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FOR AND AGAINST JOHN RAWLS: REFLECTIONS ON SOUTH-NORTH CITIZENSHIP

*Greg M. Nielsen**

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I. INTRODUCTION

The purpose of the South-North Exchange (SNX) is to “foster and sustain a trans-national, cross-disciplinary and inter-cultural dialogue on current issues in law, theory and culture that are of common interest across the Americas.” In its third meeting the SNX raised the fundamental question to its participants as to “whether and how existing models of formal democracy, usually from the North, may serve to guide or misguide ‘transitions’ to democracy taking place chiefly across the southern portions of the hemisphere.” This Essay examines the need to move beyond formal democracy by first outlining the general theory as defined by the late Anglo-American political philosopher John Rawls. It then addresses an alternative approach built from concepts posited by the Russian interdisciplinary thinker Mikhail Bakhtin, to better account for the cultures of citizenship that are emerging under pluralistic conditions in the Americas.

If it is true that a common story for the Americas begins with conquest, genocide, slavery, and an ever-widening gap between rich and poor, South and North, then why look to formal democracy? Would not any nod of approval toward a system of justice simply defending a dominant ideology that has reproduced the conditions of oppression for centuries? The Americas (referencing Latin American countries) lack a common public

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culture that fosters the exchange of views from the North and South and effective institutions to promote continental equality between regions. Consequently, it seems prudent to debate the concepts that define the meaning of justice in a democratic form.

John Rawls, best known for his works, *The Theory of Justice*, *Political Liberalism*, the *Law of Peoples*, and *Justice as Fairness: a Restatement*, is one of the most sophisticated and influential thinkers to have linked formal democracy to the liberal tradition of justice. To remain clear and consistent with Rawls, I refer to “formal democracy as “liberal democracy” for the remainder of the Essay. Rawls offers a general theory about what a liberal democratic society should be like in both domestic and global terms and does not critique actual regimes. I suggest that his theory of justice also maintains a weak version of liberal socialism because he argues against any enlargement of the gap between the wealthiest and the poorest when no improvement occurs for the poorest individuals. Thus, it is important not to confuse Rawls’s theory of liberal democracy with growing variants of neo-liberal ideologies that advocate anti-state intervention and deregulation in favor of monopolies and consumers on a global scale.

For many individuals, however, Rawls is an unlikely choice as an interlocutor for a SNX. His claim to have developed an ideal model for liberal democracy that could be universally applied is dismissed by some as a thinly disguised justification of the American justice system and foreign policy.¹ I focus on Rawls because regardless of whether one agrees with his position, he raises awareness about several issues about domestic and global justice. This is especially true if one assumes that the historical poetic of the Americas is constituted in a multiplicity of voices and a transgredient or crossover mixture of origins that take on elements from one another and maintain their independent origins. At first blush any general theory of democracy that might pretend to account for collective self-understandings in all cases seems implausible. On the other hand, there cannot be as many models for democracy as there are identities for peoples. The paradox between universalism and particularism is part of the long history of debate over democracy.² A middle ground would take into account that the many self-understandings in the Americas require theorizing radical diversity. This approach needs to consider some general

1. See RAYMOND GEUS, OUTSIDE ETHICS 11-28 (2006).

2. Liberal democracy differs for example from Ancient, Mid-Evil, and other forms in the sense that the two terms only become paired some 500 years ago (a significant date one might say). See generally CHANTAL MOUFFE, THE DEMOCRATIC PARADOX (2000).

theory about what self determination, citizenship, and democracy should encompass.

Ideal or normative theory has a different purpose than theories built from political activism or empirical research, therefore it should not be judged by the same criteria.³ A criticism of Rawls that may develop should respect this constant and not simply reach into “the real world” of inequality and injustice to dismiss Rawls’s entire industry. I argue that one should move beyond Rawls’s theory of liberal democracy and towards a more dialogized theory of pluralism. To accomplish this it is imperative to challenge Rawls’s more transcendental claims and bring the theory of justice back into the context of cultural diversity. I probe the outer limits of Rawls’s position and make conceptual suggestions as to how it might apply to the theory and practice of the SNX. I initially treat his concepts hermeneutically rather than critically. My goal is to develop a multi-sided problem that is necessary for the SNX to get a handle on Rawls’s main concepts so as to avoid dismissing the paradigm in advance. I perceive normative theory to consist of how to adjust, borrow, insert, edit, as well as how to oppose, absorb, or negate ideas placed in the puzzles of social and political thought — all in order to reasonably and convincingly answer questions like how democracy should work under ideal conditions.⁴

