

It's the vibe: G. A. Cohen, global justice and the global ethos

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“It’s just ... the vibe ... of the thing.”

Lawyer Dennis Denuto on what section of the Australian Constitution is breached
by compulsory acquisition
From the film *The Castle* (1997)

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Abstracts

This thesis examines the possibility of a global ethos of justice. Using the work of G. A. Cohen, it argues not only that a global ethos is possible, but that it is also feasible and attractive. To do so, it establishes a set of conditions that allow an ethos to function and then locates these conditions in the global realm. It analyzes John Rawls's Law of Peoples, an influential theory of global justice, and argues that it requires an ethos to be implementable. In doing so, it analyzes the nature of the Law of Peoples in light of Cohen's thought. It concludes with speculation about what a Cohen-inspired global ethos might look like. The thesis is supported throughout by relevant texts from the global justice literature. This thesis argues positively for the possibility of there being an ethos above the previously held boundary of a society. It further challenges any notion that Cohen's thought is meaningful only at the domestic level of theorizing. A global ethos is a meaningful concept that would greatly aid in the implementation and uptake of international agreements on justice. Cultivation of a global ethos would result in a more just global society.

Cette mémoire examine la possibilité d'une éthique mondiale de la justice. Se basant sur les travaux de G.A. Cohen, on avance qu'une éthique mondiale n'est pas seulement possible, mais réalisable et attirant. D'abord on établit les conditions qui permettent le déroulement d'un tel ethos et ensuite cherche ces mêmes conditions dans le domaine global. Cette mémoire analyse 'La Loi des peuples' de John Rawls, une théorie influente de la justice mondiale et propose que ce texte a besoin d'une éthique pour être réalisable. En faisant cela, on analyse la nature de 'La Loi des peuples' à la lumière de la pensée de Cohen. On termine avec des suppositions sur quelle forme qu'un ethos inspiré par Cohen peut prendre. La thèse s'appuie sur une analyse documentaire des textes pertinents de la justice mondiale. Cette thèse soutient la possibilité de l'existence d'une éthique au-dessus des limites déjà établies par une société. En plus, elle conteste l'idée que la pensée de Cohen ne s'applique qu'à l'échelle du pays. L'éthique mondiale est un concept utile qui appuierait à la réalisation des accords internationaux portant sur la justice. Le développement d'une éthique mondiale mènerait donc à une société globale plus juste.

I. Introduction

Global justice is a subject of growing interest in contemporary political theory. Daniel Weinstock introducing a supplementary volume of the *Canadian Journal of Philosophy* on global justice remarks that “[p]olitical philosophy has become global of late.”¹ For a student of what has come to be labelled ‘domestic’ political philosophy,² I find it remarkable the extent to which the global justice literature reengages in the debates that have long troubled domestic theorists. One such domestic debate concerns the idea of an ethos of justice. It was thus interesting to read in a recent special article for *Contemporary Political Theory* on the subject of global solidarity both that a lack of a “trans-national ethos of solidarity” was taken as given and that the domestic theorist I most associate with the discussion of ethos, G. A. Cohen, was not mentioned once.³ For now, the latter is completely understandable given that Cohen himself never engaged in these debates before his sudden death in August 2009.⁴

My intention with this thesis is to attempt to remedy this absence, by demonstrating how Cohen’s thought can make valuable contributions to debates in the global justice literature. Of course, no direct transposition is possible given the marked dissimilarities between the domestic and the global realms. Nevertheless, as I hope to show, an adaptation can be made and produce fruitful results. As an example of just what this adaptation can do, I will critically examine John Rawls’s *The Law of Peoples* (hereafter *LoP*) using some of Cohen’s newly ‘rescued’ theories.⁵ In addition, my employment of an ethos to make this critique will demonstrate that any discussion of global justice turning on similar

concepts can benefit from Cohen's domestic thought on the issue. Thus my aim, in part, is also to increase the tools available to discussions of global justice, particularly any involving ethoses.

Within contemporary political philosophy, there is a robust body of thought that has come to be called the 'domestic' literature. Primarily concerned with the "ideals of justice, freedom, and community" within a bound society,⁶ this literature is anchored by John Rawls's landmark 1971 work *A Theory of Justice* (hereafter *TJ*).⁷ In the now almost 40 years since its publication, there has been a wellspring of criticism and support for Rawls's arguments, competing theories and exploration of new, related questions. The work still continues to this day. One perennial discussion remains the strength of Rawls's original claims in *TJ* concerning his account of a just society. While many interlocutors have engaged Rawls and *TJ*, one of the most prominent of them remains G. A. Cohen. This long-running interchange is the initial inspiration for this thesis.

One particular element of this debate has always drawn my curiosity - the issue of fiscal incentives. To briefly recount the long-standing disagreement, Rawls contends in *TJ* that fiscal incentives for individuals' productivity are entirely compatible with a society governed by his difference principle.⁸ Cohen is deeply sceptical of this contention and develops an argument to this regard in *Rescuing Justice and Equality* (hereafter *RJE*).⁹ Cohen's argument concludes that "high fliers would forgo incentives ... in a full compliance society governed by the difference principle and characterized by fraternity and universal dignity."¹⁰ It is the concept that Cohen introduces to reach this conclusion, an ethos, which will occupy me in this thesis. Cohen's argument above is that incentives conflict with

the ethos of a society governed by Rawls's two principles of justice.

Cohen's critiques of Rawls were never translated into the global justice debates by Cohen himself, even following the publications of Rawls's contentious *LoP*. Even before *LoP*, Rawls's domestic theory of justice already had a tremendous impact on the global justice literature. This literature sets aside questions of domestic political theory and instead asks "what political principles, if any, should govern the global realm."¹¹ A burgeoning subject of inquiry, it might be said to have begun in earnest with Charles Beitz's *Political Theory and International Relations*, published in 1979. In this work, Beitz seeks to, in part, extend Rawls's domestic theory of justice, and in particular his famous difference principle, into the global realm. Discussions about how to extend Rawls's thought, inspired perhaps by Rawls own comments in *TJ*,¹² were prevalent, carried on by Beitz, as well as Thomas Pogge¹³ and Brian Barry.¹⁴ This body of thought came into theoretical conflict with other schools of international theory, including realism and cosmopolitanism.

This trend was deeply affected by Rawls himself, who in 1999 definitively entered the fray with *LoP*.¹⁵ In *LoP*, Rawls explicitly rejects any sort of global difference principle and instead advocates a Society of Peoples, governed by the titular Law of Peoples, which encompasses all 'well-ordered' peoples, liberal and non-liberal alike. Rawls not only rejected any sort of global difference principle, he also rejects the application of his theory to currently existing states and states as they are currently ideally defined, instead insisting that it apply to 'peoples,' who differ in respect to their lacking traditional sovereignty over their own citizens. Needless to say, this in turn generated a new round of commentary and

arguments, which, oversimplifying, is the state of the discussion concerning Rawls today and a major component of the global justice literature.

My thesis employs Cohen as a new entry point into this current state of affairs. It is organized into six sections, including this introduction (Section 1):

Section 2 is concerned with addressing the possibility of a global ethos. I first address the question of what an ethos is, before expanding upon the definition. In doing so, I will establish a series of conditions which I believe must pertain in order for the concept of an ethos to function as it does in Cohen's theory. I then examine whether or not these conditions might be said to pertain on the international level, in an attempt to establish the possibility of discussing a global ethos of justice in the same manner in which Cohen discusses a domestic ethos of justice. *Section 2 will argue that given all necessary conditions for an ethos obtain on the global level a global ethos of justice is at least possible.*¹⁶

Having established the possibility of a global ethos in Section 2, Section 3 employs the concept of a global ethos in a sustained critique of Rawls's *LoP*. One of the primary motivations behind this thesis was to explore whether or not Cohen's critique of Rawls's domestic theory might inform a critique of Rawls's global theory. Section 3 deals with establishing the basics of the Law of Peoples and explores three related arguments that demonstrate *that in order for the Law of Peoples to function, it would require there to be widespread individual subscription to an accompanying global ethos of justice.*

Following the conclusion of Section 3, the *character* of the ethos of the Law of Peoples is assessed in Section 4. The discussion in Section 3 was largely concerned with the structure of the Society of Peoples, but a Cohen-inspired

critique of *LoP* would by no means end there. This section examines whether or not the character of the Society of Peoples would be defensible in light of a sustained critique. Three further arguments are made in this section. The first provides another reason for believing individuals ought to be the unit of analysis in *LoP*. The other two arguments build upon the concepts of equality and community Cohen introduces in *WNS* to argue that *the conceptions of equality and community underlying the Law of Peoples are deeply problematic*. It concludes by outlining a Cohen-inspired global ethos of justice building upon the concepts from *RJE* and *WNS*.

Having introduced an outline of a Cohen-inspired global ethos in the previous section, Section 5 is devoted to exploring two very important questions that Cohen asked of his own work in *WNS*: is this project desirable, and second, is it feasible. *Section 5 will argue that a global ethos of the sort outlined is both desirable and feasible, although by no means close to being fully realized.*

The conclusion (Section 6) returns the preceding discussion back to contemporary concerns in the global justice literature. It dwells on the concern about feasibility, here cast as the problem of promoting solidarity across borders and suggests that the beginnings of an answer to the question are to already be found in Cohen's *RJE*. *Section 6 argues that we might think of moral pioneers as the political avant-garde and their task as being the promotion of the global ethos of justice outlined in Section 4.*

II. The nature of an ethos and global possibilities

This section explores the concept of an ethos. In doing so, a set of eight conditions that allow the concept to function on the domestic level will be established. This is necessary in order to ground the main discussion of the possibility of discussing a global ethos of justice with the same features as a domestic ethos of justice. Following the logic, if the global realm meets all of the established conditions, then I will have demonstrated that it is *possible* to talk about a global ethos of justice just as we would talk about a domestic ethos of justice.

Before proceeding any further, I need to establish just what I mean by the terms possible and feasible. Possible is being used as simply indicating that the concept (a global ethos) is not an inherently contradictory term – that it is at least possible to discuss the concept coherently.¹⁷ Feasible is being used here in the way that Cohen employs the term in *WNS*, which is to mean that the concept (of a global ethos) is not only possible, but is also practicably achievable in the non-ideal (i.e. real world). The discussions of feasibility (Sections 5 and 6) are supplemented by a discussion about desirability, to take account for the fact that something that is feasible is not automatically something that is desirable.

The ultimate expression of Cohen's own theory of justice occurred in 2008's *RJE*. In this work, Cohen seeks to 'rescue' the concepts of justice and equality from the domestic theory of Rawls (in *TJ*) and his followers. It is important for all that follows that it be made clear that it is an ethos *of* justice that we are interested in. There are many entities that might be said to possess many sorts of ethoses. For example, a corporation or other work place might have an

ethos of workplace conduct and a school yard might have an ethos covering the social hierarchy and etiquette among students. But the ethos that most concerned Cohen and will concern us here is the ethos of justice of a society. The reason this concerned Cohen was both a product of his upbringing and his academic interest in the works of Karl Marx and, later, John Rawls.¹⁸ Throughout, I will often, for reasons of brevity, simply refer to an ethos, but unless I explicitly state otherwise, I am talking about an ethos of justice.¹⁹

In *RJE*, Cohen provides two succinct definitions of what he means by an ethos. First, he defines it as "a structure of response lodged in the motivations that inform everyday life."²⁰ The other definition is given as "the ethos of a society is the set of sentiments and attitudes in virtue of which its normal practices and informal pressures are what they are."²¹ In other words, an ethos is the set of societal norms that allow individuals to operate on a day-to-day basis. An ethos does not (always) operate alone, though. "A society that is just ... requires not only just coercive *rules*, but also an *ethos* of justice that informs individual choices."²² The ethos of a society operates in tandem with the authoritative rules, established by the appropriate bodies, governing that society. Another way of stating this is that a just society, and here Cohen is addressing Rawls, requires not just the major social, economic and political institutions (the 'basic structure') to instantiate the two principles of justice, but also the society's individuals to hold an accompanying ethos that informs their individual decisions and choices. On the global scale, a just Society of Peoples would require not only a global basic structure guided by the Law of Peoples, but also peoples (and individuals)²³ making individual or collective decisions based on an accompanying ethos.

Cohen's argument against Rawls is that Rawls believes that institutional justice alone is enough to make a society just, whereas Cohen sees the need for the principles of justice to be instantiated interactionally among individuals in society.

Jonathan Wolff provides an excellent means of simplifying the above through his interpretation of the concept. In "Fairness, Respect and the Egalitarian Ethos," Wolff sees an ethos as being "a set of underlying values, which may be explicit or implicit, interpreted as a set of maxims, slogans, or principles, which are then applied in practice."²⁴ Wolff's definition nicely brings together Cohen's two definitions quoted above. These 'underlying values' serve to enhance the rules governing a particular society. The two, Cohen believes, are not likely to be found in isolation from one another, especially under society-level conditions.²⁵ Keep in mind, also, that an ethos is not always something good. There is nothing stopping there from being a bad, or unjust, ethos. An unjust society is one that not only has an unjust basic structure, or major institutions guided by unjust rules, but the social interaction among individuals would also be based on an accompanying unjust ethos.

The above simplifies a very complex position and thus needs elaborating. In further defining what an ethos, as Cohen understands it, is, I will extract a set of conditions which I believe are necessary for the concept to function.²⁶ First, it is clear that ethoses are present in both social groups and wider society. Cohen writes, "a society (as opposed to its government) does not qualify as committed to the difference principle [or, generally, its principles of justice] unless it is indeed informed by a certain ethos or culture of justice."²⁷ An ethos, when a feature of a society must be accompanied by authoritative rules. This condition, as examples

below will show, does not seem to apply to the ethos of smaller groups. As this thesis is concerned with the larger picture (i.e., domestic and global societies), this point is not of great importance. From this it follows that there must be a body capable of producing rules (of justice) for that society, or minimally some legitimate means of generating these rules. Notice also that Cohen calls it a 'culture' of justice. This is another term for the phenomena Cohen is interested in. Finally, Cohen is not here interested in the 'culture of government' (in and of itself), as government ethics seems to be a separate (although likely related) subject.

Condition [1]: Ethos govern both cohesive groups and societies.

Condition [2]: A society must be governed by some set of public authoritative rules of justice.

Condition [3]: A society must have some (legitimate) means of generating its authoritative rules.

A comment on Condition 2 before continuing is necessary. I write that society requires a 'public [set of] authoritative rules of justice'. What does that mean exactly? The 'publicity' requirement is there simply to mean that the rules in question must be accessible in some reasonable form by the general public of a given society. This can mean a web database of current laws, postings of relevant information in newspapers, government mailings, a phone information service, and a whole variety of other means of information distribution. The requirement that these rules be authoritative and legitimate (from [3]) seems to necessitate this minimal accessibility.²⁸ That the rules govern justice is merely stating the subject matter – we are interested in those rules that impact upon justice in a given

society.

It is not to the society *itself* that the ethos applies, but to the individuals within that society. While the ethos is a part of the shared culture of the society, as the above quotes indicate, and it can be identified as a set of maxims, what it governs is something particular. “If we care about social justice, we have to look at four things: the coercive structure, other structures, the social ethos, and the choices of individuals, and judgment on the last of those must be informed by awareness of the power of the others. ... It is essential to apply principles of justice to dominant patterns in social behavior – that, as it were, is where the action is...”²⁹ The choices of individuals are impacted by coercive and other structures, as well as the social ethos. If justice is found in social behaviour, it is essential to provide normative direction to that behaviour. But that behaviour is not governed by the authoritative rules of a given society alone. I will return to this division shortly.

It is also a particular subset of an individual’s actions that are governed by the ethos. One way Cohen describes this set of actions is through the public/private distinction: “the most effective form of difference-principle-serving private-citizen action is not multifarious uncoordinated charity, that is, private action that *supplements* public action ..., but private action that *enhances* that effect of public action.”³⁰ In other language, he describes it as “[c]itizens do not qualify as fully committed to the difference principle unless that principle influences not only their voting behavior but also some of their behavior within the structure that their vote creates,”³¹ again referring to the domain beyond public political behaviour, i.e. voting, in this case. Finally, repeating an above quotation,

“the ethos of a society is the set of sentiments and attitudes in virtue of which its normal practices and informal pressures are what they are.”³² In sum, the ethos governs the social decisions of individuals that are not political in a public sense – not directly informed by the authoritative rules governing that society. It constitutes the 'informal' structure of a society, we might say.

