absurd, however, for it to follow from this that the owner of the Walmart has a democratic right to take part in the student coalition's decision. But this is what seems required by my arguments. After all, allowing the storeowner to participate in the coalition's decision-making process would ensure that his interests are given equal consideration.

Though both objections push in slightly different directions, I think both raise an important question about when domination should be remedied by democratic procedures. The second case brings forth the importance of the broadness of the impact of people's decisions. The decision of the student coalition certainly has a significant impact on the store owner's life, but it is only in one contained sphere. This seems quite different than the case of the government or the IMF and the WB. Unlike the case of the student coalition, the impact in these cases is pervasive (it is both broad and significant). This may explain why we tend to think that democratic arrangements aren't required in the student coalition case. The impact on the storeowner might be significant enough to include provision for an inclusive mediation process that would have a democratic aspect but it doesn't seem enough to warrant a right of democratic participation in the decision-making procedures of the student coalition – i.e., where the storeowner gets a vote in the student coalition.

Yet, pointing to the importance of the broadness and significance of the impact is not enough to explain why we tend to think that citizens should not have direct voting rights in multinational corporations (MNCs), for here the impact of decisions

are significant and broad. The decisions of MNCs such as Ford significantly impact people on a number of fronts. If the Ford plant were to shutdown in Detroit, this would have a significant impact on the local economy. If most of the people who live in Detroit only have skills appropriate to working in an automotive factory, then it is going to be difficult for those who lose work to find new work. Without work, these people will spend less and this, in turn, will have a big impact on other businesses, which might eventually have to close down. This seems much more parallel to the case of the IMF and the WB. So, why aren't democratic rights of participation necessary here?

I have two responses. One response is that democratic procedures are required not simply when the impact of the potential dominator's actions/decisions will be significant and pervasive, but when no other methods will work to reduce the threat of domination. One could then argue that in case of the government, democratic procedures are the only way to protect people against domination.¹⁸⁹ In the other cases (the MNCs and the student coalition cases), there are other ways of securing FND. For example, domination might be avoided by challenging them in the press or in some other public forum. Similar options could work in the case of multinational corporations as well. These are basically methods that can be implemented by and through the state (in the sense that the state establishes the courts and protects freedom of speech, and so on). It is not clear, however, that these kinds of mechanisms are going to be effective in protecting against domination when it comes to the government. After all, a government has the power to shut down both the media and the courts when it pleases. It seems that only democratic procedures – particularly

¹⁸⁹ This idea was suggested to me through correspondence with Philip Pettit. This, however, may not in fact be his view.

regularly scheduled elections – will be enough to guarantee FND and this is why they are required in the case of the government.

While this response is on the right track, it is not fully satisfying. It leaves open the question of why democratic procedures should only be used when absolutely necessary, that is, when no other methods will work to reduce the threat of domination.

A second response, which, as we will see, also helps to fill the gap left by the last response, is derived from some of what Rawls says about the basic structure.¹⁹⁰ Rawls argues that there should be a division of labour between two kinds of social rules – namely, the rules applying to the basic structure and the rules applying directly to the particular transactions between individuals and associations.¹⁹¹

The basic structure consists of institutions that have a deep impact on life-prospects throughout the territory. Furthermore,

the basic structure is the way in which the main political and social institutions of society fit together into one system of social cooperation, and the way they assign basic rights and duties and regulate the division of advantages that arises from social cooperation over time. The political constitution within an independent judiciary, the legally recognized forms of property, and the structure of the economy (for example, as a system of competitive markets with private property in the means of production), as well as the family in some form, all belong to the basic structure. The basic structure is the background social framework within which the activities of associations and individuals take place. A just basic structure secures what we may call background justice.¹⁹²

The basic structure consists in the institutions that define the social background and includes those social, economic, and other political institutions that have a significant

¹⁹⁰ *PL*, pp. 257-288, *JF*, pp. 10-12.

¹⁹¹ *PL*, p. 268.

¹⁹² *JF*, p. 10.

impact on citizens' life prospects. The main function of the basic structure is to preserve background justice.

On Rawls's view, the rules governing the basic structure do not directly apply to or regulate internally the interactions of individuals and associations. However, firms, labour unions, churches, universities, and the family are bound by constraints that arise indirectly from just background institutions within which such associations and groups exist and by which the conduct of their members is restricted.¹⁹³ And so, "the basic structure also enforces through the legal system another set of rules that govern the transactions and agreements between individuals and associations" but "they are framed to leave individuals and associations free to act effectively in pursuit of their ends and without excessive constraints."¹⁹⁴ Rawls argues that "if this division of labor can be established, individuals and associations are then left free to advance their ends more effectively within the framework of the basic structure."¹⁹⁵

These arguments are important because they extend to the economic realm. On Rawls's view, certain endeavours and spheres must be protected from government intervention. Indeed, Rawls suggests that there should be a division of labour with respect to the regulation of economic activity. While the state should be concerned with ensuring background fairness in the economic realm, it should not be concerned with micro-managing the economy. Rawls is primarily concerned with government interference in the economy, but since he is concerned with democratic governance, I think his arguments can easily be extended to explain why the kind of democratic intervention we are worried about is objectionable.

It seems on Rawls's view, firms (such as Ford and Shell) and other associations can, at most, be subject to, what I will call, indirect democratic

¹⁹³ Ibid., p. 10.

¹⁹⁴ *PL.*, p. 268.

¹⁹⁵ Ibid., p. 269.

interference.¹⁹⁶ Since firms and associations exist within the basic structure, their interactions must be constrained to achieve an economic order that preserves background justice. For this reason, particular interactions between individuals or associations are subject to the rule of law – which is established through democratic procedure. Through the rule of law, firms can be restricted in various ways. For example, the rule of law secures the necessary underlying social conditions that are part of background justice by ensuring that excess market power is prevented, and that fair bargaining power, fair opportunity, and a basic minimum wage are established.¹⁹⁷ This kind of democratic interference is unobjectionable because it is the minimum amount of interference necessary to establish background justice. The rule of law works to secure equal basic liberties, the difference principle, and fair equality of opportunity. The rule of law also works to ensure reliable expectations and opportunities: it ensures that “there are no unannounced and unpredictable interferences with citizens’ expectations and acquisitions.”¹⁹⁸ In these ways, the rule of law also works to ensure FND. All of these elements, as somewhat different aspects of background justice, are necessary for self-respect and the full development and exercise of the second moral power.

However, on Rawls’s view, it seems that anything more than indirect democratic interference in firms and associations is impermissible. I think there are two reasons for reaching the conclusion Rawls does. First, Rawls suggests that “organizational requirements and economic efficiency” should be taken into account.¹⁹⁹ If there was too much democratic interference in private interactions

¹⁹⁶ Note that this argument seems to rule out what Rawls refers to as “state socialism” (*JF*, pp. 137-138) at the level of fundamental principles.

¹⁹⁷ *Ibid.*, p. 267. Rawls doesn’t himself argue for a living wage, but I think there are reasons to hold that such a wage is a requirement of justice. On this see Jeffery Moriarty, “Rawls, Self-respect, and the Living Wage,” *Social Theory and Practice*, 35.3, pp. 441-459.

¹⁹⁸ *JF*, p. 283.

¹⁹⁹ *Ibid.*, p. 282.

among individuals and firms, then the economy would not work efficiently. For example, Rawls suggests that wage agreements should be determined by the labour market itself and not by the people via the state.²⁰⁰ This is because economic efficiency would be significantly hampered if wage agreements or the prices of products were determined by the people, for example. These arguments translate to the local level as well, for clearly a similar threat would be posed to economic efficiency if the citizens of Detroit had a say in the wages at Ford or in the prices of cars.²⁰¹

Second, what I will call, direct democratic interventions – where citizens get voting rights in decisions – constitute too much of an interference in what individuals and firms do.²⁰² It is too intrusive because it violates citizens' interests in exercising the second moral power. This is because members of firms and other associations usually affirm certain shared aims and purposes as essential guidelines to the most appropriate form of organization.²⁰³ And so, the members of firms (and other associations like churches and universities) need room to form and pursue these shared aims and purposes. Democratic interference, of the kind we are considering here, would be too intrusive because it wouldn't give the members of such associations sufficient room to collectively exercise their capacity for a conception of the good. If, for example, the citizens of Detroit had a vote in the decisions of Ford, this would leave little room for Ford's members to form and to pursue shared aims. In short, I think both of these arguments are enough to explain why MNCs like Ford are not open

²⁰⁰ I assume here that, as part of background justice, the condition of basic minimum/living wage is already satisfied. My claim is that, once this condition is satisfied, wage agreements should be determined by market forces.

²⁰¹ Again, I assume here that wages are consistent with background justice. I am simply arguing that, as long as wages are consistent with background justice, for reasons of economic efficiency, firms should have room to set the exact amount of wages as accords with the market.

²⁰² I think this argument applies to the private realm in general (i.e., it applies to churches, universities, etc.).

²⁰³ *JF*, p. 261.

to direct democratic interference, even when it might work to protect citizens against domination.

Not only do these arguments present a plausible response to the objection under consideration but they also help to fill in the gap that was left by the first response (p. 113). Recall that, with the first response, it wasn't clear why democratic interference should be permitted only when absolutely necessary. We now have an answer to this question. As part of their higher-order interest in exercising the second moral power, sufficient room must be left for citizens to pursue their own ends without excessive restriction. This suggests that it is objectionable to democratically intervene more than when is absolutely necessary (in the actions of MNCs or student coalitions, for example) because it would constitute too great of an intrusion in citizens' pursuit of their own ends.

Furthermore, the above arguments also help us to see why agencies such as the Fed, the IMF, and the WB are open to somewhat greater democratic interference than firms and associations. With respect to the Fed, two considerations come into play here. On the one hand, the Fed is like any other association or firm. It is a firm in the sense that it consists of a group of people with shared aims that guide decisions about the most appropriate form of organization. It is also a firm in the sense that members have the particular aim of promoting certain products, namely domestic economic stability, growth, and full employment, etc. Insofar as it is a firm, indirect democratic interference in the Fed seems to make sense. That is to say, in order to protect its economic efficiency, while also ensuring that the actions of the Fed are consistent with and preserve background justice, the Fed should be subject to the rule of law.

However, on the other hand, the Fed is not simply a firm. It is, to an extent, unlike a firm in the sense that it is part of the basic structure. It works to ensure that certain expectations are met and can be reliably depended upon (as relating to

monetary policy and secure employment, for example). Like other features of background justice, that these conditions can be reliably depended upon is essential for the exercise of the second moral power. So, insofar as the Fed is part of the basic structure and is to this extent a public institution (like a government), it doesn't seem to have the same right to non-interference as firms or as individuals do. Consequently, further and more invasive democratic interventions, going beyond the rule of law, for example, as needed to temper its capacity to dominate, also seem permissible in the case of the Fed. Yet, I believe the first consideration still has some significance. To the extent that (unlike a government) the Fed is a private firm in some regards, I suggest that democratic intervention should be limited to some extent – so something like democratic oversight (rather than a more directly democratic procedure) is perhaps the most that should be permitted.

Return now to the IMF and the WB. Insofar as the Fed and these institutions have much in common, I think similar arguments apply. Democratic oversight seems a permissible interference in the decisions and actions of the IMF and the WB. In a sense, the IMF and the WB are much like private firms. Members of the IMF and the WB are trying to promote a certain product, namely growth, development, and stability. These specific aims guide their decisions and organization. However, in a sense, the IMF and the WB are more than private firms; they are part of the global basic structure. The IMF and the WB play an important role in maintaining reliable global expectations. They play an important role in establishing and maintaining sustainable global economic growth, development, and stability. They also lend money to member countries – money that is used by countries to implement some of the ends that they have collectively chosen (with respect to the establishment of growth, development and stability). So, the IMF and the WB play an important part in establishing global background justice, that is, in the conditions necessary for citizens

of member countries to collectively exercise the capacity for a conception of the good and to ensuring their secure sense of self-respect. Consequently, for the same sorts of reasons that it seems permissible for the Fed to be open to democratic oversight, it also seems permissible for the IMF and the WB to be open to democratic oversight.

My arguments here have been somewhat long drawn and complicated. Before closing, I will briefly summarize the main conclusions. Though MNCs and other private associations may be pervasive in their impact, they are not open to direct democratic interference even if it will protect citizens against domination. This is because members that belong to such associations have shared aims and ends that they should have room to collectively pursue as part of their interest in collectively exercising their capacity for a conception of the good. Unlike MNCs and other private associations (universities, churches, etc.), to protect citizens against domination, institutions like the Fed and the IMF and the WB are open to more direct forms of democratic intervention because they are pervasive in their impact on the life prospects of citizens and also because they are not exclusively private associations and as such they are not privy to the same protection against non-interference as private associations and individuals. But even here democratic interference should not be unlimited. To the extent that the IMF and the WB are private firms, democratic intervention should be limited – democratic oversight is perhaps the most that should be permitted.

The Charity Model

So far we have been considering the view that the IMF and the WB are businesses whose voting procedures follow the corporate model. Sometimes another kind of argument is given for votes being weighted by contribution.

The IMF and the WB are not simply corporations, they are also (and perhaps even primarily are) organizations of charity; they take one of their main goals to be helping developing countries to develop and grow. Consider a charity organization funded mainly by the Rockefeller family. It seems natural for the Rockefeller family to have a large say over the runnings of this fund. They have given lots of money to the organization, and they want to have significant power over how it is spent; they want their views on how the money should be spent to be dominant. There doesn't seem to be anything wrong with this. It may even seem to be the obvious or natural choice when it comes to the organization of decision-making. One might suggest that this argument is generalizable to the case of the IMF and the WB. One might argue, the G-7 mainly fund the IMF and the WB, and so their views about how best to spend the money, viz., about what best advances development, should be given priority.

Part of what might be motivating our intuitions about the Rockefeller's case is the belief that charity is supererogatory.²⁰⁴ We may tend to think that if someone's actions are supererogatory they should get a lot of leeway in deciding what to do with it. Imagine that the Rockefellers wanted to find a home for stray cats, even though there may be greater need elsewhere. While it seems okay for us to frown on the Rockefellers, we do not have any grounds for preventing them from starting up a shelter for stray cats. Because the donors are not doing something that is required of them, it may seem appropriate for them to have a lot of say over how their money is spent.

So, one response to the Rockefellers having such a dominant say in decision-making might be to challenge the distinction between charity and obligation. One could argue that much of what is usually considered charity is in fact not and that there are duties to aid. For example, one could argue that aid is a Kantian imperfect duty,

²⁰⁴ I thank Nick Sturgeon for pointing this out to me.

where one has a choice about where to do it (whether to help needy person A or needy person B), but not about whether to do it or not (for one must help at least one of the two needy people). The suggestion is that, since helping is an obligation, one does not have as much of a say over it as when it is considered supererogatory. While I may have some sympathy with this route, I am not going to pursue it here. I am more interested in considering how we might respond if we grant the assumption that aid is a matter of charity. I would like to show that even we if grant this assumption – an assumption that many people in fact do seem to hold – there are a few arguments to be given against the conclusion that the donors should be given a dominant say and for the conclusion that recipients should play, at least, an equal role in decision-making.

There are some reasons for thinking that if the G-7 are really concerned with the good of people in developing countries, then they should include borrowers in decision-making. Consider an example. Imagine that a nephew is desperate for money and goes to his aunt and uncle for a loan.²⁰⁵ He is having trouble keeping a job, drifting from one to another. If I were the nephew, I would find it objectionable if my uncle and aunt were to say, “Sure we’ll give you the money, but, given the trouble you’re having, we think that our views of where and how the money should be spent should be dominant. Further, we think that spending it on medical school and becoming a doctor would be best.”

Why might this kind of response be objectionable? After all given the nephew’s troubled past, one might think that there is good reason to direct his career choice. The uncle and aunt are concerned with their nephew’s good and, given his past, it is likely that he will not make good use of the money they lend him. One might argue, this is why they need to direct his choice. While I think there is something to this line of thought, I am not fully convinced. If the nephew’s behaviour

²⁰⁵ I thank Dick Miller for this example.

has been particularly self-destructive (may be at times he has been unable to feed or house himself), it is appropriate for the aunt and uncle to play a role in deciding how the money should be spent, guiding him along a workable path. However, I do not believe that they should play a dominant role in decisions about how the money should be spent.

First, the aunt and uncle are not necessarily in a position to know what career path is best for their nephew. Usually, this is not something that can be decided by others; it is likely something that only the nephew can decide for himself. Among other things, the nephew must use knowledge of his own values and interests and his own experiences (both of which he is particularly knowledgeable about) to determine which career option is best for him. Past experiences might tell him that surgery is not for him. While other experiences might suggest that being a teacher is a more appropriate choice. Of course, whether this is the right choice for him is something that can only be fully determined by testing it out.

Second, the nephew needs room to choose goals that are truly his own; this means that he must have room to make mistakes and to change his mind. This is part of his interest in forming a rational conception of the good. Along with his Aunt and Uncle, the nephew might tentatively hold that being a doctor is right for him. After trying it out for some time, he might decide that this isn't the right career for him after all. He then needs room to revise his conception of the good and to put to a practical test whatever career he sees as being the most right for him (being a teacher or perhaps being a philosopher, for example).

For these two reasons, it seems to me, that if the uncle and aunt are really concerned with the good of their nephew, they would want him to choose his own path, to have room to make mistakes and to change his mind accordingly. To choose their nephew's career path for him would be to deprive him of an important good. For

these two reasons, it seems to me that the nephew should play a central role in making decisions about how to use the money.

I think similar arguments apply on the international level. First, developed countries do not know what is the best path to development and growth for developing countries to pursue. This is something that is best determined at the local level. Dani Rodrik argues that there is no one size fits all plan for development. This is not to say that on his view anything goes. Rodrik argues that “market-based incentives . . . competition and macroeconomic stability are essential everywhere.”²⁰⁶ However, he argues that successful plans for development reforms “are rarely replicas of each other.”²⁰⁷ This is because one must determine the actual policy content of these general principles in a country’s own particular settings and “very little is generalizable across countries.”²⁰⁸ Rodrik argues that, in order to be successful, plans for economic reform must be tailored to “domestic realities.” This requires local knowledge and local expertise. In short, Rodrik argues that economic reforms are best determined at the local level. What economic reforms will work best for a particular country is not something that can be determined by some distant authority.

In support of this claim, Rodrik points out that countries that adhered most strictly to orthodox reform agendas, under the authority of the IMF and the WB, for example, Latin American countries, have not done well, while almost all successful cases of development in the last fifty years have taken up more creative and unorthodox reforms, as in South Korea, Taiwan, China, India, Vietnam, and

²⁰⁶ Dani Rodrik, “The Global Governance of Trade: As if Development Really Mattered,” *United Nations Development Programme* (October 2001), URL = <<http://ksghome.harvard.edu/%7Edrodrik/UNDPTrade.PDF>>, p. 29. Rodrik includes property-control rights in this list, but it seems clear that China, despite not having such rights, has been quite successful in growth and development.

²⁰⁷ *Ibid.*, p. 16.

²⁰⁸ Nancy Birdsall, Dani Rodrik, and Arvind Subramaniam, “If Rich Governments Really Cared about Development,” *Unpublished Paper* (2005), URL = <http://www.ictsd.org/dlogue/2005-07-01/Docs/RODRIK-BRIDSALL_SUBRAMANIAN_what-rich-can-do_April2005.pdf>, p. 9.