In the first section below, I outline my understanding of Rawls’s basic contractual definitions of domestic and global justice found in *The Law of Peoples*, including some cursory definitions of the main concepts that form his political philosophy and sociology from previous works. The concepts include: justice as fairness, the basic structure, the original position, the veil of ignorance, overlapping consensus, reflexive equilibrium, and reciprocity. In the second section, I outline an argument suggesting that

3. At the beginning of a very lively attempt to provide a critical response to Rawls’s theory of equality, Kai Nielsen argues

we should do ideal theory in order to gain, free from all strategic questions concerning instrumentalities and the like, a sense of what our practices, institutions, laws and so on would have to be like to be perfectly just . . . Still, we need to face hard live political and economic questions . . . But to help give us a sense of direction . . . we also need to confront the questions of ideal theory.

KAI NIELSEN, *GLOBALIZATION AND JUSTICE* 140 (2003).

4. Counterfactual arguments are sought out to provide “reflexive equilibrium,” and not to refocus on the specific empirical case in order to negate the overall intention of the approach. In other words, considering alternative theories should be at least a process of finding a point of convergence on the most reasonable argument and not simply preparing a response to the most powerful.

Rawls's theory of democracy derives a notion of "reasonable pluralism" that is overly monologized, despite its claim of diversity.

Rawls's argument about reasonable pluralism is derived through what he calls a "wide equilibrium." This equilibrium identifies insurmountable ideological differences between "comprehensive doctrines" but also allows for the possibility of reaching an "overlapping consensus" on certain conceptions of ideal justice, which in turn provide societal unity. I agree that the process of seeking an "overlapping consensus" on the concept of justice is important but do not agree that the existence of a liberal democracy depends on such a transcendent consensus. This view is a form of monologic theorizing in the sense that it does not postulate the anticipation of a response in the lived context. As in any transcendent universalism, this approach assumes that the final word is independent of any original practice or context.

On the other hand, a dialogic approach to theorizing pluralism takes the anticipation of rejoinder between agents as the object of study. Dialogical pluralism focuses on the immediate emotional and volitional tones within diversity. Here, there can be no last words as long as the dialogue and the agents are alive.

In the third section, I sketch out a series of suggestions to strengthen the weak version of the difference principle to better reach the level of a South-North sense of justice and redistribution. More specifically, I disagree with the limitation of the main principle of citizenship rights to civil, political, and social rights. This limitation leaves no satisfactory explanation for dealing with vexing questions about cultural rights which, in their initial forms, appeal to the emotional-volitional impulse and not legal imperatives. I draw on Rawls's distinction between rationality and reasonableness to theorize about an emotional-volitional dimension in democracy and show how emotion and volition cannot be explained through his argument with a "wide equilibrium." Rawls does take emotion or will into consideration, but he casts it so uniquely within moral reason that he leaves the active aesthetic shaping of public culture unaccounted.

I introduce each of the above three sections against the aesthetic principle of two-sided answerability as proposed by Bakhtin.⁵ As indicated above, Rawls contends that deliberative democratic dialogues need to be

5. See generally, Mikhail Bakhtin, *TOWARD A PHILOSOPHY OF THE ACT* (Michael Holquist & Vadim Liapunov eds., Vadim Lippunov trans., University of Texas Press, 1st ed. 1993) (1993); *MIKHAIL BAKHTIN ART AND ANSWERABILITY: EARLY PHILOSOPHICAL ESSAYS* (Michael Holquist & Vadim Liapunov eds., Vadim Liapunov trans., University of Texas Press 1st ed. 1990) (1990); *MIKHAIL BAKHTIN, PROBLEMS OF DOSTOEVSKY'S POETICS* (Caryl Emerson ed., Caryl Emerson trans., University of Minnesota Press 1984) (1984).

reasonably reciprocal. I build on his distinction between reasonableness and rationality to argue that accountability is two-sided. Citizens situated in the same basic societal structures and who engage in public debate over democratic issues are accountable to a variety of emotional-volitional orientations regarding common understandings as well as to non-convergent differences. This concept demands more than reciprocity in the sense Rawls understands it. Rawls sees a measure of reasonableness as the precondition for free and equal citizens who must accept each other's arguments if they are rational. Otherwise, these citizens could not expect their own arguments be accepted. My objection to Rawls on this issue is that double-sided answerability is not just reasonable in the moral psychological sense but is also aesthetically shaped and accessed through transcultural differences.