Condition [4]: The ethos applies to those actions and practices of individuals not (directly) governed by the rules of a given society.

Just how an ethos 'applies' to actions and practices needs to be made clear. An ethos is *not* a moral blueprint for action. In this sense, an ethos is not directly action-guiding. An ethos does not tell you exactly what you should be doing in a given situation. An ethos is, on the other hand, judgment-guiding. Our choices in any given situation, as Cohen's quote above indicates, are determined by our judgment of that situation. The coercive and non-coercive structures of society, as well as the ethos of that society, embedded in social practices, traditions, etc. all influence our judgment in a given situation. There are rarely, if ever, straightforward choices in life and how we make our choices is generally a complicated process. What Cohen argues is that the subject of justice must be more than just the basic structure of society. It must take into account all of those forces that govern individual choices and thus must take into account the social forces – the ethos(es) – of a given society.

Before proceeding, the concept of the basic structure needs to be discussed. In Rawls's theory, the basic structure is the 'site' of justice; it is that to which principles of justice apply. Rawls's two principles of justice do *not* apply to an individual's choices and decisions at the interpersonal level. What constitutes

the basic structure of a given society according to Rawls is the matter of a great deal of debate. Arash Abizadeh distinguishes between three different understandings of the basic structure, which he labels ‘cooperative’, ‘pervasive impact’ and ‘coercive.’ The cooperative understanding sees the basic structure as, quoting *TJ*, “the major social institutions [that] distribute fundamental rights and duties and determine the division of advantages from social cooperation. By major institutions I understand the political constitution and the principle economic and social arrangements ... [which include] competitive markets, private property ... and the monogamous family.”³³ The pervasive impact understanding involves “all major social and political institutions that have pervasive impact on persons’ life chances.”³⁴ Finally, the coercive understanding applies to those legally coercive institutions that Cohen labels “the broad coercive outline of society,” which Rawls refers to when he writes that “the law defines the basic structure within which the pursuit of all other activities takes place.”³⁵ The most important point to note about these three definitions is that “[t]hese three defining criteria are analytically distinct and, as such, may turn out not to be coterminous in practice.”³⁶ While Abizadeh does not directly comment on *LoP*, the issue of ambiguity in defining the basic structure will return in Section 4, where I will argue that none of these three definitions quite fits the understanding of the basic structure in *LoP*.

Let me summarize what’s been said about the basic structure. Cohen presents the concept of ethos in *RJE* in part to argue that justice is not (only) concerned with the basic structure of society. Justice needs to be concerned with individual decisions and social practices that are beyond the scope of even the

most expansive understanding of the basic structure. But given the difficulties in saying definitively what the basic structure is, I want to move away from that terminology in outlining the concept of an ethos. Instead, I want to say that a society has coercive structures, non-coercive structures and an ethos, following from Cohen. In making this differentiation, we can see that the rules from Condition [2] govern the first and some of the second structures, and that the ethos encompasses patterns, behaviours, traditions, practices, etc., outside of the scope of these structures. This distinction helps to make sense of just what conceptual ground is covered by an ethos, as well as avoids any potential messiness associated with the term 'basic structure'. So, I will set aside that term as much as possible until I need to discuss Rawls's understanding of it in *LoP* in Section 4.

It is important to make sense of Cohen's four-part division when dealing with matters on a global scale. Most international agreements fall within the non-coercive structures category, in that they lack enforcement mechanisms to coerce non-compliant states. There are of course also coercive structures at the global level, but most of these are consent-based, in that enforcement mechanisms are agreed to by the parties (e.g. the North American Free Trade Agreement [NAFTA]). Other coercive structures included entities such as the World Bank and the International Criminal Court (ICC).³⁷ Regional bodies, such as the European Union (EU) and the North Atlantic Treaty Organization (NATO), are also, at times, coercive in terms of member compliance.³⁸ Below when I discuss whether or not the international legal order, including all the institutions just mentioned and a variety of further organizations, including the UN, keep this four part

separation in mind: there are coercive and non-coercive structures, there could be (or already is a fledgling) ethos of justice, as well as, of course, individual decisions within the global realm.

For a better sense of how Cohen believes the rules and the ethos operate together, let me expand an above quote: “In fact, the most effective form of difference-principle-serving private-citizen action is not multifarious uncoordinated charity, that is, private action that *supplements* public action ..., but private action that *enhances* that effect of public action. ... [P]rivate action *enhances* public when, to illustrate, a willingness on the part of the more fortunate to work hard at high tax enables government to set those rates under an expectation of high tax revenue and, therewith, the capacity to redistribute radically.”³⁹ Setting aside the subject of this discussion (the difference principle), the interaction that Cohen envisions between an ethos and the (in this case, coercive) rules is clear – the ethos improves upon what the rules themselves alone could accomplish. This is a relationship of enhancement. Neither the basic structure, nor the ethos is a derivative of the other, but rather they exist in a relation of interdependence. Cohen puts this best when he writes that “[w]hile it is undoubtedly true that the structure profoundly affects the ethos, it is also true that the social ethos profoundly affects the character of the basic structure. ... If the basic structure is said to be *the* site of justice because of its influence on the ethos, then, by the same argument, the ethos is *the* site of justice.”⁴⁰

Condition [5]: The ethos serves to enhance the public rules of justice [2] of a given society [1].

While we already know that ethoses govern the private actions of

individuals, there is a specific mechanism by which this is accomplished. Cohen uses words such as 'motivations', 'sentiments' and 'attitudes' to describe the concept. "What rather happens is that people internalize, and – in the normal case – unreflectively live by, principles that restrain the pursuit of self-interest and whose point is that the less fortunate gain when conduct is directed by them."⁴¹ Putting this otherwise, when an ethos is internalized by an individual, it affects the judgments they make about the choices they face every day. If an ethos of justice is correctly internalized, then individuals will make judgments that treat fellow members of society as equals to themselves. Setting aside the substance of the ethos Cohen is discussing here, the important element of this idea is that, in line with the words used above, an ethos is something 'internalizable'; something that one can 'unreflectively live by'. Wolff helps to clarify this concept by describing ethoses as being composed of “three levels: values, principles, and practice.”⁴² It is the first two of these that are internalized by individuals, which yields the third: “[t]ypically the values and principles will be internalized by members of that group, and inform their behavior.”⁴³ The values and principles are what become internalized, which then influence our judgments about situations and these judgments determine the practice. An ethos then must be something that is meaningful to individuals to the extent that it becomes an unconscious force impacting their moral decision making. This goes right in hand with the idea of societal norms – individuals are socialized to these features and employ them in their moral decision making without necessarily recognizing what they are doing.

The case of Aristotle's equitable juror can help to make better sense of what judgment means in the above explanation. An equitable juror is one who is

presented with a crime according to the law, but whose own understanding of the law reveals no crime (or not the same crime).⁴⁴ The commonly cited example is of a law that states you must not strike someone with a metallic object and of a juror being presented with a case where someone struck another while wearing a ring.⁴⁵ The juror must judge whether or not this is an instance of the more serious crime of assault with a metal object. The juror in recognizing that this is not an instance of the more serious crime acts virtuously. For Aristotle, equity is what helps solve the dilemma of the generality of the laws: “[e]quity bids us be merciful to the weakness of human nature; to think less about the laws than about the man who framed them, and less about what he said than about what he meant; not to consider the actions of the accused so much as his intentions, nor this or that detail so much as the whole story; to ask not what a man is now but what he has always or usually been.”⁴⁶ All laws require interpretation and it is up to members of society who have internalized the ‘spirit’ and purpose of the laws to enhance the law by making individual decisions based upon their own *judgment* of what the principles of social justice, the ‘spirit’, would demand in a given situation. This is what Cohen thinks is happening when an ethos of justice is properly internalized. Our judgments in situations come to reflect what we feel is the ‘spirit’ of the principles we are being asked to apply.

This is in fact where the title of this thesis becomes meaningful. In the 1997 Australian movie *The Castle*,⁴⁷ the protagonist is faced with a situation where the government is evicting him from his home via compulsory acquisition in order to expand the runway at the airport he resides beside. Along with his neighbours, he launches a High Court challenge during the course of which his

lawyer argues that the evictions, while in violation of no specific law, go against the “vibe” of the Constitution. Upon appeal, the court rules in favour of the protagonist, on the grounds that “just terms of compensation” have not been provided, as no ‘just’ terms can compensate someone for their home. This was my earliest encounter with the concept of the ‘spirit’ of the law and I have always associated these judgments with the judgments one makes in light of an ethos. In both instances the individual is judging circumstances not based upon written principles, but rather upon their understanding of the deeper meaning of the forces at play, be they the constitution or the social ethos of society. This is why I believe the example of the equitable juror helps our understanding of what it means to *judge* in light of an ethos, and also serves to explain the, at first and perhaps second glance, odd title of this thesis.

Condition [6]: An ethos must be capable of informing the internal judgment (on matters of justice) of an individual member of the society (or group).

Following on from the ideas expressed above, about norms and individual internalizing of the ethos, is the idea of precision. "The rules of an ... ethos cannot ... be formulated in crisp terms."⁴⁸ This condition is on the face of it difficult to digest, especially when counter-posed to Rawls's crisp statement of the two principles of justice. The idea is that for an ethos to be capable of being judgment guiding, it does not need to be definable in every situation. That's the beauty of an ethos – beyond its maxim and perhaps a few clarifying additions, the ethos *can* mean very different things to different people in different situations. In fact, this is what it is supposed to do. As Cohen writes, “a rule does not lack the

authority of justice simply because it does not always tell the agent precisely what she ought to do."⁴⁹

I believe an example from Christine Sypnowich can be modified to help clarify this point. Using the example of begging, Sypnowich presents us with a situation in which it is certain justice demands that *something* be done, but just what this ought to be is not easily generalizable and likely varies by individual and situation. To demonstrate this point, Sypnowich provides a number of examples of instances of begging, each posing a unique challenge to the potential egalitarian maxim requiring giving to beggars.⁵⁰ Sypnowich ultimately concludes that what to do remains “a moral dilemma”, in that there are good (non-ideal) reasons for not giving, while the “fundamental norm of humanity” tells us to give.⁵¹ But this norm of humanity and charity cannot be precisely formulated into a series of rules governing any and all encounters with beggars. Instead, what the norm of humanity means is going to depend upon the individual and the situation. We all might have an understanding of what the norm involves, but disagree on what it demands in a given situation. The ethos at work when we encounter beggars is one that might be widely shared, or ought to be, but that cannot possibly be set out in a series of rules to govern our interactions with them. While we might all share the same ethos, our differing social positions, such as that of a single-income parent versus a wealthy bachelor, might impact our judgment about what the duty of humanity demands of us in a given situation.

It is at least arguable that an ethos need not be precisely defined, but Cohen goes one step further. He argues that it, at least in some cases, *should not* be precisely defined, even if it could be. He readily admits that “[i]f there is

widespread good faith effort and highly public rules, then, in all probability, we shall get closer to justice than if there is widespread good faith effort without very public rules."⁵² This does not mean that perfect knowledge is necessary, or even a good thing. He asks us to think of what might happen if we were able to tell our exact standing of well-being in relation to others in society. Would this necessarily lead to a 'more' just set of rules governing our interactions than if we are asked to proceed with imperfect knowledge? It is not clear that this is the case (think of the example of begging – would knowing the beggar's exact social status always change the dilemma presented?) Cohen sums his position up nicely by stating that these considerations don't "affect what justice *is*: justice is not hostage to human weakness and insufficiency."⁵³

Condition [7]: An ethos is not crisply definable, taking the form of
 “maxims, slogans, and principles.”⁵⁴

There remains a few more things to say about the mechanisms surrounding an ethos. One possible issue with understanding an ethos as a series of indefinable (crisply) societal norms is that it appears difficult to modify. Societal norms (of justice) do not immediately appear alterable if we cannot pin down that which we want to modify. Cohen points out, rightly, that “[a]n ethos may be eminently teachable, despite the fact that it cannot be embodied in crisply stated rules.”⁵⁵ To help us understand this point he uses the example of an anti-racism campaign. Societal norms of racism can be, if not abruptly, changed through education – by example. As individuals who have internalized an ethos will practice it (to some extent), these individuals are capable of changing the minds of others through their own example. To put it in a well-worn phrase: these individuals 'practice

what they preach'.

The concept of the 'moral pioneer' will help to make clear this exemplary action. While Cohen introduces the concept for a different purpose,⁵⁶ it is eminently applicable to the current subject. Moral pioneers are the earliest practitioners of a more just ethos. "They made a path that becomes easier and easier to follow as more and more people follow it, until social pressures are so altered that it becomes harder to stick to [the old] ways than to abandon them. That is a central way in which a social ethos changes."⁵⁷ In a given society, ethos can change, and the agents who lead that change – those with the courage, or other requisite virtue – are in a sense moral trailblazers. They help to spread a revised ethos by acting as examples for the rest of the society. Cohen uses the example of the first husbands to respond to feminist critics of sexism. He also uses the example of the first anti-slavery advocates. It is worth emphasizing that, for moral pioneers, as well as all those teaching-by-example, these individuals all *stand* for something – they all *embody* an ethos, and this is what helps a new (or scorned, or obscure, etc.) ethos spread. Rawls will in fact introduce a very similar concept in *LoP*, so I will return to this important concept in Section 3 and again in Section 6.

Another question of mechanism is how one knows that the ethos is really being internalized across society. If it lacks precise definition, it is not necessarily something one could, say, poll a society on. From this "it does not follow that one might not know that there is, or is not, a reasonably efficacious societywide *good faith effort*" to live by the dictates of the ethos."⁵⁸ This point is not immediately evident, but Cohen provides an example that demonstrates this on a small scale.

He asks us to consider a shared housing situation, in which many individuals use the same fridge. Each individual is given their own space within the fridge and "[f]or the most part, no one takes anyone else's food. But *only* for the most part."⁵⁹ The occasional looting of another person's food stores does occur, but things do not deteriorate further into mutual distrust and secured (as in with a lock) food stores. "Everyone knows that most people conform to the 'don't take from others' rule, and none would conform unless they believed that, but nobody knows who the nonconformers are."⁶⁰ Relative compliance can still be assessed (on this scale), without knowing who exactly is complying and who is not.

On a society-wide scale, this compliance can also be assessed. Cohen briefly points to the problem of littering, but I think the overall 'community cleanliness' ethos works even better. Cleaning-up after one's dog(s); making sure raccoons, etc do not scatter your garbage, and cleaning up if they do; shovelling one's steps in the winter; mowing one's lawn; not littering, etc are all elements of this 'community cleanliness' norm. As in the fridge example, for the most part people comply, but only for the most part. In most instances though, things do not deteriorate to the point of militantly enforcing the rules, although in (almost) all communities the rules are enforced to some extent - things *have* deteriorated somewhat from the ideal. In fact, this is an excellent example of an ethos at work since the 'keep one's community clean' maxim means different things (evidently) to different members of society, and yet, we can all agree that it for the most part functions just fine. We can also observe how it enhances societal rules, which in this case are municipal by-laws that could not possibly cover all instances of community cleanliness (nor be enforced, if they could). This example also points

to the difficulty of implementability, an issue that will become a concern as this thesis moves along.

Condition [8]: Society-wide (or group-wide) compliance with the ethos must be assessable by the individuals within that society (or group).

For further illumination of the concept, let us now turn to Cohen's two main examples. The first is England on the home-front of WWII. Cohen writes that "a social ethos induced people to sacrifice personal interests for the sake of the war effort, and everyone was expected, as a matter of justice, to 'do his bit' ... It is absurd to suppose that someone could have stated precisely what amount of sacrifice that injunction required..."⁶¹ Yet, nevertheless one could tell that the ethos was generally subscribed to. "It would have been crazy to ask for it to be carefully defined, and it would be crazy to deny that it performed a task of social regulation, in the interest of justice."⁶² For the most part, people did in fact do their bit for the war-effort, whatever that bit might be to each individual.