Mauritius.²⁰⁹ For example, China and Mauritius successfully combined their emphasis on state regulation with unique measures of market liberalization. Thus, Rodrik concludes, “the secret of economic growth lies in institutional innovations that are country-specific, and that come out of local knowledge and experimentation.”²¹⁰ This suggests that the G-7 is not (and has not been) in a position to know which path is best for developing countries. Thus, if the G-7 really wants progress to be made in developing countries (which is their mandate as a charity), then their views should not be given greater weight in decisions about how the IMF and the WB resources should be spent. Indeed, if growth is the goal, then it seems that developing countries should play a central role in decision-making.²¹¹

Second, because citizens have an interest in being able to choose and to pursue ends and goals that are truly our own, if developed countries are really concerned with the good of citizens in India, then they would want Indians to choose and pursue their own path, to have room to make mistakes and to change their minds accordingly. This is part of forming a rational conception of the good. To deny the citizens of India this opportunity, by choosing a particular path of development for them, would be to deny them an important good. For these reasons, the citizens of India should play an important role in deciding which path to development is best for them.²¹²

²⁰⁹ On this point see Rodrik, “The Global Governance of Trade” and Birdsall, et al., “If Rich Governments Really Cared”, pp. 9-10.

²¹⁰ Birdsall, et al., “If Rich Governments Really Cared,” p. 10.

²¹¹ This argument is only enough to establish that the IMF and the WB should not be the main decision makers. It is not in itself enough to establish that the people, themselves, of developing countries should get a say. For example, everything I’ve said so far is consistent with just giving the needed money to some local group, like development economists at the University of New Delhi. So, something further needs to be said to establish the conclusion that it is the people themselves that should play an important role in deciding how resources should be spent. I take the next two points (regarding the second moral power and domination) to establish this further point.

²¹² An important question arises here: How should I respond to the fact that, in some cases, borrowing countries are not democratic and decisions about which path to growth and development is best to pursue are not going to be made by citizens, but rather by an unrepresentative government? This is a difficult question, and I attempt to address the issue of non-democratic countries in §3.

I think there is one final point to be made against the argument that we are considering here. Even if the goal of the IMF and the WB is to help, the decisions made by the IMF and the WB have serious impact on the life prospects of people in developing countries. Moreover, unlike the Rockefeller's charitable organizations, they are also not simply private associations (they play an important role in establishing global background justice). As my previous arguments suggest, these facts mean that member countries should have, at least at some level, a democratic say in the runnings of the IMF and the WB.

§1.3 The Argument from Tyranny of the Majority

Another kind of argument for the weighted voting structure of the IMF and the WB is suggested by some of my arguments. I have suggested that part of showing equal respect is supporting mechanisms that give equal weight or equal consideration to individuals' interests. One could argue that this claim supports the weighted voting arrangements of the IMF and the WB.

Branko Milanovic argues that, when we compare the purchasing power parity of countries, the vast majority of people are poor.²¹³ It turns out, then, that the wealthy, who are largely in the US and the EU, are in the minority. One way of ensuring that there is a balance of power, that is, that interests of the wealthy are given equal consideration in decision-making, is to give greater weight to the votes of the wealthy. The basic idea is that weighted or plural votes would reduce the danger of the majority tyrannizing the minority.²¹⁴ If this is the reasoning behind weighted voting in the IMF and the WB, no citizen should feel insulted. Having less of a vote

²¹³ Branko Milanovic, *Worlds Apart* (Princeton: Princeton University Press, 2005). Purchasing power parity is established by comparing the buying power of different currencies within their own countries.

²¹⁴ Richard Arneson suggests something similar in "Democratic Rights at the National Level," in Thomas Christiano (ed.), *Philosophy and Democracy* (Oxford: Oxford University Press, 2003), pp. 110-111.

does not convey a judgment that some citizen's exercise of the two moral powers is of less value. Neither does it convey a judgment that the interests of some are less worthy of attention than others. Rather, it is meant to be an expression of the equality of individuals in both respects. It seems, then, that weighted voting could be accepted without undermining one's sense of self-respect.

The plausibility of this argument depends on what we mean by tyranny of the majority. Without weighted voting, rich countries are unlikely to get the kinds of patent rights that they so often argue for. I do not think that this is primarily what we are worried about when we are worried about tyranny of the majority, for these are not to be considered legitimate interests.²¹⁵ However, without weighted voting, something like, what I will call, the "Stiglitz proposal" might well be ratified. This poses a serious worry.

Stiglitz suggests that, as part of a more fair trade regime, "rich countries should simply open up their markets to poorer ones, without reciprocity and without economic or political conditionality."²¹⁶ This kind of proposal is clearly in the interest of poor countries, and so without weighted voting it is likely to win if put to a vote. This is a problem because the Stiglitz proposal is a dangerous one. It is dangerous in the sense that it may require fundamental interests of citizens of the US and the EU to be put at risk. If, for example, the US were to open its market completely with no tariffs or subsidies, it seems that many local industries would be jeopardized, leading to a sense of job insecurity and actual loss of valued jobs among people, including steel workers, farmers, and so on. This is a significant loss, for as Rawls argues a sense of long-term security and of the opportunity for meaningful work and

²¹⁵ For my account of legitimate interests see p. 93.

²¹⁶ Joseph Stiglitz, *Making Globalization Work*, p. 83. Andrew Charlton (a research economist at the Centre for Economic Performance at the London School of Economics) was a co-developer of this proposal.

occupation is necessary for citizens' sense of self-respect²¹⁷ and, I would add, is necessary (or at least important) for the adequate development and full exercise of the two moral powers.

Moreover, as is suggested by my earlier arguments, I think that a significant loss can occur even when it doesn't involve a loss of specifically deep or fundamental interests. An example I mentioned earlier will serve as a reminder. The example, as I imagined it, was that because of the greater political influence of the rich, the poor kept getting the short end of the stick; they kept getting stuck with garbage dumps, poor roads, and so on. It seems that if the poor keep losing with respect to their legitimate (though not deep or fundamental) interests and this is predictable, and we do nothing to change it, important values of democracy are violated. It suggests that the poor's interests are not of concern. This, I have suggested, is likely to be undermining of their sense of self-respect. Similarly, it seems to me, if rich countries were, because of their small numbers, to consistently and predictably lose out in votes with respect to their legitimate interests at the IMF and the WB and nothing is done to change this, then I think important values of democracy would be violated. It would suggest that the interests of citizens in rich countries are not of significant value (at least not of enough value to justify changing things). This would be damaging to their sense of self-respect.

I think these arguments show that there is something to be said about the importance of protecting the fundamental and legitimate interests of the vulnerable, even when the vulnerable are rich. While this may be true, I don't think this means that we should support weighted voting. As part of showing equal respect for all (by showing equal regard for their interests), just as at the domestic level, there seem to be two dangers that we need to worry about when we establish voting rules at the global

²¹⁷ *LP*, p. 50.

level. One, we need to diminish the risks of the majority ganging up on the minority; we need to diminish the risk of the minority suffering a significant loss with respect to their fundamental and legitimate interests. Two, we also need to diminish the risk of the greater number, the majority of people, suffering from a significant loss with respect to their fundamental and legitimate interests. We do not want the minority to tyrannize the majority. This is part of showing equal respect and regard to those who are in the majority. Weighted voting does not seem consistent with this requirement. If we give greater weight to the votes of the minority, in this case the rich, there is greater risk that the greater number, in this case the poor, will be deprived of what is in their interest. Indeed, this is exactly what seems to have happened in the current system of the WB and the IMF, where votes are weighted in favour of the rich, such as the US and the EU. The poor have lost out significantly because of weighted voting in the WB and the IMF. Thus, I suggest that if, as part of equal respect, we are concerned to support mechanisms that allow for equal consideration of interests, we would not allow weighted voting.

§2. The Conditionality of Loans

We have just considered arguments for weighted voting and seen that, for various reasons, all of them fail. I would now like, as part of my construal of the democracy deficit, to proceed by considering the conditionality of loans.

One of the clearest examples of the deficit of democracy within the IMF and the WB is the strong conditionality of loans. The IMF grants structural adjustment loans as a means to eliminating balance of payment problems where payments for imports are greater than the payments received for exports. “A member-country can freely draw up to 25% of its quota [that is, 25% of the money it contributes to the IMF] to address balance of payments deficits. To draw on more than 25% requires a

special agreement with the Fund.²¹⁸ These loans are generally contingent on the acceptance of certain conditions. At a minimum, a loan agreement comes with *limited conditions*. For instance, a loan is typically contingent on the condition that it will be repaid, usually with a schedule attached.²¹⁹ However, many loans also have *strong conditions* attached to them. These loans are conditional on implementing specific policies aimed at growth and development which, in turn, are meant to resolve balance of payment difficulties and to ensure repayment of loans.²²⁰ The policies usually focus on privatization and liberalization of the economy: they tend to require a substantial reduction of public spending and barriers to international trade and international capital flows by the borrowing country's government. The WB also gives loans to developing countries for economic development and the eradication of poverty. Like IMF loans, WB loans often have strong conditions involving economic policies attached to them. The economic policies associated with the IMF and the WB's loans are not chosen by the borrowing countries' elected officials; they are usually determined by economists who work for the IMF and the WB, who, in turn, are greatly influenced by the US and other developed countries who have the greatest power over decision-making. Critics worry that strong conditions make democratic processes difficult, for there is little opportunity for citizens of the borrowing countries (who tend to be developing countries) to influence which economic policies are pursued.

I think those of us of who accept a liberal conception of justice tend to agree with critics and tend to think that attaching strong conditions to IMF and WB loans is objectionable. In what follows, my aim is to give support to this intuition. My

²¹⁸ Adam Przeworski and James Vreeland, "The Effect of IMF Programs on Economic Growth," *Journal of Development Economics* 62 (2000), p. 388.

²¹⁹ Joseph Stiglitz, *Globalization and its Discontents*, p. 43.

²²⁰ IMF, "Fact Sheet: IMF Conditionality" (September 2005), URL = <<http://www.imf.org/external/np/exr/facts/conditio.htm>>.

arguments are largely negative. I consider what I take to be the most plausible arguments for strong conditions and show that they fail.

Strong conditions can be defended in two main ways: one is based on a corporate model and another is based on a charity model.²²¹ In what follows, I consider and reject both the corporate model and the charity model. I also give a general argument against the strong conditionality of loans. Finally, I close with some beginning thoughts about the proper structure of loans.

The Corporate Model

One might defend the conditionality of loans by appealing to a corporate model. After all, private banks typically operate in a manner similar to the IMF and the WB. Business loans are usually conditional on the debtor adhering to specific terms and conditions specified by the bank. For instance, property linked with the business must be insured against fire and earthquake, or the debtor must have a cash reserve or other property or assets to act as collateral security on the loan.

This seems appropriate. The practice of attaching conditions to loans is not objectionable in itself. Lending money to others is a risky proposition. The conditions attached to the loans are meant to reduce this risk, to make it more likely that the bank will be repaid. The IMF and the WB seem to be doing something similar in attaching the conditions they do to loans. Like private or commercial banks, the IMF and the WB have the goal of being repaid. For this reason, limited conditions such as countries keeping enough money in reserves to make monthly interest payments seem fine. The IMF and the WB, however, go beyond such *limited conditionality*, making loans conditional on adopting specific policies which are

²²¹ In the final analysis, as I argued earlier, I think that neither of these models apply. The IMF and the WB are not simply big banks or simply big charities; they are important parts of the global basic structure.

supposed to lead to growth and development which, in turn, are supposed to lead to loan repayment. Loans have typically been conditional on a country's liberalizing and privatizing its economy. I will call this *strong conditionality*.

One might argue that when considering the case of a local bank or a business loan strong conditions do not seem objectionable either. In support of this position consider the following example. Imagine that it is your life's ambition to start a South Indian restaurant and that you approach a bank for the start up money. The loan agent explains to you that she and the loan committee have an obligation to the bank's shareholders to ensure the continued success and functioning of the bank. The bank only has limited funds and the committee must ensure that they are used wisely and that any loans granted will be repaid. It happens that the bank has access to the market indicating that people in your neighbourhood don't tend to eat South Indian cooking. So, the loan committee has decided that they will give you a loan, but conditional on starting a Chinese, Italian, or French food restaurant. Instead, market research has suggested that these types of restaurants would do much better in your community than a South Indian restaurant and so are much less risky propositions.

Few find this kind of conditionality objectionable. There doesn't seem to be anything wrong with making the loan conditional on starting up a Chinese or Italian restaurant because market research has shown these to be profitable businesses. Again, to be effective businesses, banks need to do what they can to ensure that their loans are repaid. To this extent making a loan conditional on pursuing a profitable business seems permissible. It lessens the level of risk associated with giving out business loans.

One might argue that something similar holds in the case of strong conditionality in the international sphere. Certain policies are effective in leading to growth and development. Like banks, global financial institutions such as the IMF

and the WB have an interest in being repaid. Repayment will typically occur only when there is growth and development in the borrowing country. So, one might argue that making a loan conditional on taking up policies that effectively lead to growth and development is unobjectionable because it lessens the level of risk associated with giving out loans to developing countries.

While strong conditionality might be justified in the case of private banks, I contend that it is not justified in the case of the IMF or the WB. There is an important difference between the operations of private banks and global financial institutions. The difference is that while strong conditionality in private banks may be consistent with conditions of background justice, in global financial institutions it is not.

First consider private banks. Firms and associations exist within the basic structure of society. The basic structure consists in the institutions that define the social background and includes those social, economic, and other political institutions that have a significant impact on citizens' life prospects. "The basic structure is the background social framework within which the activities of associations and individuals take place."²²² Recall that a just basic structure secures what Rawls calls "background justice."²²³ Rawls argues that individuals and associations should be given room to act effectively in pursuit of their ends and without excessive constraints. But, he also argues that their interactions must be constrained by the background institutions (or the basic structure) within which they operate to achieve a social order that preserves background justice.²²⁴ Furthermore, insofar as citizens have a higher-order interest in exercising the capacity for a conception of the good, background justice requires the establishment of the social conditions that are necessary for the

²²² *JF*, p. 10

²²³ *Ibid.*, p. 10.

²²⁴ *PL*, pp. 268-269.

exercise of this capacity. This means that banks must operate in a way that allows citizens to exercise their capacity for a conception of the good.

The capacity for a conception of the good is the capacity to form a rational conception of the good that one genuinely identifies with as a rational and moral agent. It is a citizen's capacity to make informed decisions about which final ends are most rational for her (e.g., which best cohere with her other commitments, values, and priorities). I argued earlier that a citizen's exercise of the capacity for a conception of the good requires practice or implementation. One needs to be able to put one's ends into practice in order to make an informed decision about which ends are right for her. For example, I cannot adequately grasp if being a doctor is part of my good just by thinking about and reading books about being a doctor. I need to experience, at least in some sense, what is it like to be a doctor. Similarly, to determine whether starting a South Indian Restaurant, is part of my rational conception of the good, I must have room to engage in some kind of practical or experiential test. So, because they operate within the basic structure and because their operations are bound by this structure, banks must give citizens leeway to advance themselves in ways that they identify with as rational and moral agents. This means that banks must give citizens room to implement and test out ends of their own choosing.

In the case of business loans, strong conditionality does not conflict with the requirements of background justice. Citizens are able to exercise their capacity for a conception of the good. This explains why strong conditionality is unobjectionable in this case. After all, one typically has other options to get the resources needed to implement one's end of starting a South Indian restaurant. One can put up collateral in some cases. Or else one has opportunity to go elsewhere for the needed money: one can apply to different banks, seek investments from the private sector, borrow money from family members and friends, and, if it is really important to start a South Indian

restaurant, one can always move to another area where South Indian food is more popular, etc. One can find other means of getting the resources one needs to implement one's ends. So, even if loans are conditional on meeting certain requirements, we still have room to implement our own ends. This is consistent with the requirements of background justice.

Consider the international case. Though similar in some respects, the international case ends up being very different from the case of private banks. As institutions that function within the global basic structure, they are bound by the conditions necessary to establish global background justice. They must operate in ways that allow peoples to collectively exercise their capacity for a conception of the public good. In order to determine which public ends – such as publicly supported health care or signing the Kyoto Protocol, for example – are most rational for them, peoples need room to implement and to test out their ends. This means that people must have room to advance themselves in ways that they collectively identify with; they must have room to implement collectively chosen ends. This is parallel to the case of private banks and how they are subject to the conditions of domestic background justice.

Unlike in the case of private banks, in the case of global financial institutions, strong conditionality is not consistent with this requirement of global background justice. This is largely because the kinds of borrowing options that exist at the local level do not exist at the international level. An example will make the point more vivid. In some countries, citizens have collectively decided (in the sense that there seems to be enough of an agreement among citizens) on social conditions or programs that require a high level of public spending. For example, the citizens of India have collectively decided on a system of health care and education (including higher-level education) that is publicly funded. Any substantial reduction of public spending

would conflict with this decision. Making the loan contingent on reducing public spending wouldn't be so objectionable if there were other feasible avenues for borrowing the needed money – they would still be able to implement their collectively chosen ends – but there aren't any. Typically, borrowing countries are too poor to put up any kind of collateral. The people of India cannot simply move to Sweden to try out socialized health care, for example. Moreover, the IMF and the WB are essentially the same institutions in the sense that they coordinate all of their actions. A country cannot get a loan from one without getting approval from the other. Furthermore, approval from the IMF and the WB is like a gold standard, it guarantees loans from other private investors. So, if the IMF and the WB decide that a certain country, like India, is not worthy of a loan (say because they have a bad credit rating), then other lenders such as private banks or investors are unlikely to give that country a loan.²²⁵ In short, even if the conditions imposed by IMF and WB loans conflict with citizens' ends, there are few, if any, other realistic options for borrowing countries to pursue.²²⁶ To the extent that Indian citizens have collectively decided on public health care and public education, and the conditions imposed by a loan from the IMF or WB would not allow them to implement these ends, and there are no other feasible avenues for borrowing money, little room is left for Indian citizens to collectively exercise their capacity for a conception of the common good. They are not able to test out their tentatively held public ends which is a barrier to Indian citizens deciding which public ends are the most rational for them. In short, this arrangement is not consistent with

²²⁵ This was true of India when it received IMF and WB loans in the 1990's. It is no longer true, however. Given India's level of economic advancement, there are now other options for borrowing money, particularly in the private sector.

²²⁶ One might argue that unilateral aid is another option because it is not dependent on IMF/WB assessments. While this might be true, getting unilateral aid is difficult and perhaps unlikely in any given case. Unilateral aid tends to be guided by foreign policy objectives. For example, the US aids regions in relation to its national security concerns such as the Middle East. France has given significant aid to countries in West Africa as part of its aim to spread and preserve French culture. So, getting unilateral aid in any particular case is not likely unless the need happens to coincide with a particular country's foreign policy aims.

background justice in the sense that it is not consistent with leaving citizens' sufficient room to collectively exercise their capacity for a conception of the common good.

The Charity Model

The IMF and the WB can be conceived as something different from a commercial bank whose only goal is repayment. The IMF and the WB can also be thought of as charities who have the goal of helping countries to develop and grow. Limited conditionality seems compatible with this goal. Even as organizations of charity the IMF and the WB have an interest in having their loans repaid. The IMF and the WB need to ensure that their money is returned so that they can continue to help other countries develop and grow. For this reason, something like limited conditionality seems appropriate.

What about the strong conditionality of loans? Some might defend the strong conditionality of loans as being a form of justified paternalism. Sometimes paternalism is justified. For example, it is appropriate for parents to make decisions about what is in the interests of their children without necessarily consulting them. It is appropriate to send one's child to school without consulting her (in fact, it seems appropriate to do so even if the child doesn't want to go to school). Children do not have a clear idea of what is in their interests and what isn't. So, up to a certain age, parents must make decisions for them. Something similar could be argued in the case of the strong conditionality of loans. Countries that have defaulted two or three times on the payments of their loans have shown that they do not know what is in their interests; they do not know what will lead to the growth and the stability that are necessary to eliminate their balance of payment problems. So, one might argue, they need someone else to make decisions for them.