II. READING FOR RAWLS

Rawls's liberal democracy includes rights to property, voting, the formation of political parties, popular sovereignty, and symmetrically applied legal procedures in the formal sense, and is also concerned with the question of "distributive justice" and "democratic equality." Rawls's grounds each of these features and concerns in his theory of justice as fairness. The theory consists of two very general principles of justice that are posed in a way that is difficult to refute. The first ideal principle of justice is the guarantee of a list of basic liberties. The second principle (also called the difference principle) is that any "social and economic inequalities are there to satisfy two conditions: first, they are attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be the greatest benefit of the least advantaged members of society."⁶ Whereas the list of basic liberties includes mainly civil and political rights, the difference principle includes mainly social rights. Rawls argues for a form of distributive justice that would spread justice evenly in order to reproduce the basic institutions of society across generations and to reproduce agents who actively participate in "society as a fair system of cooperation over time."⁷ In this sense, both principles of justice as fairness are practiced within a variety of public institutions and on a variety of levels that make-up the basic structure of society.

6. JOHN RAWLS, *JUSTICE AS FAIRNESS: A RESTATEMENT* 42-43 (Erin Kelly ed., Belknap Press 2001) (2002).

7. *Id.* at 50.

How might Rawls see the goal of self-determination and democracy in the SNX? Would Rawls's approach mean enforcement of some penalty against self-determination that is not achieved according to the rule of law — for example, the case of the military coup? Who might enforce such a transgression and under what authority? Would democratic aspirations for sovereignty need direct investment in the global South to help balance the difference principle with the North? While Rawls does not expand on any empirical cases that might help the SNX, he does wave a red flag in front of the idea that the exchange is reducible to a bare economic redistribution of resources without political recognition. In fact, the question remains open as to how to reconcile democratic deficits and economic disparities between regions in Rawls's model.

In *The Law of Peoples*, Rawls applies his theory of justice as fairness at the domestic level of nation-states to the level of global justice. Part one of his argument covers the ideal theory of a social contract for a society of liberal democratic peoples as one kind of society. Part two discusses non-liberal people as another kind of society that have features that for them to be included in the society of peoples. Part three takes up non-ideal theories where regimes do not follow the law of peoples and also discusses how societies within the law of peoples should react to societies who act outside the law of peoples. Following Kant, Rawls argues against the idea of world government and for the principles of self-determination within constitutional regimes that are supported by the rule of law. Rawls distinguishes between justice in the domestic sense where the actors are citizens that make up a sovereign state and where the actors are peoples who make up a global "society of peoples" and who respect "the principals and norms of international law and practice."⁸

For Rawls, "reasonable liberal peoples" inhabit well-ordered and decent societies. Rawls distinguishes between two kinds of decent peoples: hierarchical peoples or peoples who develop various forms of representative democracy, and other decent peoples, an open residual category of peoples who consult various forms of hierarchy. Non-liberal "benevolent absolutist" societies may be decent in the sense that they take care of their members and respect universal human rights but are not likely to be well ordered, "because their members are denied a meaningful role in making political decisions."⁹ Societies that do not respect either human rights or domestic law and that do not take care of their citizens are neither well ordered nor decent. "Societies overburdened with unfavorable

8. JOHN RAWLS, *THE LAW OF PEOPLES* 3 (1999).

9. *Id.* at 4.

conditions” may fall into this latter category as well as “outlaw states” that commit international crimes and stand outside “the law of peoples.”

“Liberal peoples have three basic features: a reasonably just constitutional democratic government that serves their fundamental interests; citizens united by what Mill called ‘common sympathies,’ and finally, a moral nature.”¹⁰ Liberal societies have as part of their basic structure, a set of institutions that reproduce the cultural conditions in which a common commitment to a moral sense of justice can prevail. A well ordered society is one that guarantees the right of its citizens to participate in the public realm through a consultation hierarchy (representative or deliberative democracy) and that guarantees basic rights that define justice as fairness.