This example helps us understand what all of the above conditions might look like on a society-wide scale. Conditions 1 and 4 apply, as Great Britain is a society and the private actions of the individuals within that society are governed by the ethos in question. Condition 7 certainly applies, as there was no 'guide to doing one's bit' or some such precise enumeration of what the ethos required. What was available was the slogan 'do one's bit'. Condition 6 also implies as individuals clearly practiced the ethos, after having internalized its dictates. Cohen provides examples of various individual actions that all are done in the spirit of the ethos. Condition 8 also applied, as individuals within society were able to roughly assess compliance with doing one's bit, even though they could

not assess whether, for example, everyone on their street was doing their bit, or even if they themselves were.

I skipped by Conditions 2, 3 and 5, as they were not immediately part of the example. I think though that the example can easily be extended to demonstrate just how those conditions apply. Condition 2 certainly applies to Britain in general, as it is a society with a government establishing rules. In the specific context of the example, it was certainly the case that a number of laws, ordinances, etc. were passed by the government to govern the war effort on the home-front. These rules would have impacted upon what citizens could and could not do, and thus upon whether they could do their bit or not. Condition 3 applies as Britain is (and was) a democracy with a set of publicly-known, legitimate rule-generating procedures (elections, parliament, etc.). Condition 5 applies as we can imagine an interaction between the 'do one's bit' maxim and the rules governing citizen behaviour. In fact, the citizens of war-time Britain did their bit in light of the various government requirements of them, thereby enhancing the already-present government effort.

Cohen's second major example is the camping trip, which was prominent in his posthumous *WNS*.⁶³ First, Cohen asks us to "consider a camping trip where we all contribute roughly equally and enjoy the fruits of our cooperation roughly equally. ... [W]e all try to put in comparable effort but no one can say how big a piece of effort has to be for one to have qualified as doing one's bit, *or* what size a share has to be for one to be able to say, 'I've taken no more than my fair share.'"⁶⁴ There are some interesting things to consider about this example. First, it demonstrates why Cohen prefers the condition that ethos *not* be succinctly

defined, even if it is possible to do so. If, Cohen argues, we were to precisely enumerate the exact duties of each person on the trip, which is plausible, then it loses "its distinctive and attractive character."⁶⁵ I can add from personal experience with both sorts of camping trip that Cohen's claim is absolutely correct. Not only does a precisely delegated camping trip lose its distinctive character, it is completely non-functional. What the example "shows [is] *both* that the 'particular requirements' of a rule of justice ... can, *salva justitia*, be vague, and also, ... that it can be unclear who exactly is conforming."⁶⁶ This example will be at the center of the debate over the character of the global ethos in Section 4 of this thesis.

The second, and far more important point, with this example is the problem faced in Sections 5 and 6 of this thesis. As Cohen writes, "it *may* be more difficult to know about good faith effort on a larger social scale... [emphasis added]"⁶⁷ I have added the emphasis because it does not seem that Cohen's opinion on the matter had formed concretely by the time of his passing. The same concern with justice on a larger-than-society scale is found in *WNS*. Neither of these concerns is to say though that a global ethos is simply not possible, although they do impact upon its feasibility.

In fact, my project in the remainder of this section is to try to demonstrate the opposite – that a global ethos is, in fact, distinctly possible. I will proceed to evaluate, one-by-one, whether or not the conditions established above for the functioning of an ethos are in fact met at the global level. Establishing that the conditions are met, or at least could be met, at the global level does not in fact establish whether or not there should be a global ethos and what the character of

that ethos should be – that is a task for the remainder of this thesis.

To proceed straightforwardly, I will simply list each condition and then explore, if at times only briefly, whether or not that condition pertains, could pertain or is simply impossible at the global level. Unfortunately, I will not be able to go into the depth merited at times, given that some of these conditions have inspired output many times the length of this thesis. While the outcome of this exercise is revealed by the remaining sections of this thesis, it was originally conducted with a sceptical mind, i.e. in that I myself was sceptical as to its possibility, towards the possibility of a global ethos.

The first condition that ethoses apply to societies happens to be the most debated of any of the conditions. Whether or not there currently exists a global society and just what the nature of that society might be, is a heated debate within and outside the global justice literature.⁶⁸ What I will say in favour of a positive answer to this question is that without a doubt there exist global institutions, such as the UN, the World Bank, the WTO, and supranational bodies, such as the EU, the Organization of Petroleum Exporting Countries (OPEC), NATO and the African Union (AU) that are direct evidence of cooperation among states. Given that, more and more, any given nation is heavily impacted by the decisions of other nations, the proliferation and importance of these global and supranational entities are increasing dramatically.⁶⁹ Whether or not these institutions, as well as the informal bonds between nations fostered by NGO and individual/small group interactions, are enough to constitute a society, even a special sort of society is not entirely clear. Nor is it important. What is important is that there is no doubt that something broadly agreed upon as a society is clearly possible on the global level.

I would argue that if we are not there yet, we are getting very close, but this opinion does not matter as much (to this thesis), as there being simply the possibility and inevitability of a global society.

The second condition is that the society must be governed by a set of authoritative rules. The answer to this question is quite obvious. If there is one thing that states seem to like to do when getting together, it is producing agreements, treaties, statements, declarations, accords, etc. There is no shortage of authoritative rules already at the global level, covering everything from maritime trade to human rights, from pollution to standards of digital file types. If there already exists a global society, it most certainly is governed by a set of rules. If it doesn't yet exist, it will be born into an international realm already full of rules. Even if we only allow for those rules generated by all parties to which they apply (or almost all), which would include those generated by the UN, various treaties and supranational organizations, this still amounts to a large number of rules governing a large number of behaviours (of states and individuals). Of course none of this means that these rules are actually complied with, which of course possess problems to implementability. I provide a preliminary solution to this problem in Section 6.

The third condition is that the society must have some legitimate means of generating the above rules. The most obvious entity to look to is the UN and the parliaments of any supranational bodies, such as the EU. Also important are those agreements formed by groups of mutually consenting states, including any bilateral agreements. Whether or not global rule making ought to be centralized under one body is obviously contestable, but for our purposes, it is safe to say that

there currently exist legitimate, to varying extents, mechanisms for generating (purportedly) authoritative international rules. While a specific ethos of justice might have something to say about how those rules get made, for the purposes of possibility, it only matters that they do get made in some legitimate fashion.

The fourth condition that ethoses apply to the private actions of individuals is probably the second most contestable of the conditions. The reason is not because it is not possible for there to be global norms of behaviour, or norms that are accessible to any individual, but rather because of the nature of the global rules mentioned in the second condition. Existing global rules, generally, purport to bind states, not the individuals within those states.⁷⁰ This fact does not impact upon what is possible, but does mean that if a global society currently exists, most of its rules do not appear to apply to individuals, thus raising the question of what rules the ethos is interacting with. Even were rules binding individuals apparently completely lacking, there still could be a fledgling global ethos in operation. One possible example, to be explored further later, is a global ethos of environmental justice. Condition 4 is entirely possible on the global level, and depending upon how we interpret current global societies, it might even have begun to be met in some instances.

The fifth condition is that an ethos enhances existing rules. Again, there is nothing to say that this is simply not possible on the global level. The environment example seems to provide evidence that it already *is* occurring on the global level. It is the case that various governments across the globe have implemented rules governing our individual carbon output and that various international agreements attempt to coordinate these efforts globally. These rules

are at best incomplete and sometimes almost entirely non-existent. It is therefore left up to individuals in their private decision making to act in environmentally conscientious ways. Take for example the various feed-in tariffs for solar and other green electricity adopted in various locales across the globe. Without the presence of an ethos (and fiscal incentives), no one would have reason to participate in them. But people do, in large numbers, in part because they believe it is the 'right' thing to do. That is an ethos at work. Another example is the buying of green electricity at a premium. Here individuals, primarily in North America and Europe, have no fiscal incentive (since it costs *more* than other electricity), but do so because they believe it is the right thing to do. If there is a global society and it has a global ethos now, then it appears that the ethos is enhancing certain existing global rules, and if all of this still is yet to exist, there is nothing preventing enhancement occurring in the future.

The sixth condition is that the ethos be capable of informing the internal judgment (on matters of justice) of an individual. Again, there is no reason this couldn't apply and I think enough has been said about the environmental ethos to demonstrate that global ethos are being internalized, at least in some parts of the world. The real test for the environmental ethos is whether significant uptake occurs in developing countries. Presumably a global ethos, almost by definition is internalizable. The same I think applies to condition seven that an ethos not be crisply definable. There is nothing stopping this from applying on the global level. The environmental example again helps us here. One could say that the slogan/maxim of the environmental ethos is 'do your part for the environment'. This informs individual moral judgments about everything from purchasing

decisions to lifestyle choices, but really isn't definable much beyond that simple statement.

The eighth condition is that overall compliance must be assessable by an individual. This requirement actually becomes more interesting, for political scientists at least, on the global level. On the one hand, rough compliance assessment is almost forced upon individuals by global media entities that often run stories and specials on issues such as the quality of the environment and what various nations, entities and groups are doing about it, as well as other important issues such as poverty, crime and a host of other justice-related subjects. On the other hand, statistical indicators on a global level are, for the moment at least, going to be more fine than rough. That is to say, getting a sense of who around the globe is complying is not going to be possible beyond a national (and sometimes only regional) level. For an individual assessing whether others are doing their part, they will certainly have less than ideal information for most places on the globe and will have to rely on rough indicators, as well as information about specific groups/areas provided by NGOs and other information sources. All of this is to say that compliance assessment might be more difficult at a global level than it would be within *certain* societies (China is an example of a society within which compliance is hard to judge), but that this does not mean that it cannot be done at a rough level and that it cannot meaningfully inform individual decisions.

For those following along, the answer to whether all eight conditions apply on a global level has been yes. The answer as to whether or not all of the conditions obtain *currently* is one that is likely to be debated. My own belief is that they do, but this is certainly contestable. Part of my reason for why I think

this is the case is that it does not appear to take much in the way of a formalized structure to generate an ethos, although this certainly becomes more necessary as the scale increases. Part of the reason, for those who skipped ahead when asked to above, is that I think many existing international agreements require an ethos in order to be realized. Even if I am wrong that there *currently* exists an ethos, I think it would be difficult to refute the mere *possibility* of there being a global ethos. There is nothing in any of the conditions that is outright impossible at the global level, even if you might think that we are a long way from it actually obtaining.

What this means is that it is not a frivolous exercise to explore what the global ethos *ought* to look like. For those of us who think it obtains currently, this is an exercise in normative prescription for the short- and medium-terms. For those who think it is not likely to obtain for a long period of time, this exercise will still help you to think about what the human species *ought* to be progressing towards. For all of us it is an exercise in goal setting. I do not wish it to be merely such an exercise, which is why in my concluding remarks I will speak to how we might get from where we are today to where I think we ought to be heading. That is getting a bit ahead of myself though.

In the contemporary domestic literature, one might say that Rawls's *TJ* is the gatekeeper to any discussion of justice.⁷¹ By this I mean that it is hard to find a contemporary debate about justice that is not in some way connected to Rawls's landmark work. In the case of the body of Cohen's later thought this is most certainly the case. In it he set himself the task of 'rescuing' (and this is an apt description) the concepts of justice and equality from where Rawls's thought had

taken their discussion. In the global justice literature, we might say that Rawls's *LoP* (and his thought more generally) plays a similar, but lesser role. It is at the very least an important, controversial and influential work in the literature. In turning to it, I hope to provide an account of how Cohen's domestic arguments concerning an ethos (as well as some related arguments) can be used to criticise not just Rawls's domestic theory, but his global theory as well. What follows will also have something to say about what a global ethos *ought* to look like.

III. Does the Law of Peoples need an ethos?

This section examines John Rawls's global theory of justice, the Law of Peoples. It argues that for the Law of Peoples to be realized, individuals (and peoples) would need to subscribe to an accompanying ethos of justice. There are three inter-related reasons for thinking this: the contention that international rules require ethoses to be implemented, the way Rawls conceives of the Law of Peoples becoming widely adopted and the nature of the duty of assistance. All of this will also setup the third section of this thesis, where the character of the ethos contained within the Law of Peoples will be evaluated.

In *LoP* Rawls explicitly rejects the application of his two principles of justice, worked out for the domestic realm, to the global realm. Instead, he presents a very different take on what he believes should be the rules governing the foreign policy of liberal democratic regimes. These rules are the titular Law of Peoples, and are a collection of eight rules that all well-ordered peoples would affirm, behind a second (and third) original position, as the correct rules to govern their interactions with each other and those ill-ordered societies outside the

Society of Peoples.

Several terms need explaining and expanding upon. First, Rawls creates the ideal category of peoples as the *moral* agents of global relations, rejecting states as these agents, as well as the traditional understanding of sovereignty. Peoples, on the most convincing interpretation of Rawls offered by Philip Pettit, are, by definition, well-ordered, which is to say that “persons who constitute a people must be related to one another in a manner that leads us to say that their society is well-ordered.”⁷² Well-orderedness is not just a property of liberal democratic societies though. Decent peoples, a subset of which are decent hierarchical societies, must satisfy two requirements: the “society does not have aggressive aims,” and that it subscribes to a “common good idea of justice,” “secures for all members ... human rights,” that its “system of law must ... impose *bona fide* moral duties and obligations ... on all persons” and that the legal system must subscribe ‘sincerely’ to these practices.⁷³ Rawls believes that liberal democratic peoples should, on the basis of respect, allow those decent societies who affirm the Law of Peoples membership in the Society of Peoples.⁷⁴ Together, liberal democratic and decent societies exhaust the category of well-orderedness and constitute peoples.

Rawls recognizes that the ideal category of peoples does not (always) obtain in the real world and thus he recognizes three sorts of societies that are not peoples, being ill-ordered and thus outside the Law of Peoples.⁷⁵ These are outlaw states, who are deliberately non-compliant with the Law of Peoples, burdened societies, who lack the resources (not only fiscal) to be well-ordered,⁷⁶ and benevolent absolutisms, whose rulers abide by most human rights, but allow no

popular participation in government.⁷⁷ While all three of these types of societies are not peoples, as they are ill-ordered, members of the Society of Peoples are still restricted in the sorts of interactions they may have with them, addressed below.

Liberal peoples engage in two original positions: one is domestic, between citizens of a given society and the other is between peoples to establish the Law of Peoples. Rawls writes that these two original positions function identically: "[a]ny differences are not in how the model of representation is used but in how it needs to be tailored given the agents modelled and the subject at hand" – it is the information given to participants and what they are deciding upon that changes.⁷⁸ In the first original position, it is the rules governing domestic institutions (the basic structure) being decided upon, with the information allowed being tailored to suit this decision. In the second original position, it is the Law of Peoples being decided upon and the information here differs: the decision-makers are "the rational representatives of liberal peoples" and "they do not know, for example, the size of the territory, or the population, or the relative strength of the people whose fundamental interests they represent."⁷⁹ "[T]he Law of Peoples is an extension of a liberal conception of justice for a *domestic* regime to a *Society of Peoples*."⁸⁰ It is the "reasonable utopia" that all well-ordered peoples would agree is the reasonable means of ordering their interactions among one another.

This concept of a reasonable utopia is essential to understanding the character of the Society of Peoples. It marks the (ideal) point at which a society achieves a reasonable level of justice domestically, thus becoming well-ordered. Well-ordered peoples will naturally interact and through their mutual endorsement of the Law of Peoples, will begin to "develop[s] mutual trust and confidence in

one another."⁸¹ These mutual bonds are crucial to the progress towards a realistic utopia and "[m]ost important is maintaining mutual respect among peoples."⁸² In fact, it is for reasons of mutual respect that Rawls believes liberal peoples would not insist on a liberal Law of Peoples.⁸³ This community is characterized by mutual assistance combined with respect for one another's differences – a reasonable pluralism writ large.⁸⁴ While "reasonable pluralism limits what is practically possible here and now", "the limits of the possible are not given by the actual."⁸⁵ This last line sums up the hopeful (utopian) tones of Rawls's Society of Peoples.

There are eight rules in the Law of Peoples. These rules are those "that free and independent well-ordered peoples are ready to recognize ... [as] basic principles of political justice."⁸⁶ They are: (1) "Peoples are free and independent, and their freedom and independence are to be respected by other peoples"; (2) ... "observe treaties and undertakings"; (3) "Peoples are equal and are parties to the agreements that bind them"; (4) ... "observe a duty of non-intervention"; (5) ... "right to self-defense but no right to instigate war for reasons other than self-defense"; (6) ... "honor human rights"; (7) "observe certain specified restrictions in the conduct of war" and (8) the duty of assistance.⁸⁷ Rawls recognizes that when these rules are taken out of an ideal context and are applied to real world interactions that numerous interpretations of each of these rules, as well as extensions and qualifications will need to be added.⁸⁸ For our purposes in this section, the final three rules will be focused on in particular. The reason is that these three rules are the most controversial - with some of the first five being essentially givens in any international agreement (such as respecting agreements)

- and are the starting point for my arguments about an ethos below.