While there may be some truth in this argument, it is not fully convincing. For unlike the parent in the parent-child relationship, it isn't clear that the IMF or the WB have superior knowledge. Those working for the IMF and the WB do not seem to know more than developing countries about what leads to growth and stability. Even when well intentioned, it has turned out in many cases that the conditions attached to loans have failed (and sometimes have even had disastrous results), leaving countries less able to address the pressing problems leading to their economic instability and, as a result, leaving them less able to repay their loans. The example of capital mobility that I discussed earlier is just one of many examples (for more examples see below) of how strong conditions have left countries with greater economic instability and lesser ability to pay back loans.²²⁷ Developed nations just do not seem to know what is in the interests of developing nations. Consequently, I would argue, unlike the parent-child case, paternalism is not justified here.

The basic idea is this. Helping is a matter of responding to a need. Part of responding to a need, I take it, is providing help that is tailored, that is, help that actually fits the needs and interests of the recipient. Despite not having superior knowledge about what leads to growth and development, the IMF and the WB impose strong conditions on loans. In imposing these conditions, they make decisions about what is in the best interests of the beneficiaries without significant input from borrowing countries. To the extent that such loans have been unsuccessful and have not met borrowing countries interests in growth and development, the behaviour of the IMF and the WB exemplifies the vice of unjustified paternalism.

If the IMF and the WB are concerned with the good of the borrowing countries, there is also another reason to reject the strong conditionality of loans: As part of their higher-order interest in forming a rational conception of the common

²²⁷ On the failure of conditionality see Stiglitz, *Globalization and its Discontents*, especially ch. 2.

good, citizens have an interest in having the opportunity to shape the laws, institutions, and practices in ways that they collectively choose; strong conditionality is inconsistent with this interest. To the extent that strong conditions attached to loans require that certain economic policies are implemented, and the citizens of borrowing countries do not have a say in what kinds of policies are implemented, they are not able to implement and test out the laws and practices they have chosen together.²²⁸ In this way, strong conditionality thwarts citizens' interests. So, if the IMF and the WB are concerned with the good of borrowing countries' citizens, they would not impose conditions that infringe on their ability to collectively exercise their capacity for a conception of the common good.

I think these two points illustrate that the current method of attaching conditions to loans is not consistent with helping or trying to do good for those in borrowing countries. This is not to say that no conditions should be imposed. After all, it seems permissible to have some conditions ensuring the likelihood of repayment, so long as they do not prevent citizens from implementing their own public ends.

Finally, I think some of the points I raised in the last section also apply here. Charities (like other associations) are bound by the conditions of background justice; their conduct is restricted indirectly by the background institutions within which they operate. Part of background justice is the establishment of the social conditions necessary for the full development and exercise of the capacity for a conception of the good. To this end, associations must operate in such a way that allows citizens room or leeway to implement and pursue ends of their own choosing. Even when

²²⁸ My argument here presupposes far more popular sovereignty than may exist in many of the borrowing countries on which conditionality currently tends to be imposed. That is to say, in a number of cases, borrowing countries are not democratic and political decisions are not going to be made by citizens but rather by an unrepresentative government. I address the question of non-democratic countries in a later section (§3).

understood as charities, the IMF and the WB do not seem to allow this. The IMF and the WB are essentially the same institutions (you cannot get a loan from one without getting approval from the other). Also, the IMF and the WB are essentially the only lenders that offer loans at below market interest rates. There are other sources of money, such as foreign aid and private investment, but these are unlikely without the IMF and WB “golden seal of approval.”²²⁹ IMF and WB approval is typically contingent on acceptance of the conditions attached to the IMF and WB loan. So, even if the conditions imposed by IMF and WB loans conflict with citizens’ ends, there are few, if any, other realistic options for poor borrowing countries to pursue. To the extent that citizens of borrowing countries have collectively decided to implement certain public ends and the conditions imposed by a loan from the IMF or the WB would not allow them to pursue these ends, and there are few other (real) avenues for borrowing money, little room is left for citizens of borrowing countries to collectively exercise their capacity for a conception of the common good. In short, this arrangement is not consistent with background justice in the sense that it is not consistent with leaving citizens’ room to exercise their capacity for a conception of the common good.

The following example will help to encourage this conclusion. Imagine that you are in need of assistance and that there is only one charity in your area and that you are not able to travel elsewhere very easily. Imagine that it is a Catholic charity and that in order to receive aid you must convert to Catholicism. Aid is conditional on conversion. Imagine also that you have been reading books on Buddhism and were planning on becoming a member of this faith. If there were other charities (without such conditions) that you could easily approach for help, the condition imposed by this particular charity might not seem so objectionable. After all, if you don’t like the

²²⁹ On the possibility of unilateral aid see n. 226, p. 130.

conditions of the help, you can just go elsewhere to get the help that you need. But given that you are in need of help and that there are no other feasible options, making aid conditional on conversion to Catholicism seems highly objectionable. I think one of the reasons that it is objectionable is that, as a matter of justice, we have an interest in being able to implement and pursue our own ends. Insofar as there are no other feasible options for aid, we do not have sufficient room to exercise our capacity for a conception of the good. The charity is not functioning within the parameters of background justice and for this reason is objectionable.

A General Argument Against Strong Conditionality

I would now like to raise a more general argument against the strong conditionality of loans. I believe that Philip Pettit's arguments concerning domination can be extended to explain what is objectionable about the strong conditionality of loans. I think these arguments hold whether the IMF and the WB are thought to be more like banks or more like charities.

Recall that Pettit argues that the antonym of liberty is subjugation or domination. On his view, X dominates Y if and only if (1) X interferes on an arbitrary basis, that is, without regard for or reference to Y's perceived interests, (2) with impunity and at will, (3) in certain (and not necessarily all) choices that Y is in a position to make.²³⁰ Having power over another does not necessarily mean that one actually interferes with the individual she has power over. Dominating power can interfere with one's liberty even if it is never exercised. All that matters is that there is a real possibility or a likelihood of such interference.²³¹ The idea is that, usually, the

²³⁰ Philip Pettit, "Freedom as Antipower," p. 578.

²³¹ Here, I continue in my move away from Pettit's own views. Recall that, on Pettit's view, the dominating agent needn't have any inclination toward arbitrary interference; such interference may even be rather unlikely. It is difficult to see why domination would be objectionable if there was very little or no possibility of interference. Rather, it seems to me that it is only when interference is a

potential victim of power and the power bearer are aware of their relationship; both are usually aware that there is a real chance of the power bearer interfering in the victim's choices arbitrarily, without regard for or reference to her perceived interests. This means that the victim relies on the goodwill of the power bearer not to exert her power.

From the perspective of liberal peoples, being dominated, whether actual or potential, is a bad situation to be in and is something that would generally be avoided. Let us begin with actual domination. First, it is just bad in itself for peoples to have their collective interests consistently ignored. Second, having their interests consistently ignored and not taken into account is undermining of peoples' sense of self-respect. It is hard for peoples to see themselves as having equal value when social institutions and arrangements establish or reinforce the view that their collective interests deserve less concern simply because they are the interests of one group rather than another. Peoples' joint interests and aims are part of their conception of the common good. They are part of their conception of what is valuable in human life. To ignore or dismiss their collective interests is to suggest that their conception of the common good is not as valuable as others', is not as worthy of pursuit as others'. This is undermining of peoples' sense of self-respect. For this reason, as representatives of peoples, we would not agree to political arrangements that allowed for relationships of actual domination.

Turn now to potential domination. Relationships of domination are objectionable regardless of whether peoples' interests are actually ignored or not. This is because, even if it is never exercised, the capacity to dominate can interfere with peoples' ability to form a rational conception of the good. As I argued earlier, when

realistic possibility that fear becomes a rational motivator and leads to the bad effects that Pettit suggests (uncertainty, anxiety, etc.). So, I differ from Pettit in thinking that there must be a *real possibility* of interference before it can count as objectionable.

agents think that there is a realistic chance of being dominated, in order to ingratiate themselves with the potential dominator and to protect themselves from domination, agents will close themselves off from certain ends and aims, even if they tentatively think that those ends and aims are best for them. They will refrain from putting into practice their own self-chosen aims and ends. For example, I might tentatively think that reading Tolstoy is for me. If I am a slave and my master absolutely detests Tolstoy, then in order to ingratiate myself with him and to lessen the likelihood of his interference, I will refrain from reading Tolstoy. I will close myself from off testing out certain options, even if I think that they might be best for me. In this way, domination is not consistent with leaving room for agents to develop self-chosen goals, goals that they identify with as moral and rational agents. Insofar as we, as representatives of peoples, have an interest in exercising our capacity for a conception of the good, we would not agree to political arrangements that allowed for potential relations of domination.

Return now to the matter of conditionality. One would have to be against loans as such to hold that loans conditional on being repaid by certain dates or on keeping enough reserves to make the first few interest payments count as (wrongful) arbitrary interference. So, again, limited conditionality is not my concern. Rather, my worry concerns strong conditionality. Take the case of South Korea, for example. After the Korean War, South Korea showed exceptional growth. In the thirty years after the war, it increased per capita income eight-fold, reduced poverty significantly, achieved universal literacy, and made significant progress in technology.²³² In these early days South Korea maintained tight control of its financial markets. But in the 1990's, under pressure from the US, South Korea allowed its firms to borrow funds from abroad. In 1997, there were rumours that Korea did not have the reserves to pay

²³² Stiglitz, *Globalization and its Discontents*, p. 94.

off loans from American banks. These rumours became self-fulfilling prophecies. After hearing such rumours, banks decided not to renew their loans. When all the banks decided not to renew their loans, as Stiglitz says, “their prophecy came true: Korea *was* in trouble.”²³³ South Korea eventually sought an IMF loan. The IMF imposed strong conditions on this loan. In particular, the IMF pushed for trade liberalization. The US treasury, as the IMF’s largest shareholder and the only one with veto power, played a significant role in determining the conditions of the loans and pushed for liberalization as well.²³⁴ As part of the conditions of the loan, the IMF and the US pushed for South Korea to lower its tariffs to US goods, goods that the US happened to want to export like American made sausages.²³⁵ The problem is that South Korea opening up its market to foreign goods could not possibly help it address the problems that led to its crisis. The South Korean economic crisis was largely a result of bad nerves. Investors in the US were skittish and, in turn, reacted to the rumours by not renewing loans. Opening up the South Korean market to American goods is not a solution to this problem. Indeed, the US, through the IMF, simply took the South Korean economic crisis as an opportunity to push its own interests without much regard for the interests of the South Koreans. The IMF and particularly the US, took advantage of conditionality and used it to break open the economy, even when other courses could and should have been taken. So, part of the worry surrounding strong conditionality is that developed countries like the US will use it to arbitrarily interfere in the interests of developing countries. If, as representatives of liberal peoples, we are moved to protect ourselves against actual arbitrary interference and, in turn, to protect our sense of self-respect, we would not agree to the strong conditionality of loans.

²³³ Ibid., p. 94.

²³⁴ Ibid., p. 94.

²³⁵ Ibid., p. 102.

For those concerned with preventing relations of domination, there is also another reason to object to strong conditionality. Imagine that opening up the South Korean market to American goods, such as American made sausages, would help to alleviate the South Korean economic crisis. Unlike in the real case, in this imagined case, there isn't actual domination of South Korea. In this case, the IMF actually advances the interests of South Korea by helping to stop the economic crisis. Nevertheless, conditionality is still objectionable in this case, but for a reason that wasn't highlighted before. The worry here concerns potential rather than actual domination. The IMF loan is conditional on taking up certain policies, such as increased trade with the US. If these policy conditions are not met, then the IMF will not grant funding. Moreover, if there isn't compliance, then the IMF will likely fail to grant its "seal of approval" which negatively influences access to private investment. South Korea is in a great state of need and will do anything to prevent its being denied a loan. So, in order to ingratiate itself with and to stave off arbitrary interference from the IMF and the US in particular, South Korea will curtail its choices. If the IMF desires liberalization of trade, then in order to ingratiate themselves with the IMF and to lessen the likelihood of interference, South Korea will close itself off from certain political ends, say economically protectionist ends, even if it is what they think is best. In short, conditionality is not consistent with citizens' interest in exercising their capacity for a conception of the good: rather than implementing their own political ends, the South Koreans have little option but to take up the political ends of the IMF.²³⁶ Insofar as we have an interest in protecting ourselves against potential

²³⁶ For a parallel case, imagine a scenario where a wife knows that her husband will leave her unless she does exactly what he asks. In this case, the wife would close herself off from certain options, even if the husband never actually leaves her. Just knowing that there is a real chance that he could leave is enough to motivate her to alter her choices. Something similar applies in the case of the IMF and South Korea.

domination, and in ensuring that we are able to exercise our capacity for a conception of the common good, we would not agree to the strong conditionality of loans.

One might object to my arguments in the following manner. Pettit's arguments do seem to allow for some relationships of domination. Imagine, for example, that except for one person, all the citizens of a particular country are severely mentally incapacitated. It wouldn't be objectionable for the one mentally fit person to govern the country and to lay down its laws. This is the case even if the one person will actually or potentially interfere arbitrarily in the interests of the rest, for while it is an unfortunate situation, there is little alternative. Something similar could be argued in the international case. Just as the mentally incapacitated aren't competent enough to lay down laws, developing countries aren't competent enough to lay down the economic policies attached to IMF and WB loans. The only competent ones are the economically developed countries, the G-7. So, just as the mentally fit person should determine the laws that govern society, the G-7 should determine the policies that are attached to IMF and WB loans. After all, there is little alternative.

This kind of argument is not convincing. First, it isn't clear that those countries that have trouble developing are incompetent. Countries can have problems developing for a variety of reasons. To some extent, development can be a matter of luck. Some countries have poor geographic locations. For example, some are subject to frequent droughts and earthquakes. This presumably has an effect on a country's economic progress and is not simply a matter of competence. Also, it seems clear that some countries have not done well economically largely because of foreign interference and not because of any lack of competence on their part. The Latin American and East Asian crises (which I discuss below) are examples of this.

Second, it is not clear that developed countries are competent with respect to decision-making about growth and development. As I have argued, developed

countries do not seem to know what is best for developing countries to do when it comes to growth and development. Adam Przeworski and James Vreeland argue that “if growth is the primary objective then IMF programs are badly designed.”²³⁷ Their research shows that the

growth observed under IMF programs was lower regardless of the conditions under which countries participated . . . countries [that] remained under IMF programs even though they had decent reserves and low deficits . . . grew by 1.02% slower than countries which enjoyed the same conditions while not being subject to these programs. But even countries with low reserves and high deficits did better if they did not participate: their growth was 1.79% faster. Thus, while countries facing bad conditions grew slower, participation in IMF programs lowered growth under all conditions.²³⁸

In short, countries grow much slower when they follow IMF conditions. This suggests that developed countries, like the US, who largely control the IMF, do not know best when it comes to growth.²³⁹ In short, if the G-7 were the only ones who knew what tended to lead to growth and development, if they were the only competent ones, this might justify their being able to impose conditions on other countries. In reality, this is not true. The G-7 is not fit to make such decisions. The objection fails.

A second objection may be raised. One might argue that we need economic stability – stability in growth rate, employment and prices – because instability is bad for the poor. However, countries are not likely to cooperate with one another to

²³⁷ Przeworski and Vreeland, “The Effect of IMF Programs on Economic Growth,” p. 402.

²³⁸ Ibid., pp. 395-397.

²³⁹ We might wonder, who does know best? What is the criterion for competence, if any? Rodrik suggests that one of the main requirements for making competent decisions about which economic policies to take up is local knowledge. He argues that economic policies aimed at growth and development should be country specific, tailored to domestic realities. The G-7 does not have this kind of knowledge when it comes to developing countries. This might explain why they have tended to make such bad decisions when it comes to IMF programs. Rodrik’s research suggests that developing countries (i.e., the borrowers) are the only ones who can make competent decisions about which economic policies should be taken up. See Dani Rodrik, “The Global Governance of Trade: As if Development Really Mattered,” *United Nations Development Programme* (October 2001), URL = <<http://ksghome.harvard.edu/%7Edrodrik/UNDPtrade.PDF>>.

achieve stability. Thus, some like Robert Gilpin and Charles P. Kindleberger argue that the creation of economic stability requires a powerful leader or a hegemon.²⁴⁰ On their view, through exercise of its power, the hegemon gets countries to cooperate with one another, thus, imposing a stable and predictable economic order on the world.

In support of this thesis, Kindleberger points to the worldwide depression in 1929. On Kindleberger's view, the world depression lasted so long and was so pervasive because there was no dominant economic power to contain the damage that was done and to take on burdens in the way of extending credit (playing the role of "lender of the last resort"), creating and maintaining a liberal trade regime, and establishing an international monetary system. In short, Kindleberger argues that the depression was "so deep and so long because the international economic system was rendered unstable by British inability and United States unwillingness to assume responsibility for stabilizing it."²⁴¹ This example is meant to show that in order for world economic stability to be achieved there must be a dominant economic power. So, in a similar vein, one might argue that in order to achieve the objective of economic stability some country, like the US, must exercise its power through the IMF and the WB.

This objection is not necessarily just about the conditionality of loans. Rather, it highlights larger questions about domination that are raised by my arguments. The argument highlights the question of whether having a dominant power to control and arrange global arrangements is really objectionable after all, particularly when it will benefit the destitute.

²⁴⁰ See Robert Gilpin, *Global Political Economy: Understanding the International Economic Order* (Princeton: Princeton University Press, 2001), Robert Gilpin, "The Rise of American Hegemony" in Patrick Karl O'Brien and Armand Clesse (eds.), *Two Hegemonies* (Aldershot, ENG: Ashgate Publishing, 2002), pp. 165-182, and Charles P. Kindleberger, *The World in Depression 1929-1939* (London: Allen Lane The Penguin Press, 1973).

²⁴¹ Kindleberger, *The World Depression 1929-1939*, p. 292.

I think the main lines of response have already been examined. First, the US, or any other dominant economic power for that matter, does not know what will lead to economic stability. Indeed, US involvement through the IMF and the WB in the economies of other countries has led in many cases to serious economic instability. Take the case of Latin America. In the years from 1950-1980 Latin America's per capita income grew at 2.8% annually.²⁴² In the 1980's the US dealt with its own inflation problems, causing it to raise its interest rates, which eventually passed 20%.²⁴³ These increased interest rates affected loans made to Latin American countries and prompted the Latin American debt crisis of the early 1980's. Mexico, Argentina, Brazil, and others defaulted on their loans. During this time, "Latin American economic policies changed dramatically, with most countries adopting Washington Consensus policies,"²⁴⁴ a set of policies determined by Washington based institutions – the IMF, the WB, and the US Treasury – to be the right policies for growth and development. Latin American countries needed to take loans from the IMF and the WB, and the Washington Consensus became the basis of the policies upon which IMF and WB loans were conditional. While countries like Argentina who thoroughly adopted the Washington Consensus policies did resume growth and restore price stability, this was only for a short amount of time. Stiglitz writes, "growth was not sustainable . . . Growth was to last only a short seven years, and was to be followed by recession and stagnation. Growth for the decade of the 1990's was only half what it had been in the decades prior to 1980."²⁴⁵ This example illustrates two things. First, it illustrates the problems of the US becoming a moneylender: economic problems within the US led to serious problems in the borrowing countries of Latin

²⁴² Stiglitz, *Making Globalization Work*, pp. 35-36.

²⁴³ *Ibid.*, p. 36.

²⁴⁴ *Ibid.*, p. 36.

²⁴⁵ *Ibid.*, p. 36.

America. This suggests the importance of an independent moneylender. Second, policies endorsed by the US as part of the Washington Consensus did not lead to long-term economic stability and in fact seemed to elicit economic instability.