Like other contract theorists in political philosophy, Rawls argues that a state extends natural law. A “state” is not like a “people” because a state has sovereignty and a “people” do not. The term “peoples” he says “is meant to emphasize singular features . . . and to highlight their moral character and the reasonably just, or decent nature of their regimes.”¹¹ Rawls sees a large degree of difference between peoples and political cultures. Justice as fairness does not negate a “reasonable pluralism” but rather provides a more narrow political theory of justice. This means Rawls needs a concept that can explain how “free and equal” citizens in both the domestic and global cases can introduce a norm or arrive at a fair agreement that everyone can recognize in the “here and now” despite enormous differences and possibly irresolvable disagreements between comprehensive doctrines within the polity. Rawls proposes linking the concept of the “original position” and its supporting assumption of the “veil of ignorance,” as a way of extending the theory of justice as fairness into the basic structure of liberal democracy. This then becomes a mechanism for encouraging overlapping consensus about what justice should be like.

Rawls’s theory linking the “original position” and “veil of ignorance” concepts is derived from a simple thought experiment that seeks to determine what could reasonably be agreed as a means to derive the ideal form of how justice should work. First, imagine representatives in liberal democracy who speak without knowing about the “particular comprehensive doctrines of the persons they represent.” [The representatives] do not know the persons’ race, ethnic group, sex, or other

10. *Id.* at 23.

11. *See id.* at 25.

characteristics such as strength and intelligence.”¹² The point is to remove any subjective factors that may influence the way the ideal is developed.

At the first level of the basic structure, citizens in a liberal society would speak without knowing everything about their interlocutors. Ideally, the citizens speak through a “veil of ignorance,” and they can, at any point, enter into discussions about the choice of the “first principles of a conception of justice which is to regulate all subsequent criticism and reform of institutions.”¹³ This is the first stage in the adoption and application of the two principles of justice. The “veil of ignorance” is gradually lifted from representations of citizens as the final two stages unfold: first, the constitutional assembly consisting of representatives working out civil and political rights, and secondly, then the legislature and the judiciary, taking into consideration the difference principle.¹⁴ At the level of global justice, it is the peoples, not the citizens, who are represented through the original position and the “veil of ignorance.”¹⁵

Rawls’s theories of “justice as fairness” and the “law of peoples” leave two dilemmas for the SNX on democracy and self-determination. First, how do we enter a continental exchange between liberal and relatively non-liberal democracies, and between the wealthiest societies and the most economically burdened ones? Second, both communitarians and libertarians might agree with the desirability of the “well ordered society” (defined as a society that offers accessibility to public office and conditions of equal opportunity for all citizens) and with the difference principle, but how does exchange occur between societies whose degree, order, and economic polarity are so hugely disparate? In other words, what do we need to do to get to a place where the “veil of ignorance” might be assumed? Rawls’s theory of “justice as fairness” sets out a series of constants that can help guide the way the SNX should follow, but it is missing a concrete set of concepts that might better focus the approach. I next develop a series of tentative arguments that help retain both the notion of the well-ordered society and the difference principle, but at a

12. RAWLS, *supra* note 6, at 15.

13. See JOHN RAWLS, *THE THEORY OF JUSTICE* 12-13 (1971).

14. JOHN RAWLS, *POLITICAL LIBERALISM* 373-434 (1993).

15. Rawls insists that the theory of justice as fairness at both the domestic and global level is not part of a comprehensive doctrine such as one finds in moral philosophy or in religion. Rawls states that a political theory oriented to providing a realistic utopia. “Political philosophy is realistically utopian when it extends what are ordinarily thought of as the limits of practical political possibility.” RAWLS, *supra* note 8, at 6. He states further that “[O]ur hope for the future of our society rests on the belief that the social world allows a reasonably just constitutional democra[cy] existing as members of the Society of Peoples.” RAWLS, *supra* note 8, at 11.

transcultural and aesthetic level, rather than a transcendent or overarching one.