The first argument that the Law of Peoples requires an ethos is that, generally speaking, international agreements of the sort represented by the eight laws require an ethos for their realization. In order to advance this claim, I need to establish that these rules impact upon individuals and not just peoples, as ethoses pertain to individual conduct and the rules in question bind only their states/peoples and their representatives. Then it will have to be shown that these rules require an ethos in order to be implemented. This argument applies not just to Rawls's Law of Peoples, but to any international agreements, so as we proceed I will be referring to both the rules contained within Rawls's Law of Peoples, as well as to actual international treaties in so much as they overlap, to allow this argument to function outside of this specific context.

Seemingly similar to the requirement of rule six of the Law of Peoples to honour human rights, there are several major international treaties on this subject binding many (if not all) current states. Compliance with these treaties is monitored by a special central body, the Office of the United Nations High Commissioner for Human Rights (OHCHR), as well as special committees established for each treaty, not unlike the body that might do such things in the Society of Peoples.⁸⁹ Unlike Rawls' very minimal set of human rights, which accepts some of the Universal Declaration of Human Rights (UDHR) (1948), in reality there are, in addition to the UDHR, nine 'core' human rights treaties: International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965), International Covenant on Civil and Political Rights (ICCPR) (1966),⁹⁰ International Covenant on Economic, Social and

Cultural Rights (ICESCR) (1966),⁹¹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979),⁹² Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984),⁹³ Convention on the Rights of the Child (CRC) (1989),⁹⁴ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) (1990), International Convention for the Protection of All Persons from Enforced Disappearance (2006) and Convention on the Rights of Persons with Disabilities (CRPD) (2006).⁹⁵ As well, there are numerous further agreements impacting human rights. Some important ones include the United Nations Millennium Declaration (2000), Declaration on the Rights of Indigenous Peoples (2007), Slavery Convention (1926), Convention on the Prevention and Punishment of the Crime of Genocide (1948) and the Geneva Conventions (1864, 1906, 1929 and 1949). All of these documents purport, to some extent, to commit their signatories to recognizing and respecting a vast number of universal human rights.

It is important to understand just what these conventions, declarations and other agreements amount to. The nine core conventions are in theory, if not in practice, legally binding to all who ratify, as are the other conventions listed, while the declarations are not, but possess “an undeniable moral force and provide practical guidance to States in their conduct.”⁹⁶ Thus any state who is party to any, some or all of these conventions has committed their government to a broad range of human rights. Below, some of these commitments, as they overlap with Rawls's minimum human rights, will be explored. But first, for our purposes, I must address the question of what these rules, as well as the rules in the Law of

Peoples, mean for individuals within those states or peoples? This is *the* important question when addressing the issue of a global ethos.

The answer has to be that in some ways these conventions and declarations *do* have implications for individual actions. The obvious individuals are those constituting the governments, public services and government-funded agencies that are directly concerned by the rules that each government, or representative bodies, must craft to implement each convention. Some of those rules will be looked at below. These rules cannot possibly cover all actions taken by the government and its agencies, as will be seen below, and thus to implement the full scope of the conventions involves cultivating a new 'culture' of government, broadly speaking. Rawls certainly believes as much, as the 'public reason' which must come to recognize the Law of Peoples could also be termed the government culture (or ethos).⁹⁷ Cohen though is interested in something other than the 'culture of government,' as I indicated above. Do these agreements do more than just require our political representatives to adopt the correct new ethos? Do these agreements have implications for all individual members of a society?

The answer to this question has to be yes, as well. In one sense, in that everyone is *impacted* by these agreements, then, yes, they do have implications for all members of society. You would be hard pressed to find an individual whose rights, as established by all these conventions and rule six in the Law of Peoples, are not being infringed in some way. But does this have implications for individual action? How possibly can these agreements be taken seriously if they do not have implications on individual behaviour? How does a government go about guaranteeing all the rights it has agreed to protect, even Rawls' minimal set,

if individual members of society are intent on not complying? In order for our international obligations to be met, an ethos must be propagated across society. I think it would be helpful at this point to work through some examples that I hope will make clear the point I am trying to make.

Setting aside the duty of assistance for later, let us turn our attention to rules six and seven of the Law of Peoples. Rule six requires that all member "[p]eoples are to honor human rights" and that in some instances of grave violation (outlaw states) may be enforced by coercive action.⁹⁸ Human rights include: "the right to life (to the means of subsistence and security); to liberty (to freedom from slavery, serfdom, and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought; to property (personal property); and to formal equality as expressed by the rules of natural justice."⁹⁹ These human rights are "a special class of urgent rights"¹⁰⁰ and, in part, equate to Articles 3 to 18 of the UDHR.¹⁰¹ While this is certainly a narrow conception of human rights, especially when compared to the sheer number of rights enumerated in the various treaties above, they are more than robust enough for our purposes here.

First, let us turn to the Slavery Convention (1926), which is presumably acceptable, at least in part, to Rawls, given his own concern with slavery and its inclusion among his basic human rights. Article 2(a) of the Slavery Convention requires 'the High Contracting Parties' "[t]o prevent and suppress the slave trade."¹⁰² The rest of the document outlines various measures for accomplishing this goal. None of these measures actually covers specific actions to be taken, nor could they cover specific incidents bound to arise. This requires an ethos that

values human liberty from ownership to be adopted by not just the government, but by all individuals within society. An incident in northern China in 2007 demonstrates exactly why this is the case. In the summer of 2007, news broke out about ongoing slave labour in brick kilns in Henan and Shanxi provinces in China.¹⁰³ Reaction from the Chinese government was swift, with a death sentence and jail terms quickly following. But what this demonstrates is that even *if* a government is committed to this ethos of no slavery, as the Chinese government appears to be, having a general population that does not subscribe to the ethos will mean that the goal of eradicating slavery will never happen. The individuals *comprising* these peoples/states must themselves honestly subscribe to the ethos in their own behaviour in order for progress to be made. If, in this instance, the employers in these areas of China do not come to subscribe to the no slavery ethos, then new kilns or other enterprises employing slave labour will simply pop back up after the government has finished their investigations. Real, lasting commitment to a rule requires the ethos to not just be adopted by the government, but by all individuals (or at least most) within a society.

For a second example, let us turn to the Geneva Conventions. Article 3.1 of Convention I states that all of the parties to a conflict must abide by the following: "[p]ersons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria."¹⁰⁴ This is essentially the same thing as the requirements Rawls stipulates for the conduct of

war.¹⁰⁵ Rawls thinks only well-ordered peoples will comply with this, although all peoples ought to do so – just as all combatants ought to comply with the Geneva Conventions. It should be fairly simple to see why an ethos of just conduct in war is required to implement this provision. It is simply not possible for a government and their armed forces, or any other controlling body of a combatant group, to regulate this conduct into existence. Unless the individuals who make up the armed forces of a country, as well as any civilians attached to those armed forces, or otherwise involved in a conflict, subscribe to the ethos embodied in the Geneva Conventions, there is only so much proper conduct a government can regulate. As well, prosecution of breaches of this requirement will be far more difficult in a society that does not itself subscribe to this ethos. Historical examples of the lack of compliance with this Convention by signatories abound. This is one of the most clear-cut examples of why an international rule, and why a specific stipulation of the Law of Peoples, requires an ethos in order to be implemented.

For a third example, let us turn to one of the rights from the UDHR that Rawls recognizes as being a 'true' human right. Article 5 of the UDHR is the right to not "be subjected to torture or to cruel, degrading treatment or punishment."¹⁰⁶ This is one of those rules that requires widespread compliance on the part of all government employees (police, corrections officials, 'internal' agencies) most obviously. But it also requires a wider change in public attitudes towards these actions. Subscription to an ethos such as one of biblical forbearance, or treat others as you would have them treat you, by all, or most, members of society makes it far less likely that sadistic individuals will come to occupy places of authority where they can harm others. And widespread public support makes

prosecuting those who do fall the cracks far more easily. Without the general populace subscribing to such an ethos, any government trying to impose respect for this human right will face a difficult challenge.

For a current example of this issue, one can look either to International Security Assistance Force (ISAF) experiences in Afghanistan or the American coalition experiences in Iraq. In Afghanistan, the Canadian detainee abuse scandal demonstrates what happens when a government (the Afghan) ostensibly agrees to abide by no torture protocols and creates rules to such effect, but the general populace does not subscribe to the ethos that sees torture as wrong. The end result is that even though the Canadian government is assured by the Afghan government that they do not torture, the actual individuals running prisons clearly do not subscribe to the same ethos.¹⁰⁷ In the Abu Ghraib prison incident in Iraq, United States Army soldiers and private contractors abused prisoners under their care in the prison. As the Human Rights Watch report makes clear, even when a government that is committed to its principles creates rules towards a certain end (preventing abuse of prisoners), it requires those individuals to whom the rules apply and those whom are meant to monitor the rules subscribing to an ethos before the goals set out in the rules can be achieved.¹⁰⁸

All of the above examples share in common the observation that even when principles of justice inform institutions, these principles do not ensure compliance. Thus in non-ideal theory, accountability mechanisms are necessary, in the absence of the assumption of perfect compliance, to ensure compliance with these institutions. In the above examples though, it is not as if accountability mechanisms do not exist. China for instance possess a robust state apparatus for

compliance insurance and the members of ISAF and the United States are all well-established democracies. Violations of these principles will continue unless the society also possesses the requisite ethos of justice that works in tandem with the principles of justice informing the institutions. In the international case, what should be clear is that, with some exceptions, the compliance mechanisms are in an embryonic state, or lacking entirely. The lack of compliance also indicates that any ethos of justice is also in an embryonic state.¹⁰⁹

The above argument and subsequent examples demonstrate two points. The first is that for these international agreements to be meaningfully realized, they must include an accompanying ethos. The second is that meaningful realization also requires the agreements to be binding upon more than just the behaviour of the governments of the signatories. All individuals must internalize the accompanying ethos.

The above is not the only reason to believe that the Law of Peoples requires an ethos, and the second argument relates to how Rawls believes the Law of Peoples will come to be adopted by the various member peoples in the Society of Peoples. What I will argue is that this is a simple case of requiring moral learning on the part of all citizens, not just the members of a government, and the concept of an ethos can readily explain the need for socialization of this sort.

Rawls believes a process of moral learning is essential to the long-term acceptance of the Law of Peoples. He writes that in the domestic case, there exists "a process whereby citizens develop a sense of justice as they grow up and take part in their just social world. As a realistically utopian idea, the Law of Peoples must have a parallel process that leads peoples ... to accept willingly and to act

upon legal norms embodied in a just Law of Peoples."¹¹⁰ There are a few different things that this might mean. It could mean that the individuals who make up a people undergo an expanded moral learning process, which includes legal norms based on a just Law of Peoples, as well as their domestic legal norms. It could also mean that the people itself collectively undergoes a moral learning process. This second meaning is a bit difficult to grasp, since it could mean that the people, which essentially is a culture, grows to encompass new norms, or it could mean that the representatives of that people adopt these new norms in the appropriate decision-making processes. If the first is the case, then that is essentially equivalent to the first meaning, since a culture adopting new norms will mean that its individual members are subjected to new norms in their moral development. The second is a bit trickier to understand, since the representatives could be insulated from the wider cultural norms and thus their new moral learning would not translate to a societal level. Given what Rawls says later though about all individuals needing to accept the Law of Peoples,¹¹¹ this meaning can safely be set aside. What Rawls seems to intend here is that the legal norms of the Law of Peoples come to be accepted and adopted by a people, and thus become a part of the moral learning processes that individuals undergo as they become socialized.

While the use of the word norm should have been a hint, here is where an ethos enters the picture. The process described above makes a lot of sense, if what is being talked about is an ethos. As Rawls writes of the above process, "peoples see those norms as advantageous for themselves and for those they care for, and therefore as time goes on they tend to accept that law as an ideal of conduct."¹¹²

This is a description of an ethos – an ideal of conduct that one learns through

socialization, as it is embedded in the culture of a society. If we understand what happens with the long-term adoption of the Law of Peoples as, in part, involving the recognition of certain legal norms based on a just Law of Peoples, such a process requires an accompanying social and political culture – an ethos – to support the proper adherence, interpretation and application of such norms. For example, is it the actual articles of the Canadian Charter of Rights and Freedoms that children become socialized to, or to the spirit of the ethos it embodies? I'm pretty sure that children do not learn, for example, the 'Oakes test' for proportionality, as opposed to learning what it means to be fair and reasonable in a given situation.¹¹³ "As I have said, peoples (as opposed to states) have a definite moral nature."¹¹⁴ That 'moral nature' requires something much more robust than what is contained in the Law of Peoples. It requires the moral norms that develop surrounding the Law of Peoples. What happens when moral learning occurs is that the ethos of a people, which has to that point been exclusively a domestic ethos, begins to adapt to and adopt the ethos embodied in the Law of Peoples.

I think it would be useful to recall what Cohen said above about ethos propagation. With, for instance, the racism example, the process of moral learning involves an ethos coming to be adopted over time through the process of education-by-example, primarily. Rawls and Cohen both have very similar understandings of the importance of socialization to the long-term survival of new societal norms. It would also help to keep in mind that it will be important for the long-term survival of the ethos of the Law of Peoples that condition eight of Cohen's, concerning assessment of compliance, be met. The only way that individuals, and thus peoples, will come to subscribe to these new norms, is if

they know that other individuals, and by extension, peoples, are also complying. While this argument, coupled with the argument about implementability, clearly shows that Rawls needs there to be an ethos attached to the Law of Peoples, there is one final reason for believing that this is the case.

Another case of where an ethos helps in understanding and implementing the Law of Peoples is with the case of burdened societies. To see this we must first understand something about the duty of assistance. The discussion of the duty of assistance primarily occurs in § 15 and 16 of *LoP*. Here Rawls lays out what burdened societies are, the duty that well-ordered peoples have towards them and how this relates to matters of distributive justice. Burdened societies, being the targets of the duty of assistance, are those "burdened with unfavorable conditions" in that they "lack the political and cultural traditions, the human capital and know-how, and, often, the material and technological resources needed to be well-ordered."¹⁵ The description immediately shouts to the observant reader that what burdened societies in part lack is the correct social ethos. And that is in fact the reading of the duty of assistance that I believe most plausible, given the understanding of the Law of Peoples I have advanced so far. It would make sense if a collection of rules and their accompanying ethos would include as a rule a requirement that adherents assist those lacking the capabilities, or, in part, the correct ethos, develop into able partners in a relationship of moral reciprocity.

Beyond the above quote, Rawls has a more detailed understanding of burdened societies. In describing early-modern European outlaw states, Rawls says something more general about membership in the Society of Peoples: "[t]heir fault lay in their political traditions and institutions of law, property, and class

structure, with their sustaining religious and moral beliefs and underlying culture. It is these things that shape a society's political will; and they are the elements that must change before a society can support a reasonable Law of Peoples.”¹¹⁶ It seems rather clear that what Rawls is describing here is, in part, that these societies lacked the sorts of institutions, laws and other social institutions and cannot thereby support the requisite social ethos. And to further emphasize this point, Rawls makes it clear that it is *not* the relative well-being of these societies that prevents their becoming decent - adjusting welfare levels “is not the object of the duty of assistance.”¹¹⁷ His first of three guidelines to the duty of assistance makes this point explicit in noting that “a well-ordered society need not be a wealthy society.”¹¹⁸ The guideline continues that “the aim is to realize and preserve just (or decent) institutions, and not simply to increase, much less to maximize indefinitely, the average level of wealth, or the wealth of any society or any particular class in society.”¹¹⁹ Rawls is adamant that what he is talking about here is something distinct from simple fiscal redistribution.