The East Asian crisis is another important example of how US involvement seems to have precipitated economic instability. Stiglitz writes,

the IMF and the US Treasury believed, or at least argued, that full capital liberalization would help the region [East Asia] grow even faster. The countries in East Asia had no need for additional capital, given their high savings rate, but still capital account liberalizations was pushed on these countries in the late eighties and early nineties. I believe that capital account liberalization was *the single most important factor leading to the crisis*.²⁴⁶

Typically, the IMF and the WB, led by the US, have argued that capital liberalization promotes economic stability. But as this passage shows, Stiglitz is very sceptical of this claim. This is for good reason. Full capital liberalization leaves developing countries open to the whims of foreign investors. As I have already argued, this does not support economic stability because money often leaves countries just as they desperately need it. If Stiglitz is right and capital liberalization was a major cause of the East Asian crisis, then, insofar as the US pushed full capital liberalization, it seems clear that actual US dominance is at least partially responsible for the onset of the crisis. This and the last example are in direct contradiction to Kindleberger's claim that a dominant economic power will lead to economic stability.

Second, even if it would promote economic stability, hegemony conflicts with citizens' interest in exercising their capacity for a conception of the good. Nations would be at the mercy of the hegemon. The hegemon could choose to exercise its power at any time. Having knowledge of this, nations would live in constant fear of the hegemon. To protect themselves against possible interference, nations would do

²⁴⁶ Stiglitz, *Globalization and Its Discontents*, p. 99.

what they could to gain favour with the hegemon and to ingratiate themselves with it. As I have argued, this type of behaviour conflicts with the exercise of the capacity for a conception of the good. To ingratiate themselves with the hegemon, nations would close themselves off from particular ends and aims, even if they (tentatively) think that these ends and aims are best for them. They would refrain from implementing their collectively shared ends. In this way, even if it would promote economic stability, a dominant economic power or hegemon would conflict with peoples' fundamental interests and for this reason would be objectionable from the perspective of the global original position.

In conclusion, my original argument stands. The conditionality of loans is objectionable because it allows the G-7 to actually and potentially dominate developing countries. To the extent that we are concerned to prevent relations of domination, potential and actual, I think that we would oppose the strong conditionality of loans.

I began this section (on the conditionality of loans) by considering what I take to be the most plausible arguments for the conditionality of loans – one based on a corporate model and another based on a charity model – and shown that they fail. When I considered the corporate model, I argued that strong conditionality in the IMF and the WB cannot be defended as it can be in private banks. This is largely because, unlike in the case of private banks, placing strong conditions on loans from the IMF and the WB is not consistent with the conditions of background justice. When I considered the charity model, my main claim was that strong conditionality cannot be defended as a form of justified paternalism. I argued that this is largely because the IMF and the WB have not been able to make competent decisions about what will serve the interests of borrowing countries. I also gave a general argument against

strong conditionality, arguing that insofar as we are moved to prevent relationships of domination, we would not permit the strong conditionality of loans.

So far I have left open the question of what form loans should take. This is something that I will come back to in more detail towards the end of this dissertation. As initial guidance to the structure of loans, my arguments suggest that at least two things are essential. First, I have suggested that, as part of their interest in exercising their capacity for a conception of the good, peoples have an interest in implementing policies that they collectively choose. In turn, this means that any kind of conditionality that is put into action must give citizens room to pursue the policies that they collectively choose. Second, as part of their interest in exercising their capacity for a conception of the good and in ensuring self-respect, citizens also have an interest in preventing relations of domination, potential and actual. So, a proper form of conditionality must also protect citizens against domination.

§3. Weighted Voting and Conditionality of Loans in Non-democratic Countries

I have so far put aside the question of whether weighted voting and conditionality of loans are justified in the case of non-democratic countries (ndcs). I would now like to turn to these matters.

In the kinds of nations we are considering here, injustice already exists in social arrangements (insofar as they are non-democratic). So, the question here is: “what is the just way to answer injustice?”²⁴⁷ Rawls is primarily concerned with providing a theory of international relations for liberal peoples. For this reason, his arguments do not give us a well-developed framework for determining what constitutes just relations between liberal peoples and illiberal (or non-democratic) nations. It is true that Rawls spends quite a bit of time discussing one particular kind

²⁴⁷ c.f., *ATJ*, p. 215.

of illiberal nation, namely decent consultative hierarchies, but (beyond offering principles of just war) he says little to guide the relations between peoples and other illiberal nations. My hope is to make some steps toward filling this gap with respect to the issue of decision-making in global institutions such as the IMF and the WB. To this end, I will consider whether there are reasons for liberal peoples to support or reject weighted voting and conditionality of loans in the case of ndcs.

Given what I have argued so far, one might be tempted to think that weighted voting and conditionality of loans is always justified in the case of ndcs. After all, in ndcs, citizens do not have a distinct and meaningful role in politics. Consequently, one might argue that giving less weight to the ndcs' votes or making their loans strongly conditional does not seem to thwart their citizens' interest in exercising their two moral powers nor does it seem to insult or undermine their citizens' sense of self-respect in the same way it would in the case of democratic countries.

An example will make the point clearer. Take the cases of children or the severely mentally disabled. Refusing to give children or the mentally disabled a vote in domestic elections doesn't frustrate their exercise of the capacity for a conception of the good. This is because they do not have this capacity at the level necessary to be considered a free and equal citizen. Moreover, it doesn't seem insulting in the sense that withholding the vote from them does not suggest that their exercise of the two moral powers is any less important or valuable. Rather it is representative of the fact that both children and the severely mentally disabled are not sufficiently able to rationally choose and implement their ends. Decisions about such things need to be made on their behalf (there is little choice).

Turning now to the case of citizens of ndcs, like children and the mentally incapacitated, they are unable to fully exercise their two moral powers. There are, of course, differences between the mentally disabled and the citizens of ndcs. In the case

of ndcs, citizens' inability to fully exercise their moral powers is not, as it is in the case of children or the disabled, a matter of inherently lacking the capacity themselves; rather, their capacities are disabled by the non-democratic and dictatorial governments they live under. Insofar as citizens of ndcs are unable to fully exercise their two moral powers, one might argue, that weighting their votes less (or perhaps not giving them a vote at all) and imposing strong conditions on their loans does not conflict with global democratic values. As in the cases of children and the disabled, weighted voting doesn't frustrate citizens' interest in exercising their capacity for a conception of the good. This is because they are not able to exercise this capacity. Citizens of ndcs are not able to collectively decide on and implement, through voting, a conception of the common good. They do not have an opportunity to shape the laws, institutions, and practices in ways that they collectively choose. Moreover, giving them less votes does not suggest that their exercise of the two moral powers is any less important or valuable and is not insulting. As in the case of the disabled, it would be representative of the fact that they are not able to choose and implement public ends that are truly their own. So, choices about which ends (or social practices) should be implemented need to be made on their behalf.

Furthermore, one might point out that dictators do not tend to represent the interests of their citizens. So, to give the countries less of a vote is not to suggest that the interests of citizens of ndcs are unimportant or less worthy of consideration (which would be undermining of their sense of self-respect). Indeed, insofar as corrupt dictators are unlikely to make decisions that serve their peoples' interests, weighted voting and conditionality of loans might work to better protect the people's interests. Weighted voting and conditionality of loans might be understood as an expression of the belief that the interests of citizens in ndcs are of equal value and concern. In turn, weighted voting and conditionality of loans would be consistent with self-respect.

While I do think these arguments are successful in some cases (namely, those involving malevolent dictatorships), I think it would be a mistake to apply these arguments to all ndcs and to lump all ndcs together under one category. It is important to distinguish between *decent consultative assemblies*, *benevolent dictatorships* and, what I will call, *malevolent dictatorships*.²⁴⁸ All three are non-democratic, but they differ in important respects. A decent consultative assembly is a society that is respectful of human rights, and has a government who sincerely pursues the common good and responsively consults with all its citizens through group representation. A benevolent dictatorship respects human rights and makes decisions by giving consideration to the interests of all but does not allow citizens a meaningful role in politics. A malevolent dictatorship is hostile toward other countries, does not respect the human rights of its citizens, and does not allow its citizens a meaningful role in politics.

It seems to me that whether weighted voting and conditionality of loans is justified (for the reasons given above) is going to depend on which of these categories a country falls under. I will try to show that in some cases, namely, decent consultative assemblies and benevolent dictatorships, some of the reasons for rejecting weighted voting and conditionality of loans in the case of democratic countries also apply to non-democratic countries. The underlying idea is that a prerequisite for just relations with other nations, even when they are unjust, is parity of reasons: agents advancing a reason in favour of a measure (or against it) must be willing to accept the similar relevance of the reasons in other similar cases.²⁴⁹ So, if liberals would accept certain reasons against weighted voting and conditionality of loans in the case of

²⁴⁸ These categories are somewhat (though not entirely) similar to Rawls's distinction between decent hierarchical peoples, benevolent absolutisms, and outlaw states (See *LP*, p. 4).

²⁴⁹ Richard Miller, *Globalizing Justice: The Ethics of Power and Poverty* (Oxford: Oxford University Press, 2010) ch.3. Here, Miller argues that parity of reasons is a prerequisite for reasonable deliberations. I take myself to be working with a similar idea.

democratic countries and these reasons apply in the case of ndcs, then they must accept those reasons there as well. In trying to get at the kinds of reasons that are relevant, we might imagine ourselves in a global original position with representatives of both liberal and illiberal nations and the kinds of reasons these representatives could offer (or perhaps that could be offered on their behalf) against weighted voting and conditionality of loans in the case of illiberal nations. I do not intend my remarks here to be conclusive. I intend them as tentative. At this time, my goal is mostly to highlight some points that must be considered more carefully in relation to weighted voting and conditionality of loans in the case of ndcs.

(i) *Decent Consultative Assembly*.²⁵⁰ A decent consultative assembly is democratic enough that the people have a distinct and meaningful role in political decision-making. So, though they are not as just as a constitutional democracy, a decent consultative assembly is like a constitutional democracy in the sense that it has a forum for consulting with citizens about the arrangements of social institutions and is responsive to their views. To this extent, citizens are able to exercise their two moral powers and are able to promote their own interests and, in turn, are able to secure some sense (though not a full sense) of self-respect. So, though I won't at this time consider those arguments again, because a decent consultative assembly is sufficiently democratic, I think that the arguments given in the previous sections against weighted voting and conditionality (in the case of constitutional democracies) apply here as well.

(ii) *Benevolent Dictator*. Imagine that Frederick the Great was a benevolent dictator and that we knew (with a good degree of certainty) him to be one.²⁵¹ (Perhaps

²⁵⁰ Again, I wish to point out that it is highly doubtful that something like a decent consultative assembly (particularly in terms of responsiveness) is likely to exist in the real world.

²⁵¹ Though I will put these aside for the most part, I have some general doubts about whether these two conditions (a dictatorship being benevolent and our knowing this to be the case) could be satisfied. First, it is not clear to me that there could ever be such a thing as a benevolent dictator. Because

he allowed us to take a poll and the poll showed that he tended to act in accordance with the people's perceived interests). It seems to me, if one is concerned to protect citizens from arbitrary interference from (or domination by) international agencies such as the IMF and the WB, then perhaps Prussian votes shouldn't be weighted. Because of cognitive bias and distance, it is difficult for outsiders to understand and to weigh appropriately the different interests of Prussians. So, given that the Prussian government sincerely wishes to and generally does promote the interests of its citizens (imagine, for example, Frederick the Great knows that his people prefer more socialist economic policies and that he pursues appropriate policies) and that we will want to ensure that Prussian citizens' interests are given equal consideration, it might be best to give equal voting rights to the Prussian government.

dictators are generally quite far removed from the people and their everyday lives, and particularly because there are no democratic procedures, given the human tendency toward partiality, it isn't clear to me a dictator could truly know what is in the interests of the people. Moreover, even if a dictator does know what is in the interests of its people and pursues these interests in his or her decisions, since there are no elections or other such procedures, there is no way of ensuring that the dictator will continue to do so, that is, continue to be benevolent. He or she could decide at any time to become malevolent and not to pursue the people's interests. In short, democratic procedures are the surest way of identifying people's interests and ensuring that people's interests are pursued. Without such procedures, it is uncertain as to whether a leader would know what the people's interests are and whether he would in fact consistently pursue these interests even if he did know what they are.

Second, even if there were benevolent dictators, it is not clear that we (on the outside) would be able to identify one. A commonly cited example of a benevolent dictator is Frederick the Great. Frederick the Great was absolute in his power. Yet, Frederick the Great was respectful of human rights, tolerant of different religions, made great economic advancement, and worked to promote the arts, and so on. This sounds like a benevolent dictatorship. Nevertheless, I am somewhat doubtful about whether we could truly know whether he was a benevolent dictator. There are, for example, a variety of ways to promote economic growth. Some methods, for example, favour privatization and trade liberalization. Others favour more protectionist methods. Imagine Frederick the Great promoted economic growth through policies aimed at privatization and trade liberalization. From the outside, as long as there is economic development, it will seem like Frederick the Great is promoting the interests of the Prussian people. Imagine, however, that, if you were to take a poll, the Prussian people would have preferred more protectionist policies. In this case, it would seem that Frederick the Great did not act in the perceived interests of the people and, to this extent, would not have been benevolent (i.e., he would be interfering arbitrarily in their interests). Most dictators will be unwilling to let us take these kinds of polls or to use other methods to determine if people's interests are being pursued. So, in most cases we can't know whether a dictator is truly benevolent or not; we can never actually know whether a dictator acts in the perceived interests of his people or not.

Let us now turn to the conditionality of loans. I think there are similar reasons against implementing strong conditionality of loans in the case of a genuinely benevolent dictator. I suggested earlier (using the example of US and South Korea) that developed countries have often used conditionality of loans to interfere arbitrarily in the interests of developing countries. To protect citizens against having their interests arbitrarily interfered with, it might be better to allow local government, when it genuinely has the interests of the people in mind, room to implement economic policies of their own choosing. Local government has the knowledge of local realities that is needed to implement successful economic policies. If the local government is also sincerely committed to promoting the people's interests, then I think we have good reason to abstain from strong conditions on loans. It will serve to protect citizens from arbitrary interference from other countries.

Of course, since it is not democratic (and there are no checks to protect against this), there is always the worry that the Prussian government will become malevolent. If this does happen and we know this to be the case, then it should be treated as a malevolent dictator. What is said in the next section is relevant at this point.

(iii) *Malevolent Dictator*. Arguments for giving equal votes and not imposing conditions on loans to democratic nations and decent consultative assemblies do not apply here. Furthermore, the points I outlined against weighted voting and conditionality of loans in the case of a benevolent dictatorship do not apply here either. This is because a malevolent dictator who systematically violates the human rights of his/her own citizens is obviously not concerned with promoting the general interests of his/her own people. It is difficult to see any (moral) reasons not to give less weight to the votes of or impose strong conditions on the loans to malevolent dictatorships. In short, I think the arguments that I outlined at the beginning of this section stand. Giving less votes or imposing strong conditions on loans in the case of

ndcs would not thwart their citizens' higher-order interest in exercising the two moral powers and it would not undermine their sense of self-respect. Moreover, particularly, if the country also happens to be aggressive toward other nations, insofar as it would be necessary to protect the global order and stability, then there may be good reasons for weighted voting and imposing strong conditions on loans. After all, we don't want the global order to be open to the whims and preferences of aggressive dictators.

If these thoughts are right, one might wonder, why not just exclude such countries from participating in global institutions altogether? Similarly, one might wonder why we wouldn't simply deny loans to such countries rather than granting loans with strong conditions.

I will start with the first matter. I think there are two reasons against excluding malevolent dictatorships from global institutions. First, if a malevolent dictatorship is excluded altogether, the US (or other Western nations) might feel more justified in "eliminating" the dictator and putting in place its own preferred "liberal" leadership. This seems inconsistent with global democratic values. US backed leadership would tend to be highly sympathetic to and to act in support of US interests which, in turn, might conflict with its ability to advance its own people's interests equally. In other words, rather than protecting its own citizens from domination, a US backed leader would tend to promote increased US dominance in global decision-making.

Second, those who are in most need of being included in global financial institutions (and perhaps in global decision-making in general) are those who tend to live under malevolent dictatorships (take the citizens of Rwanda during the genocide, for example). Their interests are profoundly affected by decisions that take place at the global level. To exclude such countries altogether would be to punish the citizens of these countries, citizens who are already impoverished and disenfranchised, and not the leaders, who should be the targets of such punishment. In short, it makes little

sense to have a citizen barred from having her interests represented in global institutions because the leadership under which she lives is tyrannical.

If these considerations are on the right track, then there arises an important question: as Daniel Weinstock phrases it, “how should people who cannot vote, but who have a legitimate moral claim to representation within global institutions, be represented within such institutions?”²⁵²

Though Weinstock is concerned with global institutions in general, he makes a suggestion that is well worth considering in relation to the IMF and the WB.²⁵³

Weinstock takes the domestic sphere as his starting point. He notes that democracies contain a number of disenfranchised people, such as children and others who are judged to be incompetent. “Though these people cannot vote, their interests are nonetheless represented by such institutions as youth protectors and public curators.”²⁵⁴ Weinstock suggests that something similar be pursued at the global level. He suggests that there should be “a global democratic sphere in which people who cannot select their own representatives are appointed trustees who ensure that decisions made at the global level take proper account of their interests.”²⁵⁵

As Weinstock himself acknowledges, this suggestion raises at least two further questions. First, there is the question of how these trustees should be chosen. There is a danger that the West will simply appoint the trustees that serve the West’s interests best and who end up being poor representatives of their own people’s interests. Second, and related, there is the question of accountability. How can we ensure that those who are appointed will represent the interests of their people?

²⁵² Daniel M. Weinstock, “The Real World of Global Democracy,” *Journal of Social Philosophy* 37.1 (2006), p. 15.

²⁵³ *Ibid.*, p. 15.

²⁵⁴ *Ibid.*, p. 15.

²⁵⁵ *Ibid.*, p. 15.

As an initial solution, Weinstock suggests the following. Weinstock suggests that only those issues and policy areas that can be dealt with effectively at the global level are the responsibility of global institutions. These include environmental protection, public health, and so on. Weinstock suggests that in regards to these kinds of issues “there is a great deal of convergence between the interests of all the constituencies.”²⁵⁶ For example, “poor hygienic conditions that facilitate the transmission of infectious disease are a problem for all of us, wherever they occur.”²⁵⁷ Presumably, global development and economic stability is an important matter for everyone as well. Consequently, Weinstock thinks that the trustees will be motivated to act in the best interests of those they represent not because of altruism but because of *intérêt bien compris*. Trustees will not neglect the interests of those they represent because their own interests are at stake as well.

In the end, I do not find this suggestion very satisfying. Assume that the IMF and the WB, or institutions like them, can deal with global trade and finance effectively. Even if this is the case, it doesn’t follow that interests are going to converge. For example, what is best for the economy of one country will not necessarily be what is in the best interests of another country and may even harm the economy of another country. In these cases, trustees may not see their ward’s interests as being the same as their own. Consequently, they may not be motivated by the notion of *intérêt bien compris*. If this is right, then it remains an open question as to how to ensure that trustees will represent the interests of their people. This is not to say that we should not take up Weinstock’s suggestion of appointing trustees. One point in favour of appointing trustees, even if we cannot ensure that they always act in the interests of their wards, is that, in general, we would at least be able to ensure that

²⁵⁶ Ibid., p. 17.

²⁵⁷ Ibid., p. 17.

their wards basic human rights are served by the decisions made on their behalf. To this extent, a trustee still seems a better option than a malevolent dictator as a representative or no representative at all.

If appointed trustees would advance the interests of its wards (even generally), then I think that the trustees appointed to malevolent dictatorships should be given equal votes, for equal votes would protect (as far as is possible) the citizens of malevolent dictatorships from arbitrary interference from other nations (through the IMF and the WB).

Let us now turn to the matter of conditionality and whether loans with strong conditions should be granted to malevolent dictatorships. My arguments only go so far as to suggest that there aren't any good moral reasons against imposing strong loan conditions. However, there may be good practical reasons for not imposing strong conditions on loans to malevolent dictators. After all, currently, strong conditions have not guaranteed repayment or growth in borrowing countries, including dictatorial regimes. Moreover, in, at least some cases, even with strong conditions, dictators have used the money for aggressive aims against their own people and others'. So, given that the loan is unlikely to benefit people through the promotion of growth and stability and may even be used to harm them, it seems (and I say this tentatively) that we should deny such countries loans altogether. This is an unfortunate conclusion (and one that I'm hesitant to reach) because malevolent dictatorships tend to exist in the most impoverished and destitute countries, countries where people are already suffering and without money for growth and stability will continue to suffer. However, there seems to be little option.