III. READING AGAINST

Reading against Rawls means taking into consideration the possibility his transcendent argument for a realistic utopia is circular. This is the first point. A major criticism of Rawls is that he dissolves conflict and dismisses cultural rights because of the ongoing “fact” of reasonable pluralism in modern democracies.¹⁶ In order to avoid Rawls’s overemphasis on reason as opposed to emotion, and overemphasis on moral psychology rather than aesthetic shaping, I re-introduce my adaptation of Bakhtin’s principle of two-sided answerability. Bakhtin’s theory explains the idea of multiple sympathies toward the just and the right in a way that keeps both conflict and mutual understanding in play. This concept means that politics should be understood not only through ideal universal postulates, but also through individual and creative ways of shaping the just and the right within direct practices and inside specific contexts.

The principle of two-sided answerability accounts for both consensus and conflict. This theory argues that no matter how closed off a comprehensive doctrine, it remains answerable to all those it might exclude or subject to violence. Answerability suggests a two-sided process in which a citizen anticipates a general or objective understanding of an idea as well as a unique performance of an act. In other words, the “doer behind the deed” is answerable for a unique event and toward a general ideal. The two-sided principle of answerability responds to two potentially conflicting questions, “what should I do in the North when faced with someone in the South who can answer back?” and “How can the I reach understanding with the other and vice versa?”¹⁷ The answers to the question about the just and the right lead to two theoretical directions different than those Rawls might consider.

At an extreme, the first question requires transcultural understandings for the political that accommodate the creative dimension or eventness, which occurs when dominant, and subaltern lifeworlds crossover. One must suspend the ideal theory of an “overlapping consensus between

16. CHANTAL MOUFE, *THE DEMOCRATIC PARADOX* (2000).

17. See generally GREG M. NIELSEN, *THE NORMS OF ANSWERABILITY: SOCIAL THEORY BETWEEN BAKHTIN AND HABERMAS* (2002).

comprehensive doctrines,” to get at an emotional level of exchange. To do this, presumably, each party must have access to the others tradition as much as possible without harming one another. This proposition is the most controversial because it assumes that an exchange between unequals is not only possible but also potentially creative.

The second question leads back to an ideal theoretical definition of metanorms, or, to ideal agreements about a well-ordered society and the difference principle that are practically necessary. Political acts are more than rational when actors anticipate a rejoinder to their utterance, gesture, or choice in practice. Hence, in non-ideal theory, transculturalism must consider more than rationality, power differentials, and antagonisms. Transculturalism is also creative. At the level of metanorms, even the most comprehensive of doctrines remain answerable to all other doctrines. Thus, the principle of two-sided answerability assumes an anticipation of justice with the appropriate response and also a potentially creative deed, or transcultural innovation. The latter postulate is missing in Rawls’s ideal theory. On the other hand, his theory posits a stable basic structure in which the “well ordered society” can be imagined.

A dialogic approach to pluralism based on the two-sided principle of answerability does not mean seeking agreement from an exchange of opposite positions unified by a higher level of generality (like legal procedure). Dialogized pluralism is also built through emotional-volitional orientations, a *phronesis*, where all kinds of agents seek a response from one another and can consummate a shared and adversarial exchange. Rawls’s concept of reasonable pluralism and the corollary theory of justice as fairness suspends the second side of answerability and looks to explain local dialogues about the “good” in terms of their institutional transformation into the more universal claims about “the just” and “the right.” In the process of such an ideal theory, a “lived” form of democracy is simply not theorized, but then Rawls acknowledged that this is not the job of ideal theory. “Justice as fairness is a political, not a general conception of justice; it applies first to the basic structure and sees these other questions of local justice and also questions of global justice . . . as calling for separate consideration on their merits.”¹⁸

Theories of dialogical pluralism may be criticized for not providing general normative prescriptions for democratic ideals, however, ideal theories like Rawls’s suffer from an opposite deficiency. Rawls’s descriptions of pluralism are limited by a search for a unifying agreement about the just and the right which does not in fact reflect the deep cultural

18. RAWLS, *supra* note 6, at 11.

diversity in South-North politics. Therefore, the dialogic approach to the SNX would not assume different parties are “ideally” interested in achieving understanding, as Rawls might propose. Nor would the dialogic approach oppose direct models of democracy and radical alternative struggles around claims to self-determination.