The second guideline appears to limit the lacking institutions to just political ones, before offering a more comprehensive view. He begins with “the political culture of a burdened society is all-important” and that there is “no easy recipe” for how this is to be remedied.¹²⁰ He expands his description to match those earlier quoted: “[t]he crucial elements that make the difference are the political culture, the political virtues and civic society of the country, it's members' probity and industriousness, their capacity for innovation, and much else.”¹²¹ The guideline concludes by cautioning that “merely dispensing funds will not suffice” to solve the problems and that a focus on respecting human rights is the best

approach to rendering meaningful assistance.¹²² The third guideline is that the goal of all this is to develop a society to the point that it can reasonably join the Society of Peoples – to the point at which it becomes well-ordered.

All that remains is to put the pieces together. What burdened societies in part lack is a social ethos appropriate for supporting a just or reasonably just Law of Peoples, as well as resources, favourable historical circumstances, and political and social institutions. These are all certainly interrelated, although resources less importantly so.¹²³ What Rawls suggests that societies who are members of the Society of Peoples do is to provide advice and support to burdened societies, particularly focusing on promoting human rights (rule six). The ethoses embodied by even the minimal human rights endorsed by Rawls are probably best taught by example, as opposed to, say, coercive implementation of rules that are hoped will eventually yield the desired ethoses. Rawls wants to explicitly rule out the latter method, especially if involving force, in favour of a gentle encouragement method (or at least that is how I read his comments on 110).¹²⁴ As we saw above in the discussion of moral learning, what Rawls seems to be doing here is trying to transfer the process of affirming the ethos from within the Society of Peoples to those peoples outside of it. All of this is very much compatible with the process Cohen imagines for ethos-implementation.

Rawls also addresses the very important question of why peoples will help burdened societies. Rawls recognizes that “affinity among peoples is naturally weaker” than among individuals making up a people.¹²⁵ This lack of affinity “is the task of the statesman to struggle against,” as the ideal statesman is Rawls’s chosen agent of change. “What encourages the statesman's work is that relations

of affinity are not a fixed thing, but may continually grow stronger over time as peoples come to work together in cooperative institutions they have developed.”¹²⁶ As the ethos embodied in the Law of Peoples becomes more and more a part of a people's ethos of justice, through the moral learning process described above, more and more individuals will begin to see other peoples through the lens of mutual caring.¹²⁷ Teaching by example becomes very important, as “[t]his mutual caring is the outcome of their fruitful cooperative efforts and common experiences over a considerable period of time.”¹²⁸ In a very fitting statement, Rawls writes that “[g]radually, peoples are no longer moved by self-interest alone or by their mutual caring alone, but come to affirm their liberal and decent civilization and culture, until eventually they become ready to act on the *ideals and principles* their civilization specifies.”¹²⁹ The only thing worth questioning in this statement is whether it is a particular civilization's ideals or the ideals of the Society of Peoples, or both, that come to be affirmed. I think it must be a combination of both.

The above discussion gives rise to another important consideration. While this is not a full argument for the Law of Peoples requiring an ethos, I believe it still is worth pointing out at this point the similarity between Cohen's moral pioneers and Rawls's ideal statesmen. The statesmen (ideally constituted) are those individuals in positions of political leadership in well-ordered societies “who, through their exemplary performance and leadership in their office, manifest strength, wisdom, and courage. They guide their people in turbulent and dangerous times.”¹³⁰ The statesman “sees deeper and further than most others and grasps what needs to be done.”¹³¹ This ideal necessarily “includes moral

elements.”¹³² Rawls writes of the statesman as ‘leading-by-example’, both in terms of military conduct respecting human rights¹³³ and as being at the forefront of the “struggle against the potential lack of affinity among different peoples and try to heal its causes.”¹³⁴ Since relations among peoples lack the institutions that tie domestic society together, “the statesman must continually combat these shortsighted tendencies.”¹³⁵ Most important of all, the statesmen are tasked with convincing their “public of the enormous importance of [the] principles” of the Law of Peoples.¹³⁶ From this description, it would seem the statesman is a kind of moral pioneer.

I think the explanation is a little more complicated and worth working through. First, yes, the statesman is acting as a ‘moral pioneer’ in championing causes that do not have widespread public support. They are doing more than just ‘parroting’ the Law of Peoples and instead fully embody what I at least would want to call its ethos. They ‘live’ the Law of Peoples, we might say. So, setting aside the major qualification below, they do in fact seem to be moral pioneers and it would seem that, given their role, an explanation of how they function is greatly assisted by involving an ethos. As champions of human rights, great persuaders of their people, advocates for affinity and general leaders-by-example, a good way of thinking about this would simply be to say they have internalized the ethos of the Law of Peoples and have taken its promotion upon themselves.

I need to make one qualification upon this comparison. Keep in mind that for Cohen, moral pioneers are individuals whose actions stand in contrast to the ethos of society. They act on the grounds of personal conviction. Rawls thinks that the statesman “must look to the political world, and must, in extreme cases, be

able to distinguish between the interests of [their] well-ordered regime ... and the dictates of the religious, philosophical, or moral doctrine that he or she personally lives by.”¹³⁷ Ideal statesmen are *not* to live by personal conviction, but rather in the interest of their political community, which is best served by perpetuating the Law of Peoples. So while these still may be individuals driven by personal moral convictions,¹³⁸ those are not the convictions they ought to be (always) operating upon. Nevertheless, I do not think this qualification ‘disqualifies’ ideal statesmen from moral pioneer status. They simply operate in such similar manners that, even though the source of the ethos they operate upon might not always be an individual one, they still can be considered moral pioneers in the sense of their purpose. I will return to this point again in Section 6 where I will add a further, and perhaps damning, qualification.

I think these three inter-related arguments, supported by the ideal-statesman-as-moral-pioneer claim, do enough to establish that the Law of Peoples does in fact necessitate an accompanying ethos and that this ethos must apply to individuals, as well as to peoples, or the representatives of peoples. What this section has not accomplished is any substantive evaluation of the spirit of the ethos generated by the Law of Peoples. Any disagreement between Cohen and Rawls would certainly extend to the ‘spirit’ of the Law of Peoples and that is where I will go next in Section 4.

IV. Evaluating the character of the Law of Peoples

Section 4 is concerned with the *character* of the Law of Peoples. The above evaluation was not concerned with the evaluating the nature of the content

of the Law of Peoples, but I believe that for any critique of the Law of Peoples from the perspective of Cohen to be complete, it needs to include some consideration of its character. Section 4 advances three related arguments: first, it picks back up an argument from Section 3, providing another argument that the basic unit of concern ought to be individuals, not peoples; second, that Rawls's conception of equality is highly contestable, even if we grant him that peoples are the basic unit of concern and third, that Cohen's understanding of justice understood through the principle of community is superior to Rawls's. While I will present these arguments as (largely) separate, they are all closely inter-related.

Before I go any further, I need to be clear just what sort of evaluation I am conducting here. My standard of evaluation is Cohen's thought and thus bestows upon it a special status. The requirement of being 'sufficiently just' is really 'sufficiently just as would be judged by Cohen.' To be sure, I have reasons for employing Cohen's arguments and I will try to make those clear as we proceed. This needs to be done to insulate my arguments from the criticism that using Cohen's standard is merely arbitrary on my part. I cannot though fully protect against this criticism, particularly in my employment of *WNS*, but I will endeavour to motivate my use of Cohen when relevant. I will also not be employing Cohen in isolation, but will try to place him into the context of the global justice literature in Section 6. None of this should disguise my original reason for employing Cohen, which is that I find both his positive theory and the critical apparatus he deploys particularly apt in revealing faults in Rawls's theory of (global) justice. The test of whether I am correct is, in part, whether or not I am

persuasive in my arguments. I need also to acknowledge that, regrettably, Cohen himself never engaged in these debates.¹³⁹ This explains my tentative language, and frequent use of ‘Cohen-inspired’ or the like, throughout what follows.

The first argument I think would be advanced is that peoples are the wrong unit of concern. As discussed at length in Section 3, peoples (and poorly-ordered political entities) and not individuals are the basic unit of analysis in the Law of Peoples. I presented several reasons why this is problematic to Rawls through the lens of an ethos-based critique. Here I want to provide one further reason for why I think Rawls to be mistaken on this issue. This argument involves deploying a similar argument to that Cohen deploys against the basic structure in *RJE* and gets at the character of the Law of Peoples.

Rawls himself addressed why peoples and not individuals are the unit of analysis. He contrasts his account from above to several early attempts to extend his domestic theory to the global realm.¹⁴⁰ Subsequent to *LoP*, many prominent cosmopolitan theorists have questioned this reasoning, with varying degrees of persuasiveness, thus making my claims far from novel.¹⁴¹ My purpose here is not to be novel, though, but rather to provide another reason for thinking Rawls to be mistaken in this regard.

Rawls is concerned with the justice of a society. He assumes that “every society ... has enough potential human resources to realize just institutions” and the Law of Peoples is not concerned with “rais[ing] the standard of living beyond what is necessary to sustain those institutions. Nor is there any justifiable reason for any society’s asking for more than is necessary to sustain just institutions, or for further reduction of material inequalities among societies.”¹⁴² The egalitarian

implications of this account will be discussed below. What is important here is that it seems Rawls, fatally, fails to recognize the true *reason* we care about the justice of a society, or of a Society of Peoples.

Drawing from one line of reasoning in *TJ*, the whole reason we are concerned with the justice of a society, and thus its institutions, is its ‘pervasive impact’ on the well-being of the individuals that constitute it. The criticism of the above reasoning is that the reason we care about the justice of the Society of Peoples and the individual peoples within it are because of the lives of those individuals making up these entities. This will make more sense when paired with a criticism Cohen makes in *RJE* about Rawls’s focus on the basic structure and not individuals in *TJ*. “[W]hy should we care so disproportionately about the coercive basic structure, when the major reason for caring about it, its impact on people's lives, is also a reason for caring about the informal structure and patterns of personal choice?”¹⁴³ Why do we care about the justice of peoples at all? It is because of the lives of the individuals that make up those peoples.

I have already in the past two sections said a great deal about why individuals and not peoples ought to be the basic unit of analysis. As I continue with the second argument, I will point out statements of concern for the individual found throughout *LoP* that seem to support the above arguments. Just ask why Rawls would be concerned enough about human rights that their protection finds itself in the Law of Peoples, if the individual were not our ultimate concern.

The second argument begins with the duty of assistance discussed in Section 3 above. This, recall, is one of the most *progressive* elements of the Law of Peoples and involved in part, as I argued, assisting those societies that lacked

the requisite social ethos to join the Society of Peoples. Also to be found within the duty of assistance is the grounds for a Cohen-inspired rejection of the character of the Law of Peoples on the grounds of equality.

While Rawls is not shy about the limits upon the duty of assistance throughout, since he believes it to be a merit of his theory, they come to the fore in §16. First, while §15 was clear that what assistance entails is not just fiscal in nature, §16 reverts to purely fiscal discussions of assistance. I believe this is most likely Rawls adapting to the subject matter – distributive justice – but, nevertheless, this does cast the relation between the two sections in a sceptical light. Setting this concern aside, the issue at hand is that “[t]he Law of Peoples ... holds that inequalities are not always unjust, and that when they are, it is because of their unjust effects on the basic structure of the Society of Peoples, and on relations among peoples and among their members.”¹⁴⁴ There is nothing glaringly off about this statement, as Cohen writes about the sorts of inequalities that can be just in *RJE*, as well as in *WNS*. As it will develop below, though, Rawls and Cohen here are in marked disagreement over what constitute permissible inequalities, or, in other words, what justice requires.

Before moving on, I would like to point out a major frustration with *LoP* that will impact upon the discussion later. Recall the earlier discussion in Section 2 concerning the three different ways of understanding the basic structure in *TJ*. I noted that *none* of these definitions are applicable in *LoP*, but not why. The reason is a simple one – it is not because Rawls precisely defines the basic structure in a way different from any of the three understandings, but because he neglects to define it almost entirely (beyond the domestic level). Despite referring frequently

to the 'basic structure of the Society of Peoples,'¹⁴⁵ he not once defines it beyond tidbits interspersed throughout the text. §7.3 is devoted to this basic structure, but all he mentions as being part of it are respect and toleration among peoples (§7.2 & .3). Even the index is of no help in locating other relevant passages I might have missed during my close read in search of the basic structure. To be sure, he certainly discusses cooperative institutions within the Society of Peoples,¹⁴⁶ but he never states that these constitute the basic structure. That Rawls does not even provide a cursory definition is a serious frustration in working out the Law of Peoples, since that to which it applies, at least if we follow his stated logic, is not defined.

In discussing what would be the disagreement between Cohen and Rawls, I will first need to discuss Rawls's conception of equality in *LoP* in more detail. Rawls says there are three reasons to be concerned about inequalities in domestic society: "suffering and hardship of the poor"; that some are "stigmatized and treated as inferiors" and "fairness in the political processes."¹⁴⁷ Rawls on the issue of suffering takes a straightforwardly sufficientarian¹⁴⁸ position – once everyone has "sufficient all-purpose means" domestically and "all peoples have a working liberal or decent government, there is ... no reason to narrow the gap between the average wealth of different peoples."¹⁴⁹ The response is the same to inferiority: once "the duty of assistance is fulfilled ... [feelings of inferiority] are unjustified."¹⁵⁰ Rawls's message is that once you, meaning the people as a whole, not you individual person, have enough – culture, institutions, requisite ethos, etc. –, i.e. have become well-ordered, the duty of assistance is done with you. There is no consideration given to the individuals within the people, which is interesting

since how does one assist a people without assisting individual members of that people. (Also recall my first argument in this section.) The answer to that question in part depends upon what constitutes the basic structure, but on this, as I just mentioned, Rawls is silent globally.

The third reason, fairness, has an interesting answer, especially given my above concern about the basic structure. Fairness pertains to political processes embedded in the basic structure, not to individual lots *per se*. Rawls speaks of fairness in terms of elections, legal matters and formal equality of opportunity. He says fairness pertains analogously to the basic structure of the Society of Peoples. I quote the entirety of the reason: “[b]asic fairness among peoples is given by their being represented equally in the second original position with its veil of ignorance.”¹⁵¹ This involves representatives trying to maintain their independence and relative equality, meaning ideal formal bargaining position, not actual equality. In fact, “inequalities are designed to serve the many ends that peoples share” within the Society of Peoples.¹⁵²

Before moving on to why Cohen would object, it is worth discussing Rawls's *other* description of the duty of assistance. In his initial discussion concerning the rules of the Law of Peoples, Rawls writes that provisions for "mutual assistance" in times of need and "provisions for ensuring that in all reasonable *liberal (and decent) societies people's* basic needs are met [italics added]" ought to be included within the scope of the Law of Peoples.¹⁵³ "By basic needs I mean roughly those that must be met if citizens are to be in a position to take advantage of the rights, liberties, and opportunities of their society. These needs include economic means as well as institutional rights and freedoms."¹⁵⁴

This here appears to be a more expanded duty of assistance than the one we have been discussing, in that it seems to require that the economic means of individuals *within* liberal and decent societies (see italics above) be met. The requirement that economic basic needs be met for individuals within well-ordered peoples is dropped, as the duty of assistance only requires elevating burdened societies to well-orderedness and says nothing about inequalities among members once that well-orderedness is achieved. This description leads me to wonder about its compatibility with the later, and far more extensive, discussion of the duty of assistance.¹⁵⁵

Before even introducing Cohen, one particular feature of the conception of fairness stands out as troubling, which is the role accorded to political representatives. They are given the position of ‘bellwethers’ for having achieved well-orderedness (read: decency), but in a non-ideal context this seems naïve on Rawls’s part, given that political representatives are undoubtedly among the first members of a burdened society who benefit from ‘decent status’ and thereby be satisfied with just that. No consideration is given by Rawls as to who exactly these representatives are and the real world provides no happy answer to this question – just think of who the ‘representatives’ of the people are in the current Afghan government. It is not unimaginable that they would, given the international effort going into that country, be treated as equals in a hypothetical second original position, thereby rendering the job of fairness complete in contemporary Afghanistan. This might be a bit of a stretch.

I now need to establish Cohen's understanding of equality. After doing so, the incompatibility between the two understandings will become apparent. In

doing so, I will also be setting up the third argument in this section. To do all this, I want to turn to Cohen's final, posthumous work *WNS*. This short book is a revision, evidently made in light of *RJE*, of an earlier conference paper and subsequent book chapter.¹⁵⁶ While I will not be discussing *WNS* in total isolation from *RJE*, this move to *WNS* needs to be justified, as it is far from uncontroversial.