In this section, I have given some suggestions about whether weighted voting and conditionality of loans are justified in the case of ndcs. I outlined three different types of ndcs: decent consultative assemblies, benevolent dictators, and malevolent

dictators. With respect to decent consultative assemblies and benevolent dictatorships, I suggested that weighted voting and conditionality of loans is not justified. This is because some of the reasons given for rejecting weighted voting and conditionality of loans in the case of democratic countries apply in these cases as well. However, since none of these reasons hold with respect to malevolent dictatorships, I argued that unequal votes and conditionality of loans is justified. However, I also argued that, rather than excluding such countries entirely from voting processes, they should be represented in these processes by trustees. I also tentatively suggested that since (strong) conditionality has not proven to be practicable and may tend to support the aggressive aims of such nations, malevolent dictatorships should be denied loans altogether.

Part III

Overcoming the Democracy Deficit in Global Institutions

§1. Timescales

I have considered what I take to be the most plausible arguments for weighted voting and the conditionality of loans as implemented by the IMF and the WB currently, and I have tried to show that these arguments fail. I would now like to end this dissertation by briefly outlining the issues that I find most pressing and the prospects that I find most promising in ending the democratic deficit within these institutions.

I have argued that current global financial institutions suffer from a democracy deficit. The question that we must now consider is, what can be done to overcome this deficit of democracy? In answering this question, I think there are two different time-scales to consider when thinking about ways that global governance can be improved. First, there are projects aimed at reducing the democratic deficit that we can work toward now in the current generation. Second, there are aims and projects that can only be pursued at some realistically hoped-for stage in future generations.

The importance of the first time-scale seems obvious. If we are concerned with the realization of justice, it is not enough to sit in judgment of the present structure. We must also consider and be concerned with how things can change and what can be done towards establishing just international relations now. But one might wonder, why focus on aims and goals that can only be pursued at some *realistically hoped-for* future stage? Here, I follow Rawls in thinking that a vision of, what he calls, a realistic utopia plays an important role in political philosophy.

On Rawls's view, a political conception is *utopian* if it uses and appeals to "political (moral) ideals, principles, and concepts to specify the reasonably right and

just political and social arrangements for a Society of Peoples.”²⁵⁸ Rawls argues that there are two necessary conditions for a conception of justice to be realistic. First, it must take people as they are (by the laws of nature).²⁵⁹ The second condition for a conception of justice to be realistic is that its principles and precepts be workable.

I think my proposals meet the conditions for a realistic utopia. This will become more evident as we proceed. My arguments are utopian in the sense that they make use of and appeal to democratic values of self-respect, the exercise of the capacity for a conception of the good, and non-domination. My arguments are also realistic in the two necessary senses. First, my arguments take people as they are in the sense that they outline an order that is achievable by humans as they are, not as angels or other idealized beings. This is not to say that the changes that need to be made will be easy, but rather that they are attainable. Second, I think that the arrangements I argue for are workable. This is evidenced by the fact that arrangements similar to those I argue for exist within the EU currently.

I think the notion of a realistic utopia (or realistically hoped-for stage) is important for at least two reasons. First, overcoming the flaws of the current order (domestic and global) is going to be difficult. So, it seems important to have an ideal that inspires us and motivates us to persevere in changing the system. Second, Rawls argues that a well-ordered society – which is part of a realistic utopia – is the right yardstick to apply to current domestic institutions. On Rawls’s view, the conception of a well-ordered society helps us identify what needs to be changed. It also gives us an order of priority in the sense that it helps us identify what changes are most important for justice: we begin with the most grievous as identified by the extent of deviation from a just society.²⁶⁰ I think something similar can be said of what I argue

²⁵⁸ *LP*, p. 18.

²⁵⁹ *Ibid.*, p. 12.

²⁶⁰ See *ATJ*, p. 216.

for below. In a sense, my arguments provide a recipe to the democratic kitchen of the future. They provide a recipe for just global institutions and just relations between nations. While we cannot at this point implement all of the things I describe, my arguments give us a basis for evaluating current relations and for making decisions about what needs to be changed most immediately.

§2. Current Generations

Let us begin with what can be achieved by the current generation in current institutions. It seems to me that the democracy deficit is something that cannot be overcome by institutions as they are now. Rather, I think this is something that can be accomplished only after egalitarian measures in the economy have been taken and there is greater economic equality among nations.

Consider again the establishment of the fair value of political liberty in the domestic sphere. On Rawls's view, and mine, this is a challenge to democracy that cannot be met by procedure. Rather, he suggests, it can only be solved by something like state-subsidized financing of parties and election campaigns. I argued earlier that even this non-procedural solution is not sufficient. Even with the public financing of campaigns, the votes of the poor are still likely to have unequal worth. I suggested that those with more resources will tend to have more leisure time available, more education, and will be more able to support lobbying efforts, all of which allow for more persuasive public expression of their views. To this extent, the rich are still likely to have greater influence over elections and political debates. As a better alternative, one that Rawls also seems sympathetic to, I suggested a different non-procedural solution: egalitarian measures in the economy. If there is no longer a concentration of cash in certain groups, then there will likely be rough equality in the

use of political influence and power. Greater equality in wealth and income is most likely to support the fair value of political liberty.

I think an analogous argument for taking up economic measures can be made at the international level. At the international level, inequalities in wealth between countries are tantamount to inequalities in power and influence between countries.²⁶¹ So, if there was rough economic equality between countries participating in the IMF and the WB, then there would likely be equality in political power and influence. This seems to support some kind of strong egalitarian measures, like a global difference principle, in the global economy.²⁶² One way of satisfying the global difference principle is to instate a global taxation scheme. As Tan notes, “such a taxation scheme would require ongoing transfers of wealth from the better off to the worst off.”²⁶³ In other words, wealth would be redistributed from individuals in richer countries to individuals in poor countries. I do not, however, think that this is a plausible scheme. First, it isn’t clear that it would support the level of equality necessary for the fair value of political liberty (I suggested something similar in the domestic case as well). The difference principle allows for significant differences in wealth to occur. If there are significant differences in wealth, then there will be significant differences in political influence. So, something stronger than the difference principle may be required to secure the fair value of political liberty. Second, there is a growing body of evidence that suggests that the benefits of foreign aid are rather limited.²⁶⁴ So, there

²⁶¹ Carol C. Gould briefly makes a similar suggestion in *Globalizing Democracy and Human Rights* (Cambridge: Cambridge University Press, 2004), p. 215.

²⁶² Rawls himself is adamantly against a global difference principle. See *LP*, pp. 116-118. Rawls’s arguments against a global difference principle are rather scant. Better arguments are found in Michael Blake, “Distributive Justice, State Coercion, and Autonomy,” *Philosophy & Public Affairs* 30 (2002), pp. 257-296, Thomas Nagel, “The Problem of Global Justice,” *Philosophy & Public Affairs* 33 (2005), pp. 113-147, Richard Miller, “Cosmopolitan Respect and Patriotic Concern,” *Philosophy & Public Affairs* 30 (2001), pp. 257-296, Richard Miller, *Globalizing Justice*, ch. 2 (“Compatriots and Foreigners”).

²⁶³ Kok-Chor Tan, *Justice Without Borders* (Cambridge: Cambridge University Press, 2004), p. 71.

²⁶⁴ See William Easterly, *The White Man’s Burden* (Cambridge: MIT Press, 2002), William Easterly, *The Elusive Quest for Growth* (London: Penguin Press, 2006), Henrik Hansen and Finn Tarp, “Aid

is good reason to think that any kind of direct redistribution of wealth is not likely to work. What exactly is the best means of supporting global redistribution of wealth and global equality largely remains an open question.²⁶⁵

I have suggested that democratic values cannot be expressed by global institutions until there is greater economic equality among nations. This, however, isn't to say anything about current institutions and what course they should take. The literature on globalization tends to support either of two options: (1) improving current institutions by taking up large scale reforms (within current institutions themselves)²⁶⁶ or (2) completely dismantling current institutions.²⁶⁷ There is of course another option: (3) allowing institutions to exist as they are (that is, until the global environment is more apt for appropriate (i.e., democratic) reform). I think my arguments so far suggest that (1) isn't a viable option. Until there is greater economic equality, I don't think there are any reforms (like new policies or new procedures) that can end the democracy deficit within current institutions. I also tend to think that (3) isn't a good option either. If we leave institutions as they are, then it is likely that the

Effectiveness Disputed,” in Finn Tarp (ed.), *Foreign Aid and Development* (London: Routledge, 2000), pp. 103-128, Michael Clemens, Steven Radelet and Rikhil Bhavnani, “Counting Chickens When They Hatch: The Short Term Effects of Aid on Growth” (Center for Global Development, 2004), URL = http://papers.ssrn.com/sol3/papers.cfm?abstract_id=567241#PaperDownload>.

²⁶⁵ For example, Richard Miller, in “Rising Temperatures and Declining Empire: The Morality and Politics of Greenhouse Gases” *Unpublished Paper* (Presented at the Ethics of Globalization and Development Conference, Cornell University (Sept 29-30, 2006)), argues that the US could meet its duties of relieving the burdens of needy people in developing countries by liberalizing labour, and significantly lessening its carbon emissions without demanding that countries in the developing world do so (at comparable levels) as well (p. 23). Also, in “Feasible Globalization” (July 2002), URL = <http://ksghome.harvard.edu/~drodrik/Feasglob.pdf>> and “How to Make the Trade Regime Work for Development,” (February 2004), URL = <http://ksghome.harvard.edu/~drodrik/How%20to%20Make%20Trade%20Work.pdf>>, Dani Rodrik advocates a relaxing of restrictions on the international movement of workers through a temporary work visa program. He estimates that this scheme would yield at least \$200 billion annually for the citizens of developing countries.

²⁶⁶ Robert Keohane (in “Governance in a Partially Globalized World,” *American Political Science Review* 95 (2001), pp. 1-13) and Stiglitz (in *Making Globalization Work* (particularly chapters 1-3)) both suggest that large scale reform is the way to overcome current flaws in global institutions.

²⁶⁷ Walden Bello (in *Deglobalization: Ideas for a New World Economy* (New York: Zed Books, 2002), pp. 107-118) argues that dismantling the current institutional apparatus, rather than taking up reforms, is the right response.

US and other developed countries will continue to use the democracy deficit to their advantage and to push their own interests, while developing countries will continue to be disadvantaged and to have their interests subverted. For these reasons, my inclination at this time is to think that (2) is the most plausible option. I tend to think that, until there is greater economic equality among nations and democratic values are practicable, global financial institutions should be dismantled.

If current institutions are dismantled, then there arises a further question: what is to be done in the mean time? After all, countries, particularly poorer ones, will need loans for growth and development. I think there are two main options here.

One option is to set up regional banks to take the place of global ones.²⁶⁸ For example, as an alternative to the IMF and the WB, Hugo Chavez, the President of Venezuela, is trying to establish the Banco del Sur (the Bank of the South), a development bank for and funded by Latin American countries. On the one hand, even within regions, there are significant differences in the economic status of countries. In South Asia, India is a significant economic power in comparison to Bangladesh, for example. In Latin America, Mexico is of significantly greater economic status than Bolivia and Nicaragua. So, one worry is, because of these significant differences in economic status, regional institutions are likely to face many of the problems, relating to the democracy deficit, that international financial institutions do. However, on the other hand, because countries within Latin America are more likely to have similar and joint interests – because of somewhat similar geographic locations, cultures, languages, economies, etc.- it seems that the interests of all Latin American countries are more likely to be met by regional institutions such as the Bank of the South than by global institutions such as the IMF and the WB.

²⁶⁸ This is also suggested by Bello, *Deglobalization*, p. 108 and Miller, “Global Institutional Reform and Global Social Movements,” p. 4.

Moreover, economic inequalities within regions, like Latin America, seem to be significantly less than across regions – less than, say, those between Latin America and North America or Europe. In turn, though regional institutions are likely to face some problems, they seem much more hospitable to democratic values than global institutions.

Another promising option is for countries to borrow from commercial banks. One problem comes to mind immediately. The IMF and the WB give loans to developing countries at rates far below those available in the market; this is clearly of great advantage to poor countries that do not have a lot of money. After all, lower interest rates mean that, over all, developing countries will pay much less in interest than they would have at higher interest rates; it also means that instalments (which are either quarterly or semi-annually) will be less as well. However, unlike the IMF and the WB, because their main goal is to make a profit, commercial banks are quite unlikely to give loans at below market interest rates. This is problematic for borrowing countries who may not be able to make payments at higher interest rates and, in turn may, not qualify for loans. Higher interest rates are problematic even if countries do qualify for loans, for, overall, borrowing countries will have fewer funds (than they would have with the IMF and WB, for example) to invest in their own development and growth.

On the other hand, higher interest rates may work to the advantage of borrowing countries. Some have suggested that low interest rates actually encourage countries to take up risky economic policies and, because there is more at stake, that higher interest rates would deter countries from taking up such policies. Furthermore, low interest rates may, in part, be what gives the IMF and the WB leverage over borrowing countries in loan negotiations. The IMF and the WB are essentially the only organizations to offer below market interest rates on loans for development and

growth. Because of their limited funds, borrowing countries are often desperate for loans at low interest rates. In order to get these low rates, borrowing countries are willing, even when they do not agree with them, to take up IMF and WB loan conditions, conditions which usually tend to involve liberalization of the borrowing countries' economies. Lower interest rates are, in part, what seems to allow the IMF and the WB to get access to the economies of developing countries. So, the fact that commercial banks would tend to offer at market rates might be desirable if it tends to reduce the leverage that lenders tend to have over them. My thought is that if loans from commercial banks are given at higher interest rates, given that much more money will be at stake and this is something that borrowing countries tend to have little of, borrowing countries will tend to be more critical of the loan packages they receive and less likely to take up packages that they disagree with. The stakes will be so high that borrowing countries will be motivated to take a more critical view of the loans they are offered. In this way, because of higher interest rates, commercial banks will have less power (than the IMF and WB, for example) over borrowing countries. So, while it is clear that commercial banking faces important problems, it seems to have strong benefits as well. Given its strong benefits, I think that commercial banking should also be established in the place of global financial institutions.

I would like to conclude this section with a brief discussion of global social movements, for it seems to me that global social movements have an important part to play in the achievement of the various goals that have been described as part of decreasing the democracy deficit in current generations.²⁶⁹ A global social movement is an informal group of individuals, from many countries (developed and developing nations), who work together to achieve certain multinational goals, political and/or

²⁶⁹ In "Global Institutional Reform and Global Social Movements: From False Promise to Realistic Hope," *Cornell International Law Journal* 39 (2006), pp. 501-14, Richard Miller also discusses the importance of social movements.

social. (The goals might mainly be goals within each country, so long as they are part of/steps to achieving some predominant multinational goal). On Richard Miller's view, examples of global social movements include the "international bunch of people who bash Bush, have opposed the Iraq war and occupation, seek to relieve inequities and burdens of globalization, call for more action against global climate change, or are concerned that what governments do to relieve poverty is too little or the wrong sort of thing."²⁷⁰ Generally, governments are sensitive to and are often swayed by public opinion. For example, as Miller notes, in the Vietnam era, "in the *Pentagon Papers*, outraged public opinion ranks with the provocation of Chinese or Russian intervention as the only reasons not to kill lots more Vietnamese in pursuit of victory."²⁷¹ This suggests that public opinion, as expressed through a social movement, can have real influence over the actions of governments. My thought is that global social movements can have a similar influence in relation to ending the democracy deficit. Global social movements can and should work to encourage the governments (of both developed and developing) countries to take steps toward decreasing the global democracy deficit. To this end, global social movements in current generations should have two main goals.

The first goal is to encourage greater global economic equality. Members of global social movements within the G-7 and the G-10, particularly, can work together to encourage economic powers to take up egalitarian measures, whatever they may turn out to be. Even if we do figure out a plausible means of redistributing wealth, economic powers will still be reluctant to take up such a scheme. More over, members of global social movements in developing countries can work together to encourage governments to behave responsibly and honestly, thus, allowing any

²⁷⁰ Ibid., p. 511.

²⁷¹ Ibid., p. 511.

egalitarian measures taken by the economic powers to have full effect in developing countries.

The second goal is to encourage the correction of the current institutional structure by supporting the dismantlement of the IMF and the WB. This can be done in a variety of ways. Walden Bello, for example, argues that global social movements could direct their efforts at encouraging the drastic shrinking of the power and jurisdiction of institutions like the IMF and the WB.²⁷² He suggests that, in relation to the IMF, “a demand that has potential to unite a broad front of people is that of converting it into a research agency with no policy powers but one tasked with the job of monitoring global capital and exchange rate movements.”²⁷³ “In the case of the World Bank” he sees the most promise in “uniting with the demand to end its loan-making capacity . . . coordinated with campaigns to boycott World Bank bonds, [and] deny new appropriations for the International Development Association [which is part of the WB].”²⁷⁴ Finally, Bello suggests that the main aim of global social movements should be the derailment of any further actions by institutions such as the IMF and the WB.²⁷⁵ On his view, global social movements should work together to prevent any further decisions from being made. Global social movements must focus their energies on preventing agreements from coming about in any areas now being negotiated or about to be negotiated in institutions such as the IMF and the WB (presumably this would include preventing agreement on new issues of governance within these institutions, the negotiation of loan packages, etc.).²⁷⁶ On my view, global social movements cannot stop here. If there are no other institutions to take

²⁷² Bello, *Deglobalization*, p. 108f.

²⁷³ *Ibid.*, p. 108.

²⁷⁴ *Ibid.*, p. 108.

²⁷⁵ Bello makes this suggestion in relation to the WTO, but it is clear that such a suggestion can be extended to the IMF and the WB.

²⁷⁶ *c.f.*, Bello, p. 110.

their place, then developing countries will suffer greatly, for they will not be able to get the money that they need for growth and development. Thus, I would suggest that, as part of this second aim, global social movements should also work to encourage a shift to regional institutions and commercial banking.

Of course, questions about how democratic values can be expressed in global social movements arise. In a sense, global social movements are not democratic. The leadership of such groups is, at least currently, largely limited to those who are educated, English speaking, and have access to the internet (since the people who do the coordinating across borders are those with computers). In other words, certain groups (like the educated elite) are disproportionately represented in global social movements. So, while social movements may be the best method we have of encouraging economic powers to take up egalitarian measures and encouraging developing countries to stay honest and to be responsible, there is still an important question of how social movements can be more democratic that needs to be answered.

§3. Future Generations

A further question arises: what is the most plausible level for democratic values to be put into effect in the global realm? I have argued that current global institutions cannot overcome the democracy deficit. But, if (as I have suggested) redistribution in wealth takes place, we will not always be where we are – i.e., there will not be, as there is now, such great disparity in the economic status of countries. I do not think that all countries need to be as wealthy as the US for democratic values to be practicable at the global level. However, it seems to me that we need to be close to this level. Perhaps, the relationships between countries need to be like those within the EU. Though the worst off in Greece are much worse off than those in Germany, Greece is much closer in economic status to Germany than most African and Latin

American countries are currently to the US. When we consider the EU, it is evident that there is a rough balance of political power among countries. This is likely the result of the closeness in economic status of the countries in the EU. In short, once countries across the world have reached levels of wealth that are comparative to those in the EU, global financial institutions such as the IMF and the WB will be better able to express democratic values and can be reinstated. If regional institutions and commercial banking have already been instituted, then international institutions would just serve as an additional option for borrowing.