For any mass society, direct democracy is at best a short-term strategy that helps transform the basic structure. In the short term, strategic or critical claims for self-determination may or may not lead to dialogue in which communication partners actively seek out mutual understanding. For example, a people may choose not to enter into deliberation as a strategic way to achieve its goals. This does not mean, however, that the agent purposefully avoids conflict because of an already achieved “overlapping consensus.”

Any long-term strategy needs a basic structure and system of representation to provide stability. There are limits to any asymmetric form of justice, both substantive and formal. South-North orientations that seek a response from each other can consummate a shared, but possibly adversarial exchange. A hierarchy implies internal conflicts between the many, the one within, and between both regions.

The dialogical model of pluralism should not be constrained by an assumed norm of order, such as Rawls’s “justice as fairness.” Constraints would expel struggles, and disorderliness (civil disobedience, revolution, or civil war) that may be critical to a process of communicative engagement, depending on the gap within the difference principle. Conflict is not only about material conditions of discourse and the space contested, but also between contradictory temporal ideals and active aesthetic shaping emotional responses. On the other hand, the political is not only about preparing for points of antagonism. Here, Rawls has a stronger point that the political is about finding ways to redistribute justice and about ways to expand deliberation through broad reflexive equilibrium. This results in expanding the possibility for citizens to share more complex, differentiated and overlapping lifeworlds in ways that assure they can be represented, heard, and recognized in public culture.

IV. FOR THE SOUTH-NORTH EXCHANGE

My final point concerns the extension of Rawls’s two principles of justice to a third concept allowing cultural rights for citizenship. These rights would support the basic liberties and the difference principle. The basic liberties and the difference theory are the two main points in Rawls’s definition of justice as fairness at the domestic level. These are the theories

that support civil and political rights and social rights, respectively. Both sets of rights are historically entrenched in the modern definitions of citizenship as they first developed in the West during the eighteenth, nineteenth, and twentieth centuries.¹⁹ The contemporary emergence of the debate over cultural rights coincides with and is intensified by the progressive weakening of unifying forces that centered the sovereign nation-state. Rawls sees the question of cultural difference as part of pluralism and a wide variety of comprehensive doctrines in the liberal polity. The reflexive equilibrium that centers the just and the right is organized within the basic structure aided by the leveling effect of legal procedures that help keep societal institutions well ordered. Rawls assumes that the basic structure and symmetrically applied legal procedures remain the main neutralizing forces in producing a common sympathy for unifying principles of justice and rights in both the domestic case and in the society of peoples.

Dialogical pluralism provides a way to think about multi-voiced cultural self-understandings together (the cultural meanings and stories behind the basic liberties). It also imagines the autonomy for each voice (especially but not exclusively in terms of the difference principle). To paraphrase Rawls, not only would the gap between wealth and poverty be legitimate if it benefits the poorest, but also if it benefits the less advantaged cultural formations. In *The Law of Peoples*, Rawls also considers the shift in the two principles of domestic justice to international law since World War II and 1989. Universal human rights respond, in part, to cultural rights but lack the balancing principle that recognizes cultural rights as a principle of justice as fairness. Thus, Global justice will always remain unevenly and unfairly applied. Since the concept of human rights is already contained in the first principle of domestic justice, Rawls thinks that the main impact on global justice is on the new limits placed on the internal sovereignty of domestic states.

Rawls points out that applying the difference principle to the discrepancy between wealth and poverty in the society of peoples fails at the global level. The application fails for the same reason that the first theory of justice is also restricted to the domestic level. For example, notions of justice are restricted to the domestic regimes and are not regulated at the global level of justice because not all regimes are liberal democracies. International order is less than perfect and the question remains as to the degree to which liberal regimes should accept non-just societies or conversely encourage them to move toward liberal democracy.

19. T.H. Marshall, *Citizenship and Social Class*, in *SOCIOLOGY AT THE CROSSROADS* 67-128 (L.M. Mead ed., 1963).

As Samuel Freeman stated: "The implication is that an international order of independent peoples can be just without all its members being just (in the liberal democratic sense) towards their own people."²⁰

What is the implication for Rawls's theory regarding the application of asymmetric cultural rights that indigenous people and national minorities have struggled to obtain for many years?²¹ Do such claims represent a radical case in the sense they risk transforming all those who are seeking greater self-determination to potentially overturn the terms of justice and right at the domestic level? Indigenous "peoples" and national minorities are leading the struggle for recognition of cultural rights, however, as "peoples" they remain answerable to all other "peoples" when they take actions through interregional and global forums to gain rights they have been refused at the domestic levels. This means they are operating well within the limits of the "law of peoples."