While *WNS* can be seen as a coda on the work of Cohen, its relationship to the progress of Cohen's thought is not entirely clear. The original essay was presented at a conference in 1998 and thus was written before the new material in *RJE*, as well as the revised comments Cohen made on previous material, which are dated 2008.¹⁵⁷ The edits made to *WNS* clearly came after *RJE*, since only the original essay and not the new volume are mentioned in *RJE*. But how do the two relate? Well, the major difference is that *WNS* concerns itself with the transition from ideal to non-ideal theory and is, on my reading, essentially a message of hope; hope for the socialist world view. This is one of my primary reasons for employing it, as will become evidence in Section 6 – it seems to extend some of the considerations Cohen had in *RJE*, *beyond* his normal ideal boundaries. But how does the conception of equality relate to that in *RJE* (or, for that matter, previous writings)? While there seems to be a general congruence, this is a matter of some recent speculation that I cannot engage in here as it would take us too far a field and beyond my expertise.¹⁵⁸ Most notably for my purposes here, *WNS* does not deploy ethos terminology, although I will be adopting it to these purposes.¹⁵⁹

I am ultimately employing *WNS* here not only for the above mentioned reasons, but because it provides a simple and vivid account of the principles that

Cohen envisioned would govern an ideal world. First, the heart of *WNS* is an extended thought experiment that has already been introduced in Section 2 – the camping trip. There I employed the camping trip as an example (as Cohen does in *RJE*) of an ethos at work. In *WNS* it plays a different role, in which it serves to demonstrate the desirability, on a small scale, of a particular kind of socialism. In working through the camping trip, Cohen outlines two principles that are central to his conception of justice: equality and community. These two principles are employed in my critique of Rawls here, and in my construction of a Cohen inspired global ethos in the third argument and Section 5 below.

To remind readers, Cohen asks us to imagine a typical camping trip of the sort described in section one above. The camping trip is an example of a “non-massive context [in which] people cooperate within a common concern that ... everybody has a roughly similar opportunity to flourish.”¹⁶⁰ Immediately, the problem of expanding these ideals to a massive scale, a problem first noted in Section 2, comes to the fore. I want to set this concern aside for later. Whether or not Cohen's camping trip can be extrapolated to a massive scale does not alter the sort of equality and community he is espousing – it can be arrived at by other means. The camping trip here serves as just a useful example.

First, in trying to describe the sort of equality embodied by the camping trip, Cohen identifies three progressively more demanding equalizing regimes in the contemporary theoretical landscape. The first he calls “*bourgeois* equality of opportunity,” which is the classical liberal understanding embedded in our constitutions.¹⁶¹ “Bourgeois equality of opportunity removes socially constructed status restrictions, both formal and informal, on life chances.”¹⁶² The second he

calls “*left-liberal* equality of opportunity,” which modifies the bourgeois conception by also correcting for “social circumstances.”¹⁶³ Under the left-liberal conception, “people’s fates are determined by their native talent and their choices.”¹⁶⁴ Finally, “*socialist* equality of opportunity treats the inequality that arises out of native differences as a further sort of injustice ... since native differences are equally unchosen.”¹⁶⁵ The important element of this final understanding of equality is that it allows for a wide spectrum of types of lives, giving us the flexibility needed on the global (and national) scale for pluralism. “[T]here can be no objection to differences in people’s benefits and burdens that reflect nothing but different preferences, *when* (which is not always) *their satisfaction leads to a comparable aggregate enjoyment of life.*”¹⁶⁶ It is the third sense of equality that is at work in the camping trip example.

The conception of justice is not yet complete, as equality has a moderating factor. Cohen calls the second element at play ‘community,’ although I think we might just as well label it ‘solidarity’.¹⁶⁷ By community Cohen means the idea “that people care about, and, where necessary and possible, care for, one another, and, too, care that they care about one another.”¹⁶⁸ A belief in community means that certain inequalities, even if permitted by the egalitarian principle, nevertheless are impermissible, because they diminish our capacity to interrelate.¹⁶⁹ Solidarity also involves belief in a “communal form of reciprocity,” not a “market form of reciprocity.”¹⁷⁰ What this means is that “I serve you not because of what I can get in return by doing so but because you need or want my service.”¹⁷¹ This understanding of community is thus a view of the world that emphasizes our interconnectedness and places value in this not just

instrumentally, as a means to our own betterment, but as something important in and of itself. It is, I believe, necessary as a compliment to the egalitarian principle, not only because it further moderates inequalities, but also because it fosters a sense of community that an equalizing principle does not do on its own.

Combining these two components together provides us with, as I will elaborate in the third argument below, an alternate account of a global ethos.

It should be evident then that Cohen and Rawls's conception of equality clash rather drastically. Setting aside the difference in the units of analysis discussed in the first argument in this section, it is clear that what I have labelled Rawls's sufficitarianism is in direct opposition to socialist equality of opportunity. Not only are the things that Rawls believes need to be equalized straight out of the bourgeois conception, but Rawls's sufficitarianism believes in stopping the equalization process long before issues important to socialist equality of opportunity have been dealt with.

Even if we were to grant Rawls, for the sake of argument, that peoples were the basic unit of global justice, there would be further disagreement on equality. Recall that there is also a lack of equality among peoples in the Society of Peoples. This is bound up with the concepts of respect and autonomy. Well-ordered societies regard one another as equals and respect for one another maintains autonomy among the member peoples. Rawls provides an example to demonstrate this point: there are "two liberal or decent countries ... at the same level of wealth ... and ... same size population. The first decides to industrialize and to increase its rate of (real) saving, while the second does not. Being content with things as they are, and preferring a more pastoral and leisurely society, the

second reaffirms its social values. Some decades later the first country is twice as wealthy as the second. ... [S]hould the industrialized country be taxed to give funds to the second?"¹⁷² Let me now provide an answer.

We might, in addition to employing the socialist understanding of equality from *WNS* and the critique about individuals to challenge Rawls on this point, also use another of Cohen's arguments from *RJE*. This is the 'interpersonal test.' Within a community, and in this instance the community is the Society of Peoples, there exist "norm[s] ... of comprehensive justification" when "it is considered appropriate to ask [a policy maker] to justify the relevant behaviour."¹⁷³ These norms are certainly present in the Society of Peoples, as "the duty of civility require[s] that [peoples] offer other peoples public reasons appropriate to the Society of Peoples for their actions."¹⁷⁴ The test is a simple one: one "subject[s] ... to variation ... who is speaking and/or who is listening when the argument is presented."¹⁷⁵ In the case of inequality amongst peoples, we can explore whether or not the best-off people in a given scenario could justify their behaviour to the worst-off.

It is worth pointing out that support for this sort of test of policy can be found in Immanuel Kant. In "Toward Perpetual Peace," Kant argues that "[a]ny legal claim must be capable of publicity," by which he means that "if I cannot *admit it* [the maxim] *publicly* without thereby inevitably provoking the resistance of all others to my plan," then the maxim is unjust.¹⁷⁶ While the purposes behind the test are different – here Kant is arguing about universalizable maxims, I think there is a similar motivation behind the justificatory framework, which is that it is much harder to get away with injustice when forced to explain it to the victim. He

argues that in a situation where states are bound together in “some kind of *juridical condition*,” “the criterion of publicity of maxims can ... be applied readily.”¹⁷⁷ Rawls’s Society of Peoples would be a perfect example of just such a juridical condition.

Returning to the example, I think deploying Cohen’s test is informative. First, we need to image the first state trying to justify a lack of taxation to the second. Can the first state ‘some decades later’ still plausibly claim that the second is worse-off as a result of freely made choices? Is there any reason to believe the political leadership and voting population of the second state are the same that made the choice decades earlier? In order for the first state to be justified, they would need to be making some strong claims about intergenerational justice to the effect that the current generation in the second state is responsible for the actions of the previous generation. The difficulties posed by these considerations render the answer to these questions far from clear.

This example also brings back into light the individual criticism I advanced in the first argument above. When Rawls writes that the first and second state made decisions, it is by no means clear that these were completely *unanimous* decisions endorsed by *all* citizens of the respective countries. Why not factor into the above test the consideration that there are individuals who did *not* choose the current state of affairs, as well as individuals of a later generation uninvolved in the prior decision making? Would the best-off individual who voted to industrialize in the first country be able to justify the lack of redistributive taxation to the worst-off individual who voted against not industrializing in the second country, who, let’s suppose, will be significantly benefited by the taxation

were it to occur? This seems to me to be an even more troubling dilemma to this example and to Rawls's understanding of equality more generally.

The third argument will evolve in response to the criticism that Rawls also provides an account of a cohesive global community, at least among the Society of Peoples. It will argue that Cohen's conception of community is the superior one. Essential to the conception of peoples in Rawls after all is that they insist "on receiving from other peoples a proper respect and recognition of their equality" and that they are "fully prepared to grant the very same proper respect and recognition to other peoples as equals."¹⁷⁸ While affinity among peoples is not a given, the ideal statesman is tasked, as we saw, with encouraging it to grow on the basis of this mutual respect and consideration.¹⁷⁹ As institutions of the Society of Peoples begin to develop, these bonds will continue to grow.¹⁸⁰ The eventual goal, as we saw above, is that all societies eventually become included within the Society of Peoples and its bonds of respect and affinity.

To be sure, Rawls believes that respect and toleration are essential to the longevity of the Society of Peoples. There just seems though to be something less than sincere about the nature of this community, when compared with Cohen's conception of community. The bonds that would hold Cohen's community together would seem to be more genuine and lasting because they are developed among individuals across borders in interpersonal relations, as opposed to among peoples in an institutional context. Yes, Rawls writes about the need for all individuals within the Society of Peoples to affirm the Law of Peoples – I argued this is one of the reasons to think he needs an ethos. Keep in mind this only applies to *peoples*, which on the most plausible understanding of peoples would

exclude many of the societies (burdened ones, rogue states) most needing the bonds of solidarity. He also writes that groups from within a people would reach out to burdened societies, but as we have seen that is inherently problematic on the grounds of equality. This all seems to rest on several assumptions about the relationship between affinity among peoples, global institutional growth and individual subscription to the Law of Peoples. It also rests a great deal of weight on the development of an institutional structure that he does not even define. When you compare this to an account of generating strong interpersonal bonds on the basis of mutual subscription to a shared ethos, it just seems that Rawls's account lacks the genuine qualities of Cohen's.

Drawing attention to the various differences between Rawls and Cohen is fine, but I have only really just begun to state why I believe Cohen's understanding of equality and community are preferable to Rawls's. The support for this contention, I believe, rests in the, what I found to be, deeply unsatisfying nature of Rawls's conclusions concerning the duty of assistance. Much of the problem I believe lies in the unerring drive to maintain a sufficitarian position. This causes Rawls to need to define a target for the duty of assistance, and, by implication, equality. If a redistributive program, and here Rawls is criticizing Beitz's *Political Theory and International Relations*, "is meant to apply continuously without end – without a target, as one might say – in the hypothetical world arrived at after the duty of assistance is fully satisfied, its appeal is questionable."¹⁸¹ The duty of assistance is "a principle of *transition*" and the point transitioned toward is the assurance of "the essentials of *political autonomy*," whatever lack of equality might still apply, both between that people

and others and among the members of that people, once a peoples obtains that autonomy.¹⁸² The question becomes whether autonomy as a well-ordered political entity is worth the trade-off of continuing to press for further equalities.

Finally, the duty of assistance seems to misunderstand what it means to be a moral role model and a teacher, something that Cohen's theory takes fully into account. The statesmen, as well as others involved in the duty of assistance, are moral (and political) teachers on a societal scale – their job is to assist burdened societies in building up the institutions (and ethos) required for well-orderedness. I was under the impression that the point of teaching someone else is not just to make sure that they get by, but to ensure that they flourish. The teachers in Rawls's Law of Peoples are only to be concerned with helping others reach some bare minimum. If all teachers were to behave in such a manner, then how would future generations ever improve on the past? If there is meant to be a caring relationship among societies, why would anyone be satisfied with providing the other with the bare minimum?

Cohen's principle of community is far more attractive in this regard, as well as more plausible in explaining the mechanism. Building on the concepts of teaching-by-example and the role of moral pioneers, expansion of the global ethos of justice, specially the principle of community it espouses would involve individuals (and groups – Section 6) of one society acting as role models to members of another society. The relationship would not have some arbitrary end point and would be founded upon genuine bonds of community – interpersonal, not institutional ones.

I believe this understanding of community has a lot in common with the

African concept of *ubuntu*. *Ubuntu*, whose greatest proponent is perhaps Archbishop Desmond Tutu, is an African conception of “personhood,” which sees “the interdependence of persons for the exercise, development, and fulfillment of their potential to be both individuals and community.”¹⁸³ Among the elements of this concept, Michael Battle identifies viewing individuals in a non-competitive manner and that *ubuntu* is something that must be worked at, as being core to the understanding of *ubuntu*, and as difficult for Western minds to comprehend.¹⁸⁴ Nkonko Kamwangamalu also identifies communalism and interdependence as central to the concept of *ubuntu*, and suggests that these make *ubuntu* a concept difficult to reconcile with the dominant individualist Western tradition.¹⁸⁵ Nhlanhla Mkhize emphasizes that *ubuntu* “requires human beings to live in solidarity with fellow human beings, their families, their communities ... and the rest of the world in which they find themselves.”¹⁸⁶ I believe that the insistence that *ubuntu* is a concept difficult for Westerners to understand points to the juxtaposition of Rawls and my interpretation of Cohen’s concept of community: one, Rawls, is fundamentally embedded in a tradition of individual and state autonomy and attempts to jarringly reconcile these concepts with a concept of communal interdependence. My reading of the concept of community in *WNS* does not have these stumbling blocks. It allows for a far more robust sense of community as a result.

It is time to unite all the various threads together into a vision of a global ethos of justice, inspired by Cohen generally, and *WNS* in particular. At the heart of this understanding of justice is the belief that individuals are the basis of an global understanding of justice. Justice will be achieved not just when there are

just global institutions, but when we are all united in our subscription to a global ethos. At the heart of this global ethos are the two interrelated principles of equality and community. They emphasize not only a radical equality among individuals, but a sense of community, or solidarity, among all individuals on the basis of genuine bonds of respect and caring. A global ethos of some sort may already exist in some embryonic form. If this is the case the task of those committed to this vision will face the challenge of leading the transformation to the global ethos envisioned above.

V. The desirability and feasibility of a global ethos

Section 4 concluded with a discussion of how the principles of equality and community operate in concert as Cohen conceives them in *WNS*. These two principles ought to be, as I just outlined, at the core of any Cohen-inspired global ethos of justice. The tricky bit about a global ethos of justice, as I have already pointed to, is that, as we have seen, there are many differing conceptions of equality. A global ethos that features egalitarianism as one of its core components would stand open to a large number of interpretations of just what egalitarianism meant and how it might impact upon a given situation. (Readers might recall the begging example from above.) Everything from basic bourgeois equality to socialist equality, could potentially impact upon an individual's judgment of a given situation. The *challenge* for socially progressive individuals (Cohen's 'moral pioneers' or Lea Ypi's 'avant-garde', to be discussed in Section 6) is not only to get everyone to internalize a global ethos of justice that includes a principle of equality, but to get everyone to employ a more-and-more progressive

(and eventually socialist) understanding of equality. This I believe is one of the great beauties of a global ethos of justice: it is a very gradual project that can subtly transform a rudimentary (bourgeois) sense of equality into a robust and progressive one.

At this point I believe it extremely important to ask about this project the two questions Cohen asks about his own project at the end of *WNS*. These two questions, in my own opinion, ought to be asked of any normative theory of justice: is it desirable and is it feasible (in the non-ideal)? This second question really is the doorkeeper to a deeply devised discussion within contemporary political philosophy on the relation between ideal and non-ideal theory.¹⁸⁷ Just by asking the question, I indicate that I believe an essential element of an ideal theory is its translatability into non-ideal theory. Without venturing any further into a debate well outside the scope of this thesis, I will simply point out I am just asking the same questions Cohen asked of his own project and leave it (unsatisfactorily) at that.