The next matter to consider is how the design and structure of international institutions can be faithful to democratic values and principles. One option, modelled after the domestic sphere, is to implement a world government – i.e., a centralized political authority with the legal powers normally possessed by central governments – and institutions such as the IMF and the WB would function as independent world government agencies (just as the Fed is an independent government agency in the domestic sphere).

Most thinkers have not been in favour of a world government. Typically it is suggested that a world government is neither feasible nor desirable. Yet, at first thought, it might not be entirely clear why this is thought to be so. Let us begin with the claim about feasibility. Critics have often argued that the lack of a common language will make political deliberation at the global level more difficult. It is not clear, however, to what extent this worry still exists. One might argue that English (more than 50 countries have it as their official language) and perhaps French (approximately 30 countries, though rather small and poor, have French listed as their official language) are emerging as something like world languages and could be used in political deliberations.²⁷⁷ One might respond at this point: while this may be true, it

²⁷⁷ By most accounts there are 194 countries in the world.

is important to remember that there are only a small number of countries where the majority of citizens speak English and French fluently. In most cases, these languages are not spoken by all, but are spoken only by the elite. If this is true, then average people would be not be able to participate in global politics (i.e., running for office, etc.). So, perhaps English and French are not common enough to be used in political deliberations, but there do seem to be other ways of getting around differences in languages. For example, as in the EU, important documents could be published in the official languages of all member countries, all meetings could be simultaneously translated into these official languages, and so on.²⁷⁸ This would allow a greater level of participation in global politics, even among those who speak very different languages.

Others have worried about the lack of geographical proximity and how this might make political deliberation at the global level more difficult. This worry seems less significant in the face of modern technology. With modern means of travel, particularly air travel, it is fairly easy to travel to different countries. The internet and cellular phones also make it much easier to be in constant contact with people from around the world. All of these things make the global environment more conducive to the kind of communication that is necessary for democratic politics.

Let us now to turn to the worry about the undesirability of a world government. Following Kant, Rawls worries that any world government would be a global despotism.²⁷⁹ If this is true, then we can see why world government would be undesirable. But given (as is currently the case with the EU) that there is no dominant economic power at this point in the future, it is not clear that this worry would exist. One might still worry that some would have superior military power – but again if the

²⁷⁸ For example, all meetings are simultaneously translated into the twenty official languages of the EU.

²⁷⁹ *LP*, p. 36.

economic status of nations is equal or closer to equal then all nations roughly have the same capability for military power. Again, it is not clear that the worry about global hegemony exists once countries have reached comparatively similar economic status.

All of this said, there are still good reasons for thinking that a world government is neither feasible nor desirable. The main reason is that it is doubtful that a global order under a world government would be stable. I will briefly outline five worries that call into question the stability of the world order under a world government.

One worry is that a world government – assuming that it is democratic – would require agreement among the countries of the world on a vast number of issues. But reaching conclusive decisions will be difficult because there will tend to be no coherent public opinion. Given that people have their own distinct cultures, people are unlikely to share the same views on the structure of global society. They are likely to have different views about what constitutes the public good at the global scale. This means that reaching conclusive decisions is going to be very difficult, and without agreement, the world order cannot be stable.

Another worry is (and this is related to some of what was said above) that a world government is unlikely to be stable because of the lack of a shared identity among participants. The worry is that, even if general agreement can be reached, the members of countries participating in a global government will not be motivated to adhere to the outcomes of democratic decision-making when it requires a significant sacrifice on their part. Typically, in a domestic society, it is thought that a sense of belonging to a shared community motivates the sacrifice of one's own interests. The idea is that members of a domestic society relate with one another, they feel a sense of community and belonging with one another on the basis of a shared territory, culture, and history. This sense of belonging motivates the sacrifice of one's own interests and

will, in general, help to resolve political conflicts and problems. In the global case, this notion of community or sense of belonging seems unlikely. Because of differing geographies, cultures, and histories, there would be no coherent sense of community or shared identity among those participating in a world government. In turn, it seems unlikely that all participants will comply with decisions and that the world order would be unstable.

Another worry – raised by Kant – is that a world government would be soulless. Kant writes:

the idea of international law presupposes the separate existence of independent neighboring states. Although this condition is itself a state of war (unless federative union prevents the outbreak of hostilities), this is rationally preferable to the amalgamation of states under one superior power, as this would end in one universal monarchy, and laws always lose in vigor what government gains in extent; hence a condition of a soulless despotism falls into anarchy after stifling seeds of good.²⁸⁰

Unlike national politics, world politics takes place at a distance and is far removed from citizens and their daily lives. Kant's worry is that, because of this distance, the laws that are enacted and enforced by a world government will lose their grip on the people. People will find it difficult to loyally support such a government and to willingly adhere to its laws.

Another problem arises from the fact that a world government would be so far removed from the people. The distance of a world government makes it hard for it to be sensitive to the needs and interests of the people. It is rather difficult for people to support a regime that ignores their interests and needs while also maintaining their sense of self-respect. Insofar as citizens are moved to maintain their self-respect, they

²⁸⁰ Immanuel Kant, *Perpetual Peace*, VIII: 367. See also Rawls, *LP*, p. 36.

will be not be moved to support a regime that undermines their sense of self-respect. Again, this suggests that the world order might not be stable.

Finally, as Rawls notes, a central worry is that the empire, under a world government, would be fragile and “would be torn by frequent civil strife as various regions and peoples tried to gain their political freedom and autonomy.”²⁸¹ Citizens have an interest in collectively choosing and implementing their own conceptions of the public good. This means that they need sufficient room to choose and to implement their own laws and social practices. Insofar as a world government conflicts with this higher-order interest (in the sense that it hands down laws and practices), it is likely that citizens would not willingly support such a global order and, because this is such a central interest, would be motivated to act against it.

There is, however, a need for some coordination of multinational activity. This is because, in the modern world, there are deep and unavoidable interdependencies among the world’s people. Military, environmental, and economic issues are the most obvious examples.

Military: Interstate rivalries and the threat and use of force have a deep and pervasive impact on all the world’s people. The further proliferation of biological, chemical, and nuclear weapons coupled with interstate rivalries make the possibility of devastating wars a reality, putting us all at risk.²⁸² These issues raise important questions: How can we protect ourselves and others from the threat of nuclear and chemical war? Should we engage in programs of disarmament or is it better to take up no first use policies, for example?

²⁸¹ *LP*, p. 36.

²⁸² Thomas Pogge, *World Poverty and Human Rights* (Oxford: Blackwell Publishing, 2002), pp. 181-182.

Environment: As Iris Marion Young points out, environmental damage and sustainability are global in their implications.²⁸³ If the ozone layer thins, it affects all of us. Pollutants that enter the air and water transcend national boundaries. Global warming also has a pervasive impact on all of us. These matters raise important questions about the regulation of the global environment: for example, given the fact that people in historically rich developed countries have had the chance to use natural resources and to pollute the environment, what is a fair distribution of burdens and benefits in the global environment?²⁸⁴

Economy: In the modern world, trade is inevitable, for few countries can produce all of the things they need. As we have seen, trade can have tremendous effects on the life prospects of citizens. For example, as Young notes, “a change in the value of currency or interest rates within one country often has ripple effects on the financial markets of the whole world. Commodity prices on the world market are determined by the interactions of many agents across borders.”²⁸⁵ Moreover, even at this economically advanced stage, some countries are still going to need loans of large amounts to grow and to develop and to ensure economic stability – something that is important to global financial markets and, in turn, to the life prospects of all citizens. There are important questions about who should receive such loans, for what kinds of projects, and so on.

In short, some form of collective decision-making is necessary because we will need to establish and enforce principles and standards regarding peace and security (i.e., the conduct of war), the protection of basic human rights, and the protection of the global environment (this might include things like the Kyoto Protocol). We will

²⁸³ Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000), p. 247. Thomas Pogge also makes a similar point in *World Poverty and Human Rights* (Oxford: Blackwell Publishing, 2002), pp.183-184.

²⁸⁴ Young, *Inclusion and Democracy*, p. 247.

²⁸⁵ *Ibid.*, pp. 247-248.

also need to establish and implement principles and standards of justice governing economic interactions and trade as well as other cooperative institutions such as global lending institutions such as the IMF and the WB.

These considerations support some kind of centralized decision-making. The military, environmental, and economic matters that I described have a deep and pervasive impact on the life prospects of all the world's people. In order to insure that their interests are taken into account and that they are not dominated, all affected people should be included in decisions that have a deep and pervasive impact on their lives.

That said, it doesn't follow that everyone (all member countries and their representatives) should decide all matters together. There are a few reasons for reaching this conclusion: First, because of the burdens that would be placed on individuals, it isn't desirable for everyone to get together and decide every issue. It would simply be too time consuming. Second, as Pogge points out, in many cases, outsiders are more likely to lack the needed knowledge and sensitivities to make good judgments. Pogge suggests that "the only practicable and moral way of delimiting those who are capable of such judgments is by rough geographical criteria."²⁸⁶ Third, some issues relating to those I mentioned such as the military, the environment, and the economy only affect one or a few countries and their citizens.

Fourth, there is a real worry of how to keep those who are part of global decision-making bodies from forming a separate identity that separates them from those they are supposed to represent. There is a worry about the capacity of members of the decision-making body to take de facto control of global decision-making and institutions. Of course, this is a worry in any modern political society, but – because of the amount of power at stake, and the distance of international institutions from

²⁸⁶ Pogge, *World Poverty and Human Rights*, p. 185.

those that it represents – it seems an especially acute danger in an international decision-making body. So, resolving the worry is a matter of determining how we can ensure that decision-makers won't have the capacity to dominate those they are supposed to represent, that is, that they won't have the power to interfere arbitrarily in the lives of citizens of member countries. In the end, I think that this will always be a worry, at both the domestic and the international level. Even with the right procedures (regular elections and transparency in decision-making, for example) and greater economic equality, there will always be potential for decision-makers to take de facto control over decision-making. That said, I think that we can at least mitigate the worry somewhat by dispersing decision-making authority. Decision-making should be decentralized away from the currently dominant state decision-making and away from possible international decision-making. In other words, improving domestic and global governance requires gains in local autonomy. This would ensure that too much decision-making power does not lie at any particular level (it would reduce the amount of power at stake at any decision-making level) and would bring politics as close to the people as is feasible (I say as is feasible because some – perhaps even many – decisions are still going to have to be made at the state, regional, and global levels). As Pogge suggests, “there should be a number of political units of various sizes, without anyone political unit being dominant.”²⁸⁷ Decision-making power should be widely dispersed over neighbourhoods, towns, countries, provinces, states, regions, and the world at large.

There is then a need for both centralization (going above the level of the state) and decentralization (going below the level of the state), but for the reasons just mentioned decision-making should normally be as decentralized as possible. Decision-making should be centralized only when there is a conflict between countries

²⁸⁷ Ibid., p. 178.

or when matters affect several or all countries together (i.e., when they are global in scale).

Even in cases where all (or some of) the countries of the world are affected by some issues, it doesn't follow that all affected countries should participate in decision-making. The EU is perhaps the closest example of a Society of Peoples that is in practice now. Members of the EU are very careful about deciding who they allow to join the EU and to participate in collective decision-making. In essence, the EU only allows countries to join if they have a sufficient commitment to liberal values. But what does it mean to have such a commitment, particularly at the global level? What should the criteria for membership in a global Society of Peoples be?

I cannot here fully argue for such a criteria, though I will try to highlight some that are particularly important for those committed to liberal values and democratic relations. I see the following criteria as a minimum standard that must be met to be considered in good standing and to be considered for membership in the Society of Peoples. My account is very much indebted to Rawls's vision of a realistic utopia as outlined in his *Law of Peoples*.

It seems that any liberal criteria would include at least the following five conditions.²⁸⁸

(1) A member country must guarantee the rule of law, which is essential to the protection of the social order and basic liberties.

(2) A member country must not have aggressive aims toward other nations, must be willing and have the ability to take on the obligations of membership, including adherence to all policy decisions.

²⁸⁸ The actual criteria of membership in the EU is the Copenhagen Criteria. See Europa, "Glossary: Accession Criteria," URL = http://europa.eu/scadplus/glossary/accession_criteria_copenhagen_en.htm.

(3) A member country must guarantee certain basic human rights. Rawls suggests that among basic human rights are the right to life – that is, the right to the means of subsistence and security; the right to liberty – that is, to freedom from slavery, serfdom, forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought.²⁸⁹ The guarantee of most of these rights makes sense from a democratic point of view in the sense that, if people don't have these rights, it would be quite difficult for citizens to have an effective and meaningful role in political life. This is not to say that this is the best or even primary justification for such rights, but rather that they are essential from a democratic point of view as well as others.

(4) A member country must guarantee respect for and protection of minorities' interests and rights. All citizens, including women and members of other minority groups (i.e., ethnic, religious, linguistic, indigenous, etc.) must be ensured the same basic rights as others and should be able to enjoy them without discrimination. Moreover, insofar as we are concerned with the establishment of democratic relations for all citizens, including minorities, other rights (that go beyond basic human rights) protecting other fundamental interests will also need to be protected. I will say more about this later.²⁹⁰

(5) A member country's government must be sufficiently consistent with the values of global democracy. Ideally countries would be constitutional democracies as this would promote global democracy to the highest degree, but the minimum threshold for meeting this condition is significantly weaker than what is required to be respected as a fully just nation within the Society of Peoples (I say more about what is required to be a fully just nation with respect to democratic governance below). Why

²⁹⁰ See p. 187f.

is this? It seems to me that even if countries are not internally (or domestically) democratic (in the sense of being a constitutional democracy), they could still be hospitable to global democracy and its underlying values.

Though I am sceptical that there could ever be a genuine decent consultative assembly, it seems clear that if there was it would be congenial to the values of global democracy, even though it is not in itself fully democratic. Decent consultative hierarchies are not aggressive toward other countries. They are also respectful of human rights. Furthermore, they are such that they give citizens a substantial role in making political decisions. The government is in direct consultation with the citizens through assemblies representing various groups, including minority groups, in society. Through this consultative procedure, the assemblies can express political dissent and the government has an obligation to take this dissent seriously, to provide a conscientious reply, and to make institutional changes where necessary. In other words, the government is responsive to the views of the people. There is real opportunity for change.

Like a constitutional democracy, a decent consultative assembly seems consistent with global values of democracy. Citizens play an effective and meaningful role in political decision-making. They are able to exercise their two moral powers through responsive consultations with the government. Through such consultations, the government works to implement aims and ends that are consistent with citizens preferred conception of the common good. To this extent, citizens' interest in exercising their capacity for a conception of the common good is satisfied. Moreover, the government's commitment to responsive consultations ensures that the decisions of the government track the interests of the people; this reduces the risk of domination in global decision-making. Finally, insofar as citizens' interests are going to be tracked and citizens are able to exercise their moral powers to a fair degree, citizens

will be able to maintain some sense of self-respect (though not a full sense; this is only possible within a constitutional democracy).

Turning to benevolent dictators, I think some of what I have argued earlier is relevant here. Recall that benevolent dictatorships are not aggressive toward other nations, respect human rights, but do not grant their people a meaningful role in politics. Though again I am very sceptical of there being such a thing or of our being able to know that there is,²⁹¹ assuming that there was a benevolent dictator and that we could know this to be the case, there seems to be at least some reason for allowing membership to benevolent dictatorships (perhaps like Prussia under Frederick the Great).²⁹² Because of our tendency toward partiality and because of distance, it is difficult for outsiders to understand and to weigh appropriately the different interests of people. So, given that the government sincerely wishes to and generally does promote the interests of its citizens, if we wish to ensure that the interests of citizens of ndcs are given equal consideration in global decision-making, that they are not dominated in global decision-making, it seems best to include a benevolent dictatorship in the Society of Peoples.

In contrast, it seems fairly clear that malevolent dictatorships do not meet the minimum threshold and are not to be considered in good standing. Malevolent dictatorships do not allow their citizens any meaningful role in politics; they systematically violate the human rights of their own citizens and are aggressive toward other nations. In turn, its people are not able to exercise their two moral powers (given that they are already not able to exercise the second moral power, excluding them from global decision-making would not thwart their interest in exercising this power) nor are they able to ensure that their interests are pursued (which would leave

²⁹¹ See n. 251, pp. 150-151.

²⁹² Here, I seem to differ from Rawls. In *LP*, because they are not well-ordered, Rawls excludes, what he calls, benevolent absolutisms from the Society of Peoples.

them open to being dominated at the global level). Moreover, a malevolent state is not respectful of other nations' independence and has a tendency towards war with other nations. Consequently, malevolent dictatorships are a threat to a stable and peaceful global order. For all of these reasons, it seems clear that denying membership to a malevolent dictatorship would not be inconsistent with global democratic values.

Yet, as I argued earlier, in order to ensure that they are not dominated (to ensure that their interests are given equal consideration), we must ensure that the citizens of malevolent dictatorships are somehow represented in global decision-making. Though this solution is far from perfect, I suggested that perhaps citizens of malevolent dictatorships should be represented through trustees appointed to make decisions on their behalf.

One might argue that my criteria will permit nations that shouldn't be permitted, namely, nations that are not fully just or not fully liberal. For example, in theory, it would allow certain decent consultative assemblies and certain benevolent dictators to become part of the Society of Peoples. Imagine a decent consultative assembly or a benevolent dictatorship that provides an institutional basis for protecting the basic human rights of its citizens, and respects the civic order and integrity of other peoples (i.e., is not aggressive). A decent consultative assembly or benevolent dictatorship of this sort would make the cut, so to speak.

I do not see this as a failing of my view. If a decent consultative assembly or a benevolent dictatorship meets the threshold for democracy along with the other conditions, it isn't clear that they would be any more unjust or illiberal than most other nations. Most nations in the world will fail to meet the conditions for being fully liberal and fully just in one way or another. Indeed, most nations in the world will fail to meet the conditions for being fully democratic. To be considered a fully just and fully liberal nation, the country would need to be democratic to an extremely high

degree. This means that all citizens must have equal political liberties – i.e., the rights to hold public office and to vote – and their fair worth. In order for citizens to have equal political liberty and its fair worth, there will need to be a fair equality of opportunity, especially in education and training. Otherwise, as Rawls notes, “all parts of society cannot take part in debates of public reason or contribute to social and economic policies.”²⁹³ For similar reasons (as I’ve already mentioned), there will also need to be a decent distribution of income and wealth. Other arrangements to ensure that minorities are able to have a meaningful and effective role in politics will also be necessary – such as districting and public financing of political campaigns. This is a high standard to meet. It is likely that, even in the realistic future, countries such as the US will fall well below these standards, the standards that are required for a fully just and fully liberal society. In turn, allowing a decent consultative assembly or a benevolent dictatorship membership in the Society of Peoples seems no more problematic or objectionable than allowing membership to a country such as the US. Because of the extreme difficulty of implementing fully democratic institutions, it seems permissible to allow countries to join the Society of Peoples as long as they pass the significantly weaker conditions for democratic governance (assuming they meet the other conditions as well). After all, the criteria I presented above is not meant to be a criteria for fully just or fully liberal nations. It is a matter of what is at minimum required for justice and what is realistically achievable (the criteria for human rights is also well below what would be required for a fully liberal and just society). This is because, as part of constructing a conception of just international relations that is part of a realistic utopia, it is important to have a membership criteria that can be realistically achieved by nations in the future. To set the threshold for

democratic relations (or for protection of human rights) at the level of the fully just and fully liberal is simply not realistic, as most nations would not be able to meet it.

§3.1 Voting Procedures

Questions of procedure and policy become important at this point in my argument: if centralized decision-making is going to be implemented (in the future), then we need to address the questions of how votes should be distributed, how decisions should be made, and what form loans (from lending agencies such as the IMF and the WB) should take.

Let us begin with the questions of voting procedures, that is, the questions of how votes should be distributed and how decisions should be reached within a Society of Peoples. If global institutions are to be restored (in the future), then these are particularly important matters. For even with rough economic equality, voting procedures have an impact on fair value. If, for example, weighted voting was put into practice, then countries with fewer votes would still not have as influential and effective of a voice as those with more votes. So, we have to determine what the best way of allocating votes is.