Another more controversial example is the alter-globalization movement slogan, "No One is Illegal?" This concept may be an unrealistic utopia, after all what kind of society could this be? Has there ever been such a society? Could there be? Should there be? On one hand, if special citizenship rights of mobility were granted to the regions containing the least advantaged and most vulnerable peoples in order to balance South-North inequality, what might be the effect on the "well ordered society"? On the other hand, what is the fate of "decent peoples" in the Americas if these rights are not granted soon?"

This Essay cannot adequately answer these questions. Whenever intercultural acts of citizenship draw on cultural resources and lifeworld background convictions for a response to questions of how to act when faced with someone who can answer, (and for how to respectfully answer someone irrespective of the degree of stranger-ness between them); the act of citizenship is probably going to be a "good" one. Dialogical pluralism, however, is not relativism. In other words, there is also the question of the "right" act. There are things that need to be witnessed and doctrines that cannot be dialogued because they do not value what Fred Evans calls a struggle over "the audibility of voices." Dialogical pluralism "legitimizes withholding a policy-making role, though not audibility, from racist, sexist, and other politically exclusionary doctrines. These doctrines deny their hybridity in the multi-voiced social body . . . and we cannot therefore

20. Samuel Freeman, *Introduction: John Rawls An Overview*, in *THE CAMBRIDGE COMPANION TO RAWLS* 48 (Samuel Freeman ed., 1st ed. Cambridge University Press 2003).

21. See generally RON NEIZEN, *A WORLD BEYOND DIFFERENCE* (2003); Dominique Legros, *Indigenous Peoples' Self-Determination and the Broken Tin Kettle Music of Human Rights and Liberal Democracy*, 16 FLA. J. INT'L L. 579-98 (2004).

justifiably cede power to or affirm them, even though hearing them is inescapable, at least as voices that we reject.”²² As long as each side takes the others’ discourse seriously and gives the other side access to an ultimate word about themselves, then dialogical pluralism can do its work. Retaining the final word on one’s self is important because so much of citizenship politics is about orientating in the worlds of others’ words, whereas political citizenship means taking the word as your own.

V. CONCLUSION

Although liberal democracy may have emerged in the Americas along with many lamentable and suspicious social facts, I argue that with critical revision it is necessarily a part of a progressive SNX. I focused on some of the main questions and issues that need to be raised and revised in support of ideal democratic principles that pay special attention to social as well as cultural difference. My goal throughout this Essay was to expand discussion beyond the formal institutions, such as the courts and the state apparatus at the domestic and regional levels and focus on a more fundamental reflection of social justice.

In conclusion, I have reviewed John Rawls’s key concepts in order to sketch out the ideal liberal democracy at the domestic and transnational level. Using Bakhtin’s principles, I argued that the definition of justice that Rawls proposes cannot be completely separated from the cultural dimension because the relation must be understood through a dialogic pluralism. Dialogic pluralism means that when different but equally valued cultures, regardless of status, intersect they must come into inner semantic contact, whether they confirm or negate one another. Dialogic pluralism is different from an overlapping consensus because the meaning is not simply a result of rational deliberation. In dialogical pluralism, meaning is more than rational, it is answerable. This is answerable because when cultures enter dialogue (like interlocutors in conversation), they anticipate rejoinders from other cultures. Answerability between cultures is two-sided because each enters dialogue from a unique position but seeks to consummate concrete recognition. Returning Rawls’s normative theory to a more concrete dialogical pluralism allows a theory of cultural citizenship for the Americas as a third principle in his justice as fairness argument. This Essay sought to provide a discussion regarding the strengths and weaknesses of Rawls’s political theory and determine how his theory may

22. See generally Fred Evans, *Multi-Voiced Society: Philosophical Nuances on Rushdie’s Midnight Children*, 16 FLA. J. INT’L L. 727 (2004).

be further developed to facilitate a comprehensive meaning of democracy for a South North exchange on the evolving meaning of citizenship.