The first of two questions is whether or not my Cohen-inspired vision of a global ethos, as described, is desirable. One common objection is that any schema to implement this ethos would involve drastically restricting the life choices of individuals. One possible way to counter this claim is to point out that the current system also drastically restricts a person's life choices. As Cohen puts it, the catch is that "nobody designed things that way, and [our] restricted options consequently misappear as facts of life."¹⁸⁸ Perhaps the best example of this is Mr. Morgan's yacht, a thought experiment proposed by Cohen in 1979. The thought experiment is a simple one: there is a wealthy man who owns a yacht and a bunch

of us who desire to use it, which of course Mr. Morgan forbids. Cohen argues that our inability to use Mr. Morgan's yacht, even though we greatly desire to do so, is as much a restriction on our freedom as our using Mr. Morgan's yacht would be a restriction of Mr. Morgan's, and perhaps more so.¹⁸⁹ Ownership hinders freedom as much, or more so, than it promotes and protects it.

A transition then to the global ethos inspired by Cohen I outlined above, as well as life under that global ethos would restrict our freedom in one way of thinking about it. Cohen's response would be that this is not so much an objection, as an observation, given that our current society also limits our freedom. We would be transitioning from one understanding of freedom to another. Of course, this has radical implications on the desirability of this project to those who enjoy the current system. The persuasiveness of moral pioneers will need to be called upon to solve this dilemma.

It is further objected that the scale of the camping trip, and thus its vision of society, is not transferable to society at large, let alone the international arena. The objection is that the social relations of caring, friendship, generosity, etc. that make the camping trip possible on a small scale are just not plausibly shared between millions, if not billions of individuals. Humans are just not capable of relations on that scale. The objection misses the point that what matters is not that we somehow be capable of carrying on relations with millions of people - we are just not capable of this. What we are capable of is "that I treat everyone with whom I have any exchange or other form of contact as someone toward whom I have the reciprocating attitude that is characteristic of friendship. And general social friendship, that is, community, is, like friendship, not an all-or-nothing

thing. It is surely a welcome thing when more rather than less community is present in society.”¹⁹⁰ Cohen is right in thinking that this is not a binary choice: either the ethos is desirable or not. It is more that the ethos can be more or less desirable, just as our relations with others can be more or less in accord with the ethos. And, of course, these sentiments are subject to the gradual change of socialization that all moral learning is subject to. I will suggest that moral pioneers be at the forefront of this change in Section 6.

The second question I will conclude with is whether or not my vision of a global ethos is feasible. As Cohen writes, “[i]t is the aspiration of socialists to realize the principles that structure life on the camping trip on a national, or even on an international, scale.”¹⁹¹ Doing so, in part, means achieving a society that, unlike market society, “the unavoidable mutual dependence of human beings is ... brought into common consciousness.”¹⁹² I wrote above about the similarities between Cohen's concept of community and the African concept of *ubuntu*, and here we see why that is important. In order for a Cohen-inspired global ethos, or, for that matter, any similar global principles, to be realized, current society must change to one in which an ethos of solidarity (or community) pertains among all (or most) citizens of the planet.

There are two major challenges to realizing my conception of a global ethos. The first is the argument “that people are ... by nature insufficiently generous and cooperative to meet [the] requirements.”¹⁹³ The second is that “even if people are, or could become, ... sufficiently generous, we do not know how to harness that generosity.”¹⁹⁴ Cohen also recognizes that beyond these two issues, there are also issues of dominant social and political ideologies discounting

socialism. Cohen's own concerns rest with the second problem: "we do not know how to design the machinery that would make it run."¹⁹⁵ Although, Cohen does admit that he is agnostic on the matter of whether this will ever be possible: "I do not think we now know that we will never know how to do these things."¹⁹⁶ The stumbling block seems to be, possibly, our natures' and our knowledge.

I see no real evidence that Cohen's first concern is the case. As the camping trip, as well as, Cohen notes, societal (an international) responses to some natural disasters demonstrate, people are not incapable of acting on these two principles on a large scale. The real issue with the first concern is that current coercive and non-coercive structures, and even some societal norms and practices, are directly in conflict with my vision of a global ethos. Cohen believes that current economic structures, for the most part, reinforce individual selfishness, but I think that structures and norms do much more than just promote selfishness. Take for instance current norms of charitable giving. As I quoted Cohen in Section 2, charitable giving would be far more meaningful if it worked to *enhance* government action. But it seems that Western societies tend to value the amount given and the *initial* results as reported in the news media, as opposed to the long term efficacy of the donations, especially if it is from a celebrity or other media luminary. In the December/January 2007 issue of *The Walrus*, Chris Tenove explored the effect of 'celebrity' donations and involvement in Africa. His conclusion was that short-term relief can work, but "[t]hey are not, however, able to tackle the structural roots of Africa's poverty."¹⁹⁷ We are capable of generosity, even on a large scale, but what we lack is coordination.

VI. Conclusion and future directions

What remains is to solve the dilemma of implementability posed in Section V. To start, I would like to locate my global ethos of justice within the current global justice literature. To readers familiar with the literature, it should be clear that this is a cosmopolitan theory of justice. To see this, I think Pogge's seminal classification scheme is worth outlining.¹⁹⁸ The schema states that there are three conditions that must be met for a theory to be considered cosmopolitan: individualism, universality and generality.¹⁹⁹ For Cohen, individuals are indeed the unit of concern and they are all afforded equal status (as units) in his analysis. Further, the whole point of a global ethos, I would argue, *is* that it applies to all humans; otherwise it would not be a global ethos. Within cosmopolitanism, Pogge notes two different subdivisions. The first is between legal and moral cosmopolitanism.²⁰⁰ The former is concerned with building a concrete political structure in the world – a global republic of some sort, while the latter is concerned with how human beings treat one another. Cohen definitely falls within the latter sort of cosmopolitanism. The second division is between institutional and interactional moral cosmopolitanism.²⁰¹ The first “postulates certain fundamental principles of justice [that] apply to institutional schemes.”²⁰² Sound familiar? The second, interactional moral cosmopolitanism, establishes basic principles of justice that apply directly to human interaction, not via institutions. Thus, we might plausibly classify this theory of a global ethos of justice as moral interactional cosmopolitanism.

Having identified my global ethos of justice theory as a kind of cosmopolitanism, the next step is to consider *how* it relates to other cosmopolitan

theories. This is important because not only does this identification open my arguments up to any number of criticisms commonly advanced against cosmopolitans, but it may also try to make of this theory something that it is not. Keep in mind what was said above about the global ethos not yielding the same advice across all situations, there being, purposefully, no consistent standard to apply. This stands in contrast to many thinkers advancing comprehensive cosmopolitan theories of justice, which tend to operate upon a series of concrete principles. Some of the more notable thinkers in this category include Simon Caney,²⁰³ Kok-Chor Tan,²⁰⁴ Gillian Brock,²⁰⁵ and David Held.²⁰⁶ While I might want to promote a particular understanding of egalitarianism within the global ethos, there are other interpretations one could plausibly advance.

Even lacking this feature, there are certainly ways to proceed that could solve the dilemma of implementability. The flexibility of the ethos system may in fact be beneficial in this regard. I believe, in fact, that Cohen already provides us with the rudiments of a solution located within the concept of moral pioneers. I believe that many similarities exist between this concept and the newly developed theory of the ‘cosmopolitan avant-garde’ by Lea Ypi. This confluence both allows me to bring my arguments into the context of current arguments in the literature and to provide a solution the question as to how one might solve the dilemma of implementability.

A quick recap of the role of moral pioneers is necessary. Moral pioneers are those individuals at the forefront of ethos change. They are those individuals who for reasons of personal conviction, decide to act in a way different from the existing ethos of the time. Change in ethos is spear-headed by these individuals.

The problem of a weak or embryonic global ethos can be solved in a way similar to that being proposed as a way of solving the (perceived) lack of global solidarity, an issue confronted in both the multiculturalism and cosmopolitan literatures. First, let us turn to the issue and the proposed solution in the multiculturalism literature.

Will Kymlicka provides an informing account of why promoting solidarity across cultural lines *within a nation* alone is a complicated challenge. Shared political values, including that of justice, do not seem to be enough of “a reason for two or more national groups to stay together in one country.”²⁰⁷ For solidarity among nations, Kymlicka notes that even though Western nations have seen “a convergence of political values,” this has not decreased the desire for “national independence.”²⁰⁸ Promoting solidarity within and among Western nations on the basis of political values alone seems a daunting task, let alone between all the nations of the globe. History, Kymlicka notes, can as often produce divisions between nationalities, as it can bolster a common identity.²⁰⁹ It is certain that the history of global conflict poses a major issue to global solidarity, although it is not impossible to unite once bitter rivals (for example, Japan and the United States, or France and Germany). Kymlicka thinks in “multinational [and] polyethnic [countries], containing many national and indigenous groups ... as well as immigrants from every part of the world,” any solution to promoting solidarity will have to involve “accommodation.”²¹⁰ The solution, Kymlicka thinks, may lie with Charles Taylor’s concept of ‘deep diversity’ and likely involves coming to value that deep diversity itself.²¹¹ I think moral pioneers could be at the forefront of promoting ‘deep diversity’.

In order to see this, I want to compare moral pioneers to another, similar cosmopolitan theory. Cohen is of course not the only individual with fears that we just don't how to get from the present to our goals. Virtually all cosmopolitan theorists agree that the challenge is in figuring out how to turn their theoretical vision into reality. According to Lea Ypi, “[o]ne of the most forceful critiques against cosmopolitan[ism] ... emphasizes its weak motivational force in the absence of a trans-national ethos of solidarity.”²¹² But this should never give way to defeatism and reverting to trying to make the current global system work, or to somehow justify it. Cohen quotes Albert Einstein as saying “that socialism is humanity's attempt 'to overcome and advance beyond the predatory phase in human development.’”²¹³ I think the fact that we are currently lodged in the predatory phase is evident nowhere more than on the global scene. I have tried to argue in this thesis that not only is a global ethos, of the kind Cohen would have envisioned, feasible, but it is desirable. The kind of ethos presented by Rawls in *LoP* does not go nearly far enough in satisfying the demands of equality and community, and thereby global justice.

Cohen, as I have already indicated, points us in the right direction in his discussion of moral pioneers. Ypi in a forthcoming book builds upon a similar observation of past political progress on a global scale and uses this to revive the concept of the political ‘avant-garde.’ The avant-garde are defined as those “responsible for promoting global justice initiatives within particular states.”²¹⁴ While these may, and have been, individual actors, in order to take the burden off of individual action, the avant-garde also involves “formal organizations (for example, socialist, social-democratic and green political parties as well as trade

unions)[,] informal associations (groups campaigning on gender issues, religious or indigenous movements, land-workers and peasants' organizations)[,] as well as various branches of international non-governmental associations (such as Oxfam, Amnesty International, Emergency and so on)."²¹⁵ These are Cohen's 'moral pioneers'; those leading the "norm modification" of society, with past examples being the Suffragettes, anti-racism campaigning (both examples Cohen uses) and, more recently, the environmental movement.²¹⁶

I think it worth asking, again, whether Rawls's ideal statesmen are moral pioneers in light of these remarks about the political avant-garde. My qualification above was that moral pioneers are driven by personal convictions, while ideal statesmen ought not to be driven by them, but rather by the ethos of the Law of Peoples and national interest, broadly construed. The new challenge is that it seems avant-garde actors are often in *opposition* to the important political actors of the day. They are the agents of changing the political system, not the leaders of it. It really seems then that even were we to construe *ideal* in as progressive a manner as possible in characterizing the nature of the ideal statesmen, they could not be avant-garde given their structural location within the logic. The political leaders only take up the call for a change in ethos after the work of the avant-garde movements has been accomplished; after enough popular support has convinced the political leaders of the change in direction. If moral pioneers are avant-garde, it would seem that ideal statesmen cannot be moral pioneers, contrary to my previous remarks. These are some really preliminary thoughts on the matter, but they seem to point to Cohen's moral pioneers being better champions for global change than Rawls's ideal statesmen.

By way of a final remark, I want to wrap together the avant-garde with the environmental example, which I brought up back in Section 2. It seems possible that one strategy for promoting global justice in the absence of any institutions or agreements is for the avant-garde to ‘lead’ with a global ethos. The environmental ethos example might point to cases in which the environmental ethos served to *establish* conditions of environmental awareness, eventually creating enough interest that international agreements followed. In other words, international norms *precede* any international rules. It certainly seems that those who support the global ethos are at the forefront of the lobbying effort to establish international agreements. I think it interesting to consider whether or not this strategy of promoting the ethos first, before seeking to establish agreements might be generalizable across all cases of global injustice. Promotion of a global ethos of justice ought to be, or in fact already is, the tool employed by the avant-garde, the moral pioneers at the forefront of global justice activism.

Notes

1. Daniel Weinstock, "Introduction," in "Global Justice, Global Institutions," ed. Daniel Weinstock, supplement, *Canadian Journal of Philosophy* 31, no. S1 (2005): vii.
2. As opposed to global political philosophy.
3. Lea Ypi, "Politically constructed solidarity: The idea of a cosmopolitan avant-garde," *Contemporary Political Theory* 9, no. 1 (2010): 120. Patti Tamara Lenard and Christine Straehle are the other two contributors to the "Global Solidarity" special. Cohen is mentioned in none of these articles.
4. I speculate later as to whether Cohen himself would actually have engaged in these debates were he still with us today.
5. John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999). I mean 'rescued' in the sense of 'rescued from domestic constraints.' This is entirely in jest of Cohen's title of his 2008 work.
6. Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, 2nd ed. (Oxford: Oxford University Press, 2002), 1.
7. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).
8. *TJ* 151, for example.
9. G. A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008). It ought to be noted that *RJE* is merely the culmination of Cohen's arguments against Rawls and that the debate began much earlier.
10. *RJE* 85.
11. Simon Caney, *Justice Beyond Borders: A Global Political Theory* (Oxford: Oxford University Press, 2006), 1.
12. See the end of the first paragraph, *TJ* 8. These comments are featured in speculation on the matter in Robert Amdur, "Review: Rawls' Theory of Justice: Domestic and International Perspectives," *World Politics* 29, no. 3 (1977), 453. This article also provides a good sense of the early work on extended Rawls's theory to the international realm.
13. In his 1989 *Realizing Rawls*.
14. In his 1973 *The Liberal Theory of Justice*.
15. Actually, *LoP* is based upon a lecture Rawls gave in 1993, collected in *On Human Rights: The Oxford Amnesty Lectures* (1993), which he indicates in the preface of *LoP* he "was never satisfied with" (v). So while these ideas have been around since 1993, we might say he *definitively* entered the fray in 1999.
16. This term, along with my other technical terms, will be explained at the beginning of Section 2.
17. What I am not doing in this thesis is engaging in the debate concerning the possibility of moral universals. Even was it the case that moral universals were impossible, a global ethos, as part of a global culture, could still be possible, being based upon a global confluence of moral

norms. This is why I feel I can set aside this debate as being beyond the scope of this thesis. For a discussion of the former debate, in the context of cosmopolitan claims about moral universals, see Caney, *Justice Beyond Borders*, chapter 2.

18. Cohen discusses these influences in several places, including a brief account at the beginning of *RJE*. For a more complete account, see *If You're An Egalitarian, How Come You're So Rich?* A humorous recounting of these events occurred during his Chichele Professor of Social and Political Theory valedictory lecture.

19. A note on the use of the singular and plural in referring to an ethos or ethoses is necessary at this point. When I am talking about a specific instance of an ethos, as in Cohen's ethos of justice, I will use the singular. When I am referring to the concept of ethos more generally, I will use both the singular and plural, whichever is more grammatically appropriate. Generally, there exist multiple ethoses in any given society, including the possibility of competing ethoses of justice. This does make standardizing the use of the singular or plural somewhat difficult, but I have endeavoured to be as consistent as possible.

20. *RJE* 126.

21. *RJE* 144.

22. *RJE* 16. All emphasis in quotations is original unless otherwise stated.

23. The reason for the brackets will become apparent in Section 4, when I address this issue at length.

24. Jonathan Wolff, "Fairness, Respect and the Egalitarian Ethos," *Philosophy & Public Affairs* 27 (1998): 9. Wolff recently published "Fairness, Respect and the Egalitarian Ethos Revisited," which revisits his arguments in the above paper, as part of a special volume of *The Journal of Ethics* 14 (3-4) celebrating Cohen's work. His revised thoughts do not affect his basic understanding of an ethos.