I think the arguments given throughout this dissertation can be extended in various ways so as to rule out most kinds of weighted voting. So, taking our lead from the domestic case where votes are distributed equally and each citizen or voter is given one vote, one possibility that seems obviously democratic and contrary to weighted voting is to give each country an equal number of votes and to give one vote to each country. I also think that something like this is suggested by my arguments in earlier sections regarding freedom as non-domination. Decisions of global institutions profoundly affect the life prospects of citizens of all member countries. To ensure that the interests of all are taken into equal consideration, it seems to me that all member

countries should have an equal say in these decisions.²⁹⁴

There is also the further question of how decisions are to be reached. One option is to seek a consensus in decision-making. I suggested earlier that this is not a compelling approach within the domestic realm. For similar reasons, I also think that this is not a compelling approach in the international realm. First, this does not seem to be a viable option, since consensus among a number of very different countries is unlikely. Second, consensus decision-making isn't consistent with democratic values of equal worth. Insofar as the minority has veto power, consensus decision-making gives the minority a more influential say than the majority. The minority can veto any decision, even when the majority agrees about what route to take. This gives the minority too much influence over the political process, for if there is a well-entrenched minority that consistently blocks the majority, the majority is at risk of losing predictably and persistently with respect to their interests. This is not consistent with citizens' sense of self-respect. I believe that similar arguments apply in the case of super-majorities as well.

What about majority rule? I suggested above, when discussing the domestic case, that even this option faces a problem, namely the problem of persistent minorities. While persistent minorities are a problem at the state level, Christiano suggests, that they pose an even greater problem at the international level:

The larger the constituency, the larger the chances are that particular minorities would simply get lost in the democratic decision making. To be sure, not all minorities would be lost since some of them could make common cause with others on the larger global scale. And presumably global democratic institutions would have to be ruled by coalitions of different

²⁹⁴ One country-one vote might seem dubious when one considers the population differences between countries. I agree and the reasons for this will become clear as the discussion continues. The suggestion of one country-one vote is simply to be taken as an obvious starting point, when one is concerned with implementing democratic values and considering the question of how to distribute votes and is particularly concerned with finding an alternative to weighted voting.

groups each of which is a minority on its own. Still in a world as diverse as the one we live in, it seems hard to imagine that there will not be large portions of humanity that will find themselves not part of any winning coalition for significant periods of time. We see this already in modern states where the level of diversity is generally considerably smaller than the world overall.²⁹⁵

Of course, as Christiano himself points out, not all minority groups will be subject to persistent and predictable loss; some minority groups will be able to join forces and to make common cause with others on a global scale. In current institutions (particularly because of the voting power of the G-7 and the US veto), developing countries have suffered from persistent and predictable loss. But this is unlikely to be a concern at the future point that we are considering. Given that there is rough economic equality between countries participating in the IMF and the WB, there will likely be equality in political power and influence among these countries. In other words, at this future stage, there would be enough global economic equality for countries to have an equally effective and influential say. Moreover, it seems that if we did take up a more democratic distribution of votes – like one vote one country – it is unlikely that those who were previously considered developing countries would continue to lose out so persistently and predictably. This is because “developing countries” could form coalitions with one another. That said, as Christiano suggests, even with one vote one country, it still seems likely that there will be portions of humanity that will find themselves not part of any winning coalition for significant periods of time.²⁹⁶ Small groups of people with distinct interests such as indigenous and tribal people, and people of rare religious affiliation, for example, might be ignored because they can find no larger group of people to form a coalition with. It seems then that because of

²⁹⁵ Christiano, “A Democratic Theory of Territory,” p. 102.

²⁹⁶ *Ibid.*, p. 103.

the possibility of persistent minorities, even at the international level, and perhaps particularly at the international level, democratic values may not be appropriately expressed in one voter one vote winner take all majorities.

In the end, as in the domestic case, majority rule is a more plausible route than consensus decision-making. First, since it does not rely on unanimity, it is practically feasible. Second, in contrast to consensus decision-making (and supermajority decision-making), majority rule ensures that the majority is protected from persistent and predictable loss. Even if there is an entrenched minority, the majority is not at risk of losing predictably and persistently. Third, while majority rule still faces an important problem with respect to minorities and their facing persistent and predictable loss, this is something that can be corrected.

As I have mentioned, there are two kinds of losses that are likely with majority rule: loss with respect to fundamental interests and persistent and predictable loss with respect to legitimate (though not fundamental) interests. So, as in the domestic case, I think the first step in correcting majority rule is to institute a bill of rights to protect citizens' fundamental interests, interests that are essential to the exercise of the two moral powers of citizens. This would take fundamental interests off the bargaining table. It would, for example, protect citizens' ability to implement their conceptions of the good in fundamental areas such as religion and morality. This means it would basically include basic civil liberties (including freedom of association and freedom of expression). However, in its protections, it seems to me that it should go further than this. For example, it should protect another fundamental interest that I mentioned earlier, namely the right to meaningful work. Because they also seem central to the exercise of the two moral powers and a secure sense of self-respect, other rights such as the right to equal opportunity, basic health care, an adequate standard of living for

oneself (and one's family), provision of education and training, and so on might also be included.

There is, however, a question of how far to go, that is, of how much to include in this bill of rights. Some might wish to include something like a general right to gender equality, a right to gender equality in all spheres. As part of this right, practices like arranged marriage and dowry would be ruled out, for example. I do not have a fully worked out explanation for this claim, but I think including a right to freedom from arranged marriage and dowry would be going too far. While it seems important for the (global) bill of rights to include a right to gender equality in the political sphere, it isn't clear that it should include a right to gender equality in all spheres.

In the domestic sphere, firms, individuals, and associations are bound by constraints that arise indirectly from the just background institutions within which such associations and groups exist. But the constraints they are subject to are such that they leave individuals and associations free to act effectively in pursuit of their ends without excessive limitation. This is to allow individuals and associations room to exercise their second moral power, that is, to pursue their own ends within the framework of the basic structure. I think similar reasons may apply in the global case as well. Peoples should be open to interference insofar as it is necessary to secure background global justice. However, peoples should be free from any further interference so that they can freely pursue their own collectively decided upon ends. These considerations help to explain why including a right to gender equality in all spheres does not seem permissible, while including a right to equality in public life does. For global background justice to be realized, it seems important for women to have equal access to the political realm (this seems particularly true from the perspective of democratic values). This would be the minimum amount of

interference necessary to secure background global justice. (I think similar things can be said of freedom of conscience and some of the other things I mentioned.)

However, any more interference than this would constitute too much of an interference in what peoples do. Including the abolishment of arranged marriage and the dowry system in a bill of rights, seems too intrusive because it interferes with the ability of Indian citizens, for example, to collectively implement social practices and institutions of their own choosing.²⁹⁷ As part of their collective interest in the exercise of the second moral power, the citizens of India need sufficient room to collectively choose and to implement a conception of the public good that is genuinely their own.

Once an appropriate bill of rights is established, there would also need to be some kind of judiciary, or Supreme Court, to interpret and enforce these rights. In the EU, for example, the European Court of Justice (ECJ or simply the Court), serves this purpose. It enforces law that the EU establishes for itself and for its member states. It also ensures that institutions within the EU conform with EU law. The Court is composed of one judge per member state – i.e., all 27 members are represented within the court. “For the sake of efficiency, however, the Court rarely sits as the full court. It usually sits as a ‘Grand Chamber’ of just 13 judges or in chambers of five or three judges.”²⁹⁸ All judges meet the qualifications necessary for appointment to the highest judicial positions in their native countries. They are appointed on the basis of agreement between all members of the EU. It seems to me that something similar could work in the case of the Society of Peoples (the Supreme Court of the Society of Peoples could be composed of one judge per member country, etc.).

²⁹⁷ I use the example of India because this is where the practices of arranged marriage and dowry are prevalent.

²⁹⁸ Europa, “The Court of Justice,” URL = <http://europa.eu/institutions/inst/justice/index_en.htm>.

Assuming that such a court could be established, there is a further question concerning enforcement: How are the decisions of such a court to be enforced?²⁹⁹ For example, would enforcement require a military? It seems not. In the EU, for example, compliance with court rulings is very high, even though there is no military to enforce decisions of the Court. In part, compliance with these rulings is motivated by the threat of penalty. If the Court finds that a member has failed to fulfil its obligations under EU law, the Court may impose a significant fine on that member. In theory, though this has never in fact occurred in the EU, the ultimate penalty for failure to comply with EU law is exclusion from the EU. If, for example, a member state continuously violates EU law or fails to pay its fines, then presumably it could be expelled from the EU. Penalties could also include trade sanctions. For example, rather than being expelled, errant countries could be prohibited from engaging in certain kinds of trade with other member countries. The threat posed by this kind of sanction to the economy of the member country would likely be enough to motivate compliance. I believe that similar methods could work in the case of a Society of Peoples. A military would not be essential for the enforcement of Supreme Court Rulings.

Once an appropriate bill of rights is established and enforced, it would ensure that people cannot persistently lose out with respect to their fundamental interests. This would go a long way toward tempering majority rule. However, the possibility

²⁹⁹ When member countries are democratic, members are more likely to be motivated to comply with the rulings of the court than they would be if they were not democratic. Insofar as the citizens of member countries participate in decision-making, via judges that they have elected, they are more likely to see the judgments of the Court as being their own, as being the result of their efforts and intelligent reflection about the common good. In turn, they are more likely to compel their governments to adhere to decisions. Even so, there will still be a worry about compliance and enforcement of rulings. For even if people are more motivated to follow the rulings of the court under democratic arrangements than they would be otherwise, this does not guarantee compliance. A member country might not comply for reasons of self-interest or perhaps for reasons of genuine and wholehearted disagreement with the decisions. So, the question of enforcement, of how to ensure compliance, still arises. Moreover, not all members of the Society of Peoples are democratic and so there will not always be a sense of ownership to motivate compliance.

that peoples can still lose out with respect to their legitimate (though not fundamental) interests still exists. In order to protect citizens from predictable and persistent loss with respect to their other legitimate interests, as in the domestic case, two legislative chambers should be established.

The European Union (EU) presents us with a plausible model that is a supranational analogue to the domestic model that I argued for earlier (in part I). The EU has two legislative chambers: the Council of the European Union and the European Parliament. Legislation passed by the Council and the Parliament deals with issues that are of concern to all members of the EU, including matters relating to foreign policy, environmental policy, agricultural policy, military and security policy, trade, monetary policy, membership in the EU, the annual budget, patent law, copyright law, and so on. The Council represents individual member states and has 27 members (one per state). The representatives from each member state vary by topic. If trade is on the agenda, then countries will be represented by their Trade Ministers (who, in turn, are chosen by elected officials) in the Council. If agriculture is on the agenda, then Agricultural Ministers will make up the Council. And so on. The European Parliament represents the citizens of the EU. There are 785 Members of the European Parliament (MEPs), which are directly elected. Seats in the European Parliament are allocated in accordance with the principle of degressive proportionality.³⁰⁰ Under this principle, the population of each country is taken into account in the allotment of seats, but smaller states are allotted more seats than would be strictly justified by their populations. Unfortunately, since the number of seats allocated to a country has arisen from treaty negotiation, there isn't any strict formula for allocating seats according to degressive proportionality. But the main idea is to

³⁰⁰ European Parliament, "Future distribution of EP seats among EU Member States," URL = http://www.europarl.europa.eu/news/expert/background_page/008-10268-253-09-37-901-20070910BKG10267-10-09-2007-2007-false/default_p001c001_en.htm.

base seat allocation on population (in the sense that countries with a greater population get more seats), but that “member states accept fewer seats than they would receive if the total were divided exactly in proportion to population, in order to allow for better representation of less-densely populated states.”³⁰¹ For example, the UK, with a population of 58.7 million, has 78 seats while Ireland, with a population of 4.2 million, has 13 seats. Some countries, such as the UK, France, and Italy, are represented in the European Parliament on the basis of regions. For example, the UK is divided into ten different regions (South East England, South West England, etc.).³⁰² According to the size of its population, each region in the UK has from 3 to 10 MEPs. Other countries, such as Belgium, are divided into linguistic regions (Dutch-speaking, French-speaking, German-speaking). The regions, whether geographic or linguistic, are supposed to be roughly of equal population. I think the Society of Peoples should be organized in a similar manner.

While the scheme I have argued for so far will ensure that all countries play an influential role in decision-making and that they are not ignored, there are still some groups of people – such as indigenous people and other minorities – that might be ignored in international decision-making. These people tend to be the worst-off in society and the negative effects of globalization have had perhaps the most profound effect on their life prospects. To ensure that their interests are not ignored, representatives in the second chamber should be allotted to countries on the basis of equally populated regions or districts. To protect minorities against persistent and predictable loss (as well as domination), districts should be drawn so that they are conscious of minority representation. So, there should be something like majority-

³⁰¹ Ibid., URL = <http://www.europarl.europa.eu/news/expert/background_page/008-10268-253-09-37-901-20070910BKG10267-10-09-2007-2007-false/default_p001c001_en.htm>.

³⁰² For a list of constituencies and MEPs see, European Parliament, “European Parliament: Your MEPs,” URL, = <<http://www.europarl.europa.eu/members/public/geoSearch.do?language=EN>>.

minority districts. Districts should be drawn so that there is a majority of minorities (blacks, women, indigenous people, etc.) in certain districts so that minority candidates are virtually guaranteed to win a seat thus allowing them representation in the Society of Peoples.³⁰³

The question arises of who should draw the districts. It seems to me that districts should be drawn by those within the countries themselves. As long as they adhere to certain restrictions (e.g., districts should be of a certain population, there should be majority-minority districts in proportion to population), countries should be given room to draw their own districts. The main reason for this is that it would be difficult for those outside of a country to know who has had their legitimate interests persistently and predictably ignored in international decision-making such that they would be entitled to majority-minority districts. Those within a country are more likely to have access to and knowledge of the historical and cultural background necessary to make such decisions. Moreover, as part of their interest in collectively exercising the second moral power, a nation's people should have room to decide and to pursue what they think is the best arrangement. They should also have room to change their minds and to implement a new arrangement if they so decide.

I argued earlier that certain decent consultative hierarchies and benevolent absolutisms might meet the criteria of membership in the Society of Peoples. How are they to accommodate these organizational arrangements, given that the government is not democratic? Decent consultative assemblies and benevolent absolutisms would have to agree to protect any rights that are part of the charter or bill of rights. With respect to the Council, like other nations, the government would appoint the relevant representatives (trade, agriculture, etc.) to the Council. With respect to the parliament,

³⁰³ This will likely tend to be fairly regional. For example, Latinos largely live in the South West of the US. French speaking Canadians largely live in largely in the Eastern provinces (Quebec, Ontario, and New Brunswick).

the government would, like other more liberal nations, have to agree to divide the country into equally populated districts. However, here, representatives of these districts would not be elected; they would be appointed by the government, with the mandate of being sensitive to the concerns of minorities. In the case of decent consultative assemblies, the representatives would (as is consistent with the commitments of a consultative assembly) be in direct consultation with minority groups within the districts through various assemblies and would be open to and responsive to their views.

I also argued that malevolent dictatorships should be appointed representatives of some kind, trustees meant to represent the interests of the citizens of such nations. A number of trustees representing the relevant areas (again trade, agriculture, and so on) would be appointed and trustees representing equally populated regions would also be appointed. Though there may be no way of guaranteeing that this mandate is met, one of the central mandates of trustees should be to ensure that minority rights, interests and viewpoints are represented in decision-making. However, despite such a commitment on the part of trustees, minority interests will continue to be under constant threat. It is after all a malevolent dictatorship that we are discussing and trustees do not have the power to make institutional or policy changes; and so it is unlikely that such nations will adopt a bill of rights entrenching rights protecting minorities, for example. This is extremely unfortunate, but I think that if we appoint trustees in the manner I have suggested, then global values of democracy will be served as well as they can be in these less than ideal circumstances.

At this point, one might legitimately wonder whether the kinds of global arrangements and institutions that I argue for can be stable without a sense of community or shared identity among the members of a Society of Peoples. The worry is similar to that raised in the case of a world government. The worry is that peoples

will not be motivated to adhere to the outcomes of democratic decision-making when it requires a significant sacrifice on their part. Imagine, for example, that it is decided (through the kinds of democratic procedure I have outlined) that the G-7 should take up greater reductions in carbon emissions than others. One might wonder, what will motivate the G-7 to make such a sacrifice, to sacrifice what is in their own interest? As I mentioned earlier, in a domestic society, it typically thought that a sense of belonging to a shared community motivates the sacrifice of one's own interests. Members of a domestic society feel a sense of community and belonging with one another on the basis of a shared territory, culture, and history. This sense of belonging motivates the sacrifice of one's own interests and will, in general, help to resolve political conflicts and problems. However, the worry is, because of differing geographies, cultures, and histories there would be no coherent sense of community or shared identity among the members of a Society of Peoples. In turn, one might argue, it seems unlikely that all peoples will comply with decisions, leading to an unstable world order.

In response two points can be made. One, at least at first, we may have to rely on peoples' sense of self-interest, for participation in the Society of Peoples is in the interests of its members.³⁰⁴ The sacrifices that peoples would be required to make are, in some sense, limited. Members will not have to sacrifice anything of fundamental importance. Moreover, steps have been taken to ensure that they will not always (i.e., persistently) be on the losing side; in other decisions, they will be the ones to gain from other's sacrifices. Consequently, it is in peoples' self-interest to make sacrifices now so that they will gain later. Knowledge of this fact might motivate a stable Society of Peoples.

Two, as Rawls notes, relations of community

³⁰⁴ c.f., *LP*, p. 113.

are not fixed and may continually grow stronger over time as people come to work together in cooperative institutions they have developed . . . as cooperation among peoples proceed apace they may come to care about each other, and affinity between them becomes stronger. Hence, they are no longer moved simply by self-interest but by mutual concern for each other's way of life and culture, and they become willing to make sacrifices for one another. This mutual caring is the outcome of their fruitful cooperative efforts and common experiences over a considerable period of time.³⁰⁵

The suggestion is that, over time, participation in a Society of Peoples will foster a sense of community among its members and this, in turn, will motivate people to make the sacrifices demanded of them and to adhere to the global order.

We must now consider lending institutions such as the IMF and the WB and their role in the Society of peoples. Indeed, one might wonder whether these sorts of lending institutions are necessary at this point. After all, there are no longer any “developing countries” to speak of. Nevertheless, it seems to me that there will be a need for lending institutions such as the IMF and the WB. Even after a great degree of economic equality has been reached, countries will still need funds to develop and grow. At times, countries will face economic hardships and, as a result, they may have balance of payment problems. Loans might be necessary to avoid or overcome such problems. Moreover, think of Greece in the European case. Even though it enjoys enough economic equality with other nations to have democratic relationships with them, there is still a long way to go before it is as developed as the UK, for example. Indeed, Greece has recently received significant financial support for growth and development. So, it seems that even at this advanced point, agencies such as the IMF or the WB are necessary. They are necessary for continued growth and development among nations.

³⁰⁵ Ibid., p. 113.