25. *RJE* 132, fn. 35. Of course, he speaks of small-scale situations where only an ethos operates. See below for some examples.

26. This methodology was employed by both Rawls in *LoP* (see 30-34 on the original position) and Beitz in *Political Theory and International Relations* (see 34 ff., esp. 36 on Hobbes and the state of nature in international relations). My methodology here is directly inspired by these two works.

27. *RJE* 73.

28. Chapter 8 of *RJE* is dedicated to arguments about publicity. While I will discuss this further below, Cohen, while rejecting any strict 'high' publicity requirement, nevertheless acknowledges that some publicity, of the sort I outline here, is normally desirable (see the first paragraph of section 7 on 364). I discuss the situations when publicity might not be desirable below.

29. *RJE* 141-2.

30. *RJE* 374.

31. *RJE* 16.

32. *RJE* 144.

33. *TJ* 7.

34. Arash Abizadeh, "Cooperation, Pervasive Impact, and Coercion: On the Scope (not Site) of Distributive Justice," *Philosophy & Public Affairs* 35, no. 4 (2007): 342. Here Abizadeh is paraphrasing Cohen.

35. *RJE* 133; *TJ* 236.

36. Abizadeh, "Cooperation, Pervasive Impact, and Coercion," 320. I have perhaps done some definitional violence to the three understandings of the basic structure in Abizadeh by trying to pull definitions from Rawls and Cohen that match the passages Abizadeh cites/discusses. The Cohen definition of coercion is my own interjection, as I think it helps in characterizing that particular reading of Rawls. I take full responsibility for the insufficiencies of the above account.

37. Is the latter an example of a non-consent-based coercive global structure, in that it has exercised coercive jurisdiction over non-consenting parties, such as Sudan, through the issuing of global arrest warrants? See CBC News, "International court issues warrant for Sudan's president," *CBC News*, March 4, 2009, <http://www.cbc.ca/world/story/2009/03/04/icc-sudan.html>

38. NATO is far less so, although the command and control structure is enforced across member militaries. Do these two also count as globally coercive bodies since they both are actors bound within the global structure of the UN, during peace enforcing missions (the EU is in Bosnia currently under EUFOR)?

39. *RJE* 374.

40. *RJE* 378.

41. *RJE* 73.

42. Wolff, "Fairness, Respect and the Egalitarian Ethos," 9.

43. *Ibid.*, 9.

44. Aristotle, *Nicomachean Ethics*, trans. Terence Irwin, 2nd ed. (Indianapolis: Hackett Publishing Company, 1999), 1137a-1138a.

45. Aristotle, *Rhetoric*, trans. W. Rhys Roberts, ed. Jenny Bak (Mineola, NY: Dover Publications, 2004), 1374a-b.

46. Aristotle, *Rhetoric*, 1374b10-16.

47. *The Castle*, DVD, directed by Rob Sitch (1997; Melbourne, Australia: Village Roadshow, 2008).

48. *RJE* 352.

49. *RJE* 364.

50. Christine Synnwich, "Begging," in *The Egalitarian Conscience: Essays in Honour of G. A. Cohen*, ed. Christine Synnwich (Oxford: Oxford University Press, 2006): 181. I am hijacking the central argument from this essay for my purposes here.

51. Synnwich, "Begging," 193.

52. *RJE* 364.

53. *RJE* 364.

54. Wolff, "Fairness, Respect and the Egalitarian Ethos," 9.

55. *RJE* 361.

56. It is in the context of a discussion about blameworthiness on 140 ff.

57. *RJE* 142.

58. *RJE* 352.

59. *RJE* 351.

60. *RJE* 351.

61. *RJE* 353.

62. *RJE* 353.

63. *WNS* is actually a minor, but in some respects, important revision of an essay previously published in Edward Broadbent's *Democratic Equality: What Went Wrong* (2001), which itself was a collection of essays presented at a 1998 conference. When asked during a guest appearance during a seminar course on his works I took at Queen's University in spring 2009 about the camping trip, Cohen responded that the example came from his trying to come up with a 'Canadian' example for the conference (held in Vancouver) and that he didn't care for camping in the least. I am still citing his account of the camping trip in *RJE* here, but I will be discussing *WNS* extensively in the following sections.

64. *RJE* 352.

65. *RJE* 353.

66. *RJE* 352-3.

67. *RJE* 352.

68. For two examples, see the aforementioned books by Beitz and Caney.

69. Beitz pointed this out back in 1979.

70. In Section 3 I present an argument for why some international agreements must also be binding upon individuals and not just states. The argument, while in the context of the Law of Peoples, is (also) framed in general terms so as to support this point.

71. At least within Anglo-American political philosophy.

72. Philip Pettit, "Rawls's Peoples," in *Rawls's Law of Peoples: A Realistic Utopia?* ed. Rex Martin and David A. Reidy (Oxford: Blackwell Publishing, 2006): 44.

73. Pettit, "Rawls's Peoples," 64-66.

74. *Ibid.*, 62.

75. *Ibid.*, 42.

76. *LoP* 90.

77. *LoP* 62.

78. *LoP* 33.

79. *LoP* 32.

80. *LoP* 55.

81. *LoP* 44.

82. *LoP* 62.

83. *LoP* 62.

84. *LoP* 38, 11-2.

85. *LoP* 12.

86. *LoP* 37.

87. *LoP* 37.

88. *LoP* 41.

89. See Rawls's discussions of the United Nations (ideally conceived) on, for example, *LoP* 36.

90. Considered part of the International Bill of Human Rights, along with UDHR and ICESCR. There are two Option Protocols to ICCPR from 1966 and 1989.

91. Considered part of the International Bill of Human Rights, along with UDHR and ICCPR. There is an Option Protocol to ICESCR from 2008.

92. There is an Optional Protocol to CEDAW from 1999.

93. There is an Optional Protocol to CAT from 2002.

94. There are two Optional Protocols to CRC, both from 2000.

95. There is an Optional Protocol to CRPD from 2006.

96. "International Law," Office of the United Nations High Commissioner for Human Rights, last modified July 16, 2010, <http://www2.ohchr.org/english/law/index.htm>

97. See *LoP* 132 for a description of public reason along these lines.

98. *LoP* 37.

99. *LoP* 65.

100. *LoP* 79.

101. *LoP* 80, fn. 23.

102. Slavery Convention, Sep. 25, 1926, L.N.T.S. 1414.

103. BBC News, "China 'will catch slave owners,'" *BBC News*, June 16, 2009,

<http://news.bbc.co.uk/2/hi/asia-pacific/6759399.stm> and BBC News, “Convictions in China slave trial,” *BBC News*, July 17, 2007, <http://news.bbc.co.uk/2/hi/asia-pacific/6902459.stm>

104. Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949, 75 U.N.T.S. I-972.

105. *LoP* 94.

106. Universal Declaration of Human Rights, December 10, 1949, G.A. res. 217A (III).

107. The Canadian Press, “Afghan agency to monitor Canadian transfers of detainees,” news release, March 1, 2007, <http://www.cbc.ca/canada/story/2007/03/01/hrc-watchdog-070301.html>

108. Human Rights Watch, *The Road to Abu Ghraib*, accessed October 15, 2010, <http://www.hrw.org/reports/2004/usa0604/>

109. An interesting question is whether an ethos might be relied on in the absence of institutional mechanisms of compliance. I think the obvious answer is yes and will return to this thought in Section 6.

110. *LoP* 44.

111. See *LoP* 58.

112. *LoP* 44.

113. *R. v. Oakes*, [1986] 1 S.C.R. 103 (Can.). The Oakes test is the two-stage test applied to the limitations clause (Section 1) of the Charter used in this case. It has subsequently become the standard for Section 1 interpretation.

114. *LoP* 44.

115. *LoP* 106.

116. *LoP* 106.

117. *LoP* 106.

118. *LoP* 106.

119. *LoP* 106-7.

120. *LoP* 108.

121. *LoP* 108.

122. *LoP* 108-9.

123. His example of a resource-poor, but well-ordered society is Japan. While this is certainly true today, this example neglects the fact that Japan, on route to becoming well-ordered, went through a period of massive expansionism in large part to control much needed resources. The other usual example, the UK, also was guilty of such resource expansionism, as well as at one time during the industrial revolution possessing a great deal of coal. Resources of *some sort* may be a necessary but not sufficient condition, as Rawls's example of Argentina shows, or well-orderedness. I am, though, only speculating.

124. Except of course Rawls believes that human rights protection is coercible, so a well-ordered society could enforce human rights among its own residents.

125. *LoP* 112.

126. *LoP* 113. What Rawls never mentions is that affinity may also grow *weaker* over time, in less-than-ideal conditions. In my mind this would be related to lack of institutional growth and integration, which could be counter-acted by aggressive promotion of the social ethos. In Section 5 I make a few further remarks about ‘leading’ with the ethos.

127. *LoP* 113.

128. *LoP* 113.

129. *LoP* 113.

130. *LoP* 97.

131. *LoP* 97.

132. *LoP* 98.

133. *LoP* 96.

134. *LoP* 112.

135. *LoP* 112.

136. *LoP* 126.

137. *LoP* 105.

138. Rawls is concerned with identifying ideal statesmen in history. Two he believes warrant the label are Washington and Lincoln. See *LoP* 97.

139. I am by no means qualified to answer the question as to whether or not he *would* have engaged in these debates were he with us today. There are many, many scholars better placed to address such a question, but ultimately we will never know. What I can do is speculate based upon the material at hand. I can also state unequivocally that I *wish* he had engaged in these debates.

140. See *LoP* 82. I have already mentioned this trend and Barry, Beitz and Pogge as being its main proponents.

141. The cosmopolitan critics tend to focus on the tension between collective bargaining units (peoples) and toleration. Some notable examples are Allan Buchanan, “Rawls’s Law of Peoples: Rules for a Vanished Westphalian World,” *Ethics* 110, no. 4 (2000): 697-721 and Kok-Chor Tan, *Toleration, Diversity, and Global Justice* (University Park, PN: Pennsylvania State University Press, 2000). For a more general account, see Caney, *Justice Beyond Borders*, 78-85. Rawls is not without his defenders on these grounds. See Leif Wenar, “Why Rawls is Not a Cosmopolitan Egalitarian,” in *Rawls’s Law of Peoples: A Realistic Utopia?* ed. Rex Martin and David A. Reidy (Oxford: Blackwell Publishing): 95-113.

142. *LoP* 119.

143. *LoP* 138.

144. *LoP* 113.

145. See *LoP* 33 for the setup of the second original position.

146. *LoP* 42-3. The ideal UN is one such institution.

147. *LoP* 114.

148. Sufficientarian is merely the label most often applied to the position which holds that justice requires everyone to have enough of whatever it is that people are supposed to have. Justice is not concerned with inequalities among people who already have enough. For a good overview of the various 'tarianisms see John E. Roemer, "Eclectic distributional ethics," *Politics Philosophy Economics* 3, no. 3 (2004).

149. *LoP* 114.

150. *LoP* 114.

151. *LoP* 115.

152. *LoP* 115.

153. *LoP* 38.

154. *LoP* 38, fn. 47.

155. One could argue that the above cited concern falls under the consideration a people must have for the human rights of its members. The issue with this claim is that the cited concerns are beyond the scope of Rawls's understanding of human rights. This passage certainly seems mystifying.

156. See endnote 61 above for details. I will limit myself to discussing *WNS* the book and not the paper, except when I wish to note significant changes between the two.

157. The dating of the conference is given at the beginning of the book in which the original essay is published (see endnote 61) and the dating of the footnotes in *RJE* are given in the footnotes themselves.

158. Days before completing this thesis, I became aware of a recently made available special issue of *The Journal of Ethics* devoted to Cohen's legacy (see footnote 24 for exact reference). Several articles discuss *WNS* in light of Cohen's other works and would be the natural starting point for any inquiry into this matter.

159. I don't really see any difficulty in doing this because Cohen does the same thing with the original essay in *RJE*. See the discussion of the camping trip in Section 2 above.

160. *WNS* 4.

161. *WNS* 14.

162. *WNS* 15.

163. *WNS* 16.

164. *WNS* 17.

165. *WNS* 17.

166. *WNS* 19. The emphasized portion of the quotation is new to the revised edition (see 63 in the original). It is an extremely important qualification.

167. I'm not sure why Cohen chose the term community, when solidarity is far more in keeping with the 'socialist' lexicon. Further, solidarity is the term employed in the global justice and multicultural literatures, as will be seen in Section 6. I am going to stick with Cohen's word choice when talking directly about Cohen, but will also use the term solidarity (carefully qualified) when fitting my theory into the other literatures.

168. *WNS* 34-5.

169. *WNS* 36.

170. *WNS* 38.

171. *WNS* 39.

172. *LoP* 117.

173. *RJE* 43-4.

174. *LoP* 59.

175. *RJE* 42.

176. Immanuel Kant, "Toward Perpetual Peace: A Philosophical Sketch," in *Toward Perpetual Peace and Other Writings on Politics, Peace, and History*, trans. David L. Colclasure, ed. Pauline Kleingeld (New Haven, CT: Yale University Press, 2006), 8:381/104-5.

177. Kant, "Perpetual Peace," 8:383/106.

178. *LoP* 35.

179. *LoP* 112.

180. *LoP* 122.

181. *LoP* 117.

182. *LoP* 118.

183. Michael Battle, *Ubuntu: I in You and You in Me* (New York: Seabury Books, 2009), 2-3.

184. Battle, *Ubuntu*, 6.

185. Nkonko M. Kamwangamalu, "Ubuntu in South Africa: A Sociolinguistic Perspective to a Pan-African Concept," *The Global Intercultural Communication Reader*, ed. Molefi Kete Asante, Yoshitaka Miike and Jing Yin (New York: Routledge, 2008), 115-6. I have removed the word 'God' from this quotation only because, while I understand that ubuntu is in part a religious conception, I do not wish to go into a discussion of this here.

186. Nhlanhla Mkhize, "Ubuntu and Harmony: An African Approach to Morality and Ethics," *Persons in Community: African Ethics in a Global Culture*, ed. Ronald Nicolson

(Scottsville, South Africa: University of KwaZulu-Natal Press, 2008), 40.

187. My own understanding of the debate is fundamentally shaped by chapter 2 of Lea Ypi's forthcoming *Statist Cosmopolitanism*.

188. *WNS* 49.

189. The example comes from "Capitalism, Freedom and the Proletariat" *The Idea of Freedom* 1979. My discussion follows the wonderful essay "Mr. Morgan's Yacht" by Jeremy Waldron.

190. *WNS* 52.

191. *WNS* 46.

192. *WNS* 48.

193. *WNS* 55.

194. *WNS* 55.

195. *WNS* 57.

196. *WNS* 76.

197. Chris Tenove, "Stars Above Africa," *The Walrus* 3, no. 10 (2006): 52.

198. Thomas Pogge, "Cosmopolitanism and Sovereignty," *Ethics* 103, no. 1 (1992).

199. Pogge, "Cosmopolitanism and Sovereignty," 48.

200. *Ibid.*, 49.

201. *Ibid.*, 50.

202. *Ibid.*

203. See *Justice Beyond Borders*.

204. See the aforementioned *Toleration, Diversity, and Global Justice* and Kok-Chor Tan, *Justice Without Borders: Cosmopolitanism, Nationalism, and Patriotism* (Cambridge: Cambridge University Press, 2004).

205. See Gillian Brock, *Global Justice: A Cosmopolitan Account* (Oxford: Oxford University Press, 2009).

206. See David Held, *Cosmopolitanism: Ideas, Realities and Deficits* (Cambridge: Polity Press, 2010).

207. Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995), 188.

208. Kymlicka, *Citizenship*, 188.

209. *Ibid.*, 189.

210. *Ibid.*

211. Ibid., 190-1. This is not at all dissimilar from toleration among peoples in the Society of Peoples (*LoP* 59).

212. Ypi, “Politically constructed solidarity,” 120.

213. *WNS* 82.

214. Lea Ypi, “The Cosmopolitan Avant-Garde,” chap. 7 in *Statist Cosmopolitanism: An Avant-Garde Approach to Global Justice* (Oxford: Oxford University Press, forthcoming), 1. I would like to sincerely thank Lea Ypi for providing working copies of Chapters 2 and 7 of her book to me.

215. Ypi, “Avant-Garde,” 14.

216. Ibid., 9 and 16.

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