So, how are such institutions to be structured? The IMF and the WB would, much like central banks in the domestic sphere, work as independent agencies within the Society of Peoples. Currently, the IMF and the WB have two boards, a Board of Governors and an Executive Board. In the IMF and the WB, the Board of Governors' main function is to oversee the Executive Board, to which it has handed over much of its daily decision-making power. In our model of a Society of Peoples, the representatives from both legislative chambers in the Society of Peoples would play a role parallel to the Board of Governors. The two legislative chambers (the Council and the Parliament) would oversee the runnings and operations of the lending agencies.³⁰⁶

As I mentioned earlier, in the case of the Fed, congressional oversight works to ensure that its decisions represent and are accountable to the citizens of the United States. Congressional oversight comes into play in several aspects of the Fed. All members of the Board of Governors (the main decision-making body) within the Fed must be confirmed by the Senate. The President of the Fed nominates members of the Board of Governors (which handles daily decision-making) and the Senate either approves or rejects the nominees. To be confirmed, nominees must win the support of a majority of senators. Additionally, the Fed presents monetary policy reports to congress semi-annually. The Fed also gives annual reports of its operations and activities along with the minutes of its Federal Open Market Committee (FOMC) meetings. The FOMC is the main policy making body for open market operations. Finally, the Fed also relays reports on a number of matters; it, for example, reports annually on the profitability of credit card operations. This basically allows congress,

³⁰⁶ It seems important for both chambers to play a role in the oversight of lending agencies. Because members of the council are appointed (by the Presidents of each member country), they are somewhat removed from the people. To ensure that the peoples' interests are properly represented it is important that the directly elected members of the Parliament play a role in oversight as well.

which represents the people, to oversee and monitor the operations of the Fed in some detail.

Something similar could work in the case of global lending agencies such as the IMF and the WB. Members of the Executive Board would have to present reports about policies, decisions, etc. a certain number of times a year to the legislature (i.e., the Council and Parliament). This would allow citizens, through their representatives, to examine lending agencies economic outlook and policy decisions. The legislature would also have a role in voting for and confirming all nominees to the Executive Board. And so on.

All of this is not to say that the citizens of member countries should play an important role in making day to day decisions, say, about who should get loans and the like. Just as domestic financial institutions like the Fed need independence for good functioning, global financial institutions need independence for good functioning as well. This would insulate the IMF and the WB from short-term political pressures, and would lead to better decision-making on the part of the IMF and the WB. For similar reasons, the Executive Board would largely be independent from the global legislature and would have the power to make (everyday) decisions without their being ratified by the legislature.

I have suggested that in a number of ways the Society of Peoples should be modelled after the EU. I have argued that, as in the EU, in the Society of Peoples there should be a bill of rights with a Supreme Court to interpret and to enforce it, there should be two chambers analogous to the Council of the European Union and the European Parliament, and so on. One might wonder, how much like the EU the Society of Peoples should be. For example, should there be a common currency like the euro? Should this be an ambition? If so, should there be something analogous to the European Central Bank to manage this currency? The EU also grants aid to poorer

countries within the EU. Should there be a place for this in the Society of Peoples? Though I cannot give them the detail and attention they deserve, I will try to provide at least some answers to these questions.

Let us begin with the matter of a common currency and whether this should be an ambition of the Society of Peoples. The euro is the single currency shared by 15 members of the European Union (together these countries constitute the euro area). Not all countries have taken up the euro. As part of the terms of their membership, the UK and Denmark have been allowed to opt-out from the adoption of a shared currency. However, it does seem that a currency that is shared by all member states is an ambition of the EU. In the EU, as a way of addressing common concerns relating to, among other things, trade and economy, members have collectively decided on implementing a single integrated market – a market in which all economies of the EU countries are unified (which is meant to promote the free movement of people, goods, services and capital). The main reason for a shared European currency is that it enables a stable and efficient integrated or single market:

The framework under which the euro is managed makes it a stable currency with low inflation and low interest rates, and encourages sound public finances. A single currency is also a logical complement to the single market which makes it more efficient. Using a single currency increases price transparency, eliminates currency exchange costs, oils the wheels of the European economy, facilitates international trade and gives the EU a more powerful voice in the world. The size and strength of the euro area also better protect it from external economic shocks, such as unexpected oil price rises or turbulence in the currency markets.³⁰⁷

³⁰⁷ Europa, “European Commission: Economic and Financial Affairs: The Euro,” URL = <http://ec.europa.eu/economy_finance/the_euro/index_en.htm?cs_mid=2946>.

The primary objective of the European Central bank is to manage the euro and monetary policy in the euro area. Its main goal to establish price stability (i.e., to keep inflation low), which is essential to a stable and efficient single European market.³⁰⁸

For the most part, the reasons for taking up a shared currency, such as the euro, are practical. The members of the EU have decided on a particular end – namely a single integrated market – and a shared currency is a way of meeting this end. There are, however, other reasons for taking up a shared currency, reasons that stem from political considerations:

The euro gives the EU's citizens a tangible symbol of their European identity, of which they can be increasingly proud as the euro area expands and multiplies these [economic] benefits for its existing and future members.³⁰⁹

In other words, a shared currency is thought to promote a shared sense of identity and belonging among citizens of the EU.

In the end, it doesn't seem to me that a shared currency and a central bank are necessary features of a Society of Peoples. As I said, the main reasoning for taking up a shared currency is practical. It is the best way of implementing the collectively chosen end of a single market. So, if peoples in the Society of Peoples decide on a similar end and decide that a single market is the best way of dealing with their common concerns relating to trade and economy, etc., then adopting a common currency seems to make sense. The other reason for taking up a shared currency makes more sense from the perspective of justice. As representatives of peoples, we have an interest in securing a stable global order. This is largely because a stable global order will allow peoples to exercise their two moral powers and to implement their own collective conceptions of the good. As was suggested earlier, a sense of

³⁰⁸ See European Central Bank, "European Central Bank: Tasks," URL <<http://www.ecb.int/ecb/orga/tasks/html/index.en.html>>.

³⁰⁹ Ibid., URL = <http://ec.europa.eu/economy_finance/the_euro/index_en.htm?cs_mid=2946>.

community and belonging is important to stability. Peoples are more likely to make the kinds of sacrifices demanded by policies and decisions when they feel a sense of belonging with one another. Insofar as a common currency might encourage this feeling, it seems that, from the original position, we may have some reason to take it up. However, having a shared currency is not the only way of engendering a sense of community among members in the Society of Peoples. There are numerous other ways of doing so. It seems to me, if they have not already collectively decided on the importance of having an integrated market, adopting a shared currency seems to make little sense (particularly when other means to securing a stable social order are available). So, again taking up a shared currency does not seem to be a necessary feature of a Society of Peoples. Given that its main function would be to manage the common currency, a central bank does not seem necessary either.

Let us turn to the next matter, the matter of devoting resources to aid poorer nations in the Society of peoples. The EU is committed to reducing economic differences and inequalities. To this end, the EU has a number of agencies devoted to providing financial aid in the form of grants to poorer countries within the EU: they include the European Regional Development Fund (ERDF), the Cohesion Fund, and the Social Fund.³¹⁰ The money for grants from these funds comes from the budget of the EU. Most of the EU budget is obtained from various taxes levied on member states by the EU. So, the ERDF, the Cohesion Fund, and the Social Fund essentially serve as vehicles for redistribution of wealth among nations in the EU. The question now is, would similar arrangements be required in the Society of Peoples? On my view, inequalities among peoples are not in and of themselves always unjust. Rather,

³¹⁰ On these agencies see Europa, “Regional Policy: Cohesion Fund,” URL = http://ec.europa.eu/regional_policy/funds/cf/index_en.htm and Europa, “Employment, Social Affairs and Equal Opportunities: What is the ESF?,” URL = http://ec.europa.eu/employment_social/esf/discover/esf_en.htm.

like Rawls, I think that when inequalities among peoples are unjust, they are unjust because of “their unjust effects on the basic structure of the Society of Peoples, and on the relations among peoples, and among their members.”³¹¹ In particular, I have argued that inequalities in wealth and income among peoples are unjust largely because they inhibit the expression of democratic values in the global basic structure. So, it is not my view that whenever countries are unequal in wealth and income redistribution must occur. Rather, insofar as democratic relations are a requirement of justice, and that such relations cannot take place until there is a certain level of equality among countries, it is my view that redistribution should occur until there is enough economic equality for democratic relations to take place among nations. In turn, I have also suggested that a Society of Peoples is only to be instituted after this level of equality has been attained. So, for the most part, aid aimed at the redistribution of wealth among nations (from richer to the poorer nations) in the Society of Peoples will be unnecessary. However, it is possible, due to unforeseen and severe natural or financial disasters, that countries could fall below the level of wealth that is necessary for democratic relations (this seems particularly true in the cases of those countries that sit at the bottom of the threshold like Greece). In this case, it would seem, if we are concerned to secure democratic relations, that aid should be provided in these cases and that countries should be taxed toward this end.

§3.2. Conditionality of Loans

I suggested earlier that even after a great degree of economic equality has been reached, countries will still need funds to develop and grow. In particular, loans will be necessary to help avoid or overcome economic hardship and resulting balance of payment problems. Moreover, even though countries may enjoy sufficient economic

³¹¹ *LP*, p. 113.

equality with one another to have democratic relationships, loans will be necessary for the further development and growth of certain countries (I gave Greece as an example in the European case). As of yet, I have said nothing about the structure of loans and the form they should take. I would now like to turn to these matters. I have suggested that, as part of their interest in forming a rational conception of their public ends, citizens have an interest in having the opportunity to implement policies that they collectively choose. In turn, this means that any kind of conditionality that is put into action must give citizens room to implement the policies that they collectively choose. I will outline such an account of conditionality.

I have suggested that some kind of limited conditionality is permissible. Limited conditionality is a kind of conditionality that is aimed at ensuring repayment of loans, but that does not hinge on taking up specific policy proposals. A number of conditions fall under this criteria. First, to ensure that countries are committed to spending the money well and to pursuing growth and development, some kind of pre-selection of countries (perhaps based on past track record) could be coupled with loans being conditional on a promise, perhaps in written form, from borrowing countries stating that they are committed to growth and development and that money will be well spent (not on drugs or war, for example). Second, conditions might, for example, involve keeping enough money in reserves to make the first few monthly interest payments. Of course, some exceptions should be made here when it comes to post-war countries, or extremely poor countries that do not have such reserves. This seems consistent with the more charitable goals of the IMF and the WB.

Third, loans should be contingent on countries showing that they have chosen a reasonable path to the promotion of growth and development. In part, then, this means that countries must show that they have a plan for the implementation of things essential to growth and development such as market-based incentives, competition,

and macroeconomic stability. Of course there are a variety of different ways of implementing these things, and it isn't always going to be clear as to what counts as a feasible means of doing so. So, in the end, all that might be required of countries is to show that they do have some plan for promoting market-based incentives, competition, and macroeconomic stability. (The point is simply that if a country had no plan for facilitating these things, then it would be safe to say that such a plan is not a feasible.)

Fourth, I also think that outcome based conditionality should be implemented. This kind of conditionality can ensure repayment of loans without requiring borrowing countries to take up particular policies.³¹² Under this scheme, initial funding would be conditional on borrowing countries meeting the three conditions I suggested above, that is, they must show that they have made a commitment to the promotion of greater growth and development, that they have funds to pay the first few interest payments, and that they have a real plan for developing the things essential to growth and development. Future financing would then be conditional on the borrowing country meeting certain desired objectives or outcomes rather than implementing specific policies. Under this scheme, outcomes would be negotiated with the IMF and the WB. That is to say, outcomes would be mutually decided upon by both lender and borrowing countries.³¹³ To this extent, borrowing countries would play an equal role

³¹² Others have advocated something similar. Birdsall et al. ("If Rich Governments Really Cared About Development", p. 11) makes brief mention of outcome based conditionality. More detailed discussion can be found in Omotunde E. G. Johnson, "Country Ownership of Reform Programs and the Implications for Conditionality," *G24 Discussion Papers* No. 35 (January 2005), URL = <http://www.g24.org/ojohnson.pdf>, and Mohsin S Khan and Sunil Sharma, "IMF Conditionality and Ownership of Programs," *IMF Working Paper* No. 1/142 (2001), pp. 25-28, URL = http://papers.ssrn.com/sol3/papers.cfm?abstract_id=879938#PaperDownload.

³¹³ There is a very real chance that, in at least some cases, there will be disagreement about what constitutes appropriate target outcomes. As I see it, target outcomes should be viewed as negotiated compromises between the IMF or the WB and the borrowing country. There is then the question of how a compromise is to be reached – particularly when disagreement is entrenched. Reaching a compromise is never easy, but presumably there are mechanisms that can foster this. I will have to think more about what these mechanisms are.

(equal to lender countries, that is) in deciding which outcomes should be aimed at. They would have an equal role in stating what counts as progress. Moreover, policy content would be left up to borrowing countries to decide on their own.³¹⁴ Only the desired outcomes would have to be agreed upon by borrowing countries and the IMF/WB staff, not the mechanisms that lead to the outcomes. This would give countries greater room to design their own economic policies, while also providing countries with an incentive to implement appropriate policies, that is, policies which will lead to certain desired (and negotiated) outcomes. Examples of appropriate outcomes might include, financial support being contingent on reaching certain levels of growth, inflation, or net international reserves, or reductions in balance of payments problems, and so on.³¹⁵ If the predetermined outcome is not reached, then the country would receive less or no funding.

I think the kind of limited conditionality that I have advocated here is extremely beneficial in the sense that it would allow the IMF and the WB to meet their goal of ensuring repayment while also meeting their goal of helping. IMF and WB funds are safeguarded to the extent that money is conditional on reaching desired outcomes. Insofar as certain desired outcomes are reached, repayment becomes more likely. Moreover, allowing the borrowing countries to play an equal role in specifying the desired outcomes and also giving them room to choose their own path (policies) to development and growth avoids the paternalistic bend of the current method while also allowing citizens the room they need to implement social practices and policies in ways that are consistent with the development and exercise of their capacity for a conception of the good. Furthermore, this type of minimal conditioning will, for the most part, eliminate the possibility of lending countries arbitrarily interfering in the

³¹⁴ Khan et al, "IMF Conditionality," p. 25.

³¹⁵ Johnson, "Country Ownership of Reform Programs," p. 20.

interests of borrowing countries and hence will prevent relationships of domination from occurring.

However, there may be some difficulties in implementing outcome based conditions. First, outcomes like an increase in growth (in GDP or PPP), or reduction of balance of payment problems, etc. will take time to meet and will likely not be able to be assessed in periods less than a year.³¹⁶ For this reason outcome based conditions might be more difficult to implement in the case of short-term loans. I do think it is possible, however. But in order for outcome based conditions to be feasible in the case of short-term loans, we would need to come up with desirable outcomes that can be reached in the short-term.

Moreover, deciding when to disburse money may be difficult. This is because, as Sunil Khan and Mohsin S. Sharma note, there can be some difficulties in assessing whether an outcome was not met because of a country's bad policies or exogenous factors not under their control.³¹⁷ So, evidence will need to be analyzed carefully in order to determine whether outcome targets were missed because of exogenous factors or because the countries' policies came up short.³¹⁸ If it is the former, then there is case for a waiver and the country should still receive funding.

What if it is the latter? Should the next instalment be withheld? This is a difficult question to answer. If a borrowing country does not receive funds, its currency could collapse (as in the cases of Mexico and Argentina, for example). This, in turn, means that the citizens of borrowing countries, particularly the poorer ones, will suffer greatly as the prices of goods increase drastically and they are no longer able to afford them. And in part IMF and WB loans are meant to help such people.

³¹⁶ Ibid., p. 20.

³¹⁷ Khan et al, "IMF Conditionality," p. 26.

³¹⁸ Ibid., p. 26.

That said, there should be some consequences for failing to meeting stipulated outcomes – otherwise there is nothing to ensure repayment of the loan.

I suggest the following as one way of dealing with countries that fail to meet target outcomes. It seems to me that, at least, initially, say the first few times a country fails to meet the target outcomes, further conditions (aimed at securing repayment) should be attached. First, I think the instalment should either be decreased in amount (i.e., the country should receive less money) or should be contingent on accepting higher-interest rates. These negative consequences will work to motivate countries to meet outcomes in the first place and to continue to do so. Second, the country must show that it has identified the problems that led to not meeting the specified outcomes. Third, it should show that it has some concrete plan for dealing with and overcoming those problems. Once these conditions are met, I think the instalment should be distributed. Notice that these conditions still allow countries to implement their own policies and, in turn, to collectively exercise their collective capacity for a conception of the good, while working to ensure repayment of the loan.

What about those countries that continuously fail to meet the target outcomes? Unfortunately, there must, at some point, be a cut off point. When countries perpetually fail to meet the target outcomes, two things should occur: (1) further instalments should not be distributed and (2) future access to IMF and WB funds should be adversely affected (i.e., it should be much harder for countries to qualify for loans the next time around). The motivation for (1) is as follows: Countries that fail to meet the target outcomes are unlikely to be able to make monthly interest payments and, in the end, are unlikely to be able to repay the loan. Whether the IMF and the WB are thought to be big banks or charities, this is not desirable. In both cases, the IMF and the WB have an interest in being able to continue lending money to countries for growth and development. If countries consistently fail to pay back their loans,

then the IMF and the WB will not be able to continue lending money. The motivation for (2) is as follows. If consequences were simply in the short-term (i.e., with respect to this particular loan), after receiving the first instalment, countries might be tempted to ignore the target outcomes. (2) is meant to guard against this. Insofar as there are consequences for future borrowing, countries will have greater motivation to keep up with target outcomes.

In some cases, if loan instalments are suspended, this could lead to a very bad situation for the citizens of borrowing countries. First, without funds, citizens of borrowing countries will not be able to exercise their collective capacity for a conception of the good. They may not be able to implement various social policies and the like. Second, as I mentioned, currencies can crash, inflation can increase severely, and so on. The situation can become very dire for the people of such countries very quickly.

It seems clear that something must be done to help such countries. Yet, at this point, it isn't clear to me what should be done. One solution may be to give these countries a grant or gift that is part of an aid package rather than a loan. This grant could come from another agency devoted specifically to the task of dispersing humanitarian aid or it might come from money within the IMF or the WB devoted to this specific task (which would seem to be consistent with their goals of charity and helping).³¹⁹ However, there are important drawbacks to this solution. First, giving grants to countries that continually fail to meet outcomes and have failing economies might provide incentive to continue these things. Grants are likely to be preferred by borrowing countries over loans. After all, grants do not have to be paid back and,

³¹⁹ It also seems to me that we have a general duty to aid those who are suffering greatly or are in great need. This duty would also support having some kind of funds devoted to aid. If it falls to the IMF and the WB to provide these funds, they might be collected by adding a small charge on all loans or by increasing interest rates slightly and putting the extra money toward humanitarian aid.

generally, do not have any conditions attached to them. If grants are given only when countries continue to fail to meet target outcomes, then countries have no incentive to meet target outcomes and may prefer not to in order to receive grants. This is problematic not only because it seems to encourage economic failure but also because agencies like the IMF and the WB could not continue giving out money in the form of grants since grants are not repaid. Second, while a big influx of cash will help to alleviate immediate suffering (i.e., famine and the like), it may not help in the long run. Since it comes without conditions, money can be used in any way the country chooses, and so grants may not encourage or foster growth and development. Money could continue to be squandered and used in ways (i.e., on policies) that do that not promote growth and development and continue to foster economic failure. This seems particularly likely given the country's history of economic failure.

Another solution may be to give these countries a loan with strong conditions. In repeatedly failing to meet target outcomes, the country has shown that it is not able to pick policies that work. So, one might suggest that the case against strong conditionality – where policies are chosen (mainly) by those at the lending agency – is less strong. Yet giving a loan with strong conditions is far from ideal. One worry is that if policies are chosen for them, citizens of borrowing countries will not be able to collectively exercise their second moral power. But this is not the prime worry, for if money is not lent to these countries, then they will be unable to collectively exercise this power anyhow (i.e., there will be no funds for implementing collectively chosen policies without a loan). Furthermore, presumably, if the conditions work and growth and development occur, then, once the loan is paid off, the citizens of the borrowing country will regain their ability to exercise their second moral power (that is, they will regain the ability to implement social policies of their own choosing). The main worry is that, as we have seen, strong conditions have generally not lead to growth and

development. And so a loan with strong conditions is unlikely to be any more successful than the country itself was in bring about growth and development or ending economic failure, and people will continue to suffer. In the end then it is unclear what the best solution is.

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