John Rawls's *The Law of Peoples* (*LP*) represents a culmination of his reflections on how we might reasonably and peacefully live together in a just world.¹ My aim in this article is partly to pay homage by being more royalist than the king: I argue that Rawls's theory of justice can and should be extended in a way that is more in keeping with the Kantian constructivist procedures that he employs for domestic justice in *Political Liberalism* and *A Theory of Justice*.² The result is a conception of global justice that is more liberal in Rawls's own terms. My core argument is that Rawls has begged some of the central questions of global justice by adopting at the outset a "thin statist" conception of the legitimate divisions between persons who share a world. Once this ungrounded assumption is removed, the nature and boundaries of the basic political units that the principles of global justice coordinate might look quite different, as might the principles themselves. Although the focus is on ideal theory, on formulating a moral vision of a cosmopolitan world order, the closing section does discuss relevant implications for nonideal theory.

The introductory section outlines Rawls’s project and constructivist methodology in *LP*, with a view to characterising his thin statism in particular. It briefly articulates four arguments for his position. Each of the next four sections explicates and then criticises one of those four arguments and in so doing further develops an alternative conception of global justice. Sections 1
and 2 argue for a global rather than a two-stage (domestic and then international) original position. Section 3 explores the cosmopolitan institutional implications of this modified Rawlsian procedure and elaborates a politically liberal conception of "functionally plural sovereignty." Section 4 defends the relevance of that ideal conception of justice for realistic political action in the decidedly nonideal conditions of the contemporary world. The most crucial differences between Rawls and me are the following: (1) he effectively supports a system of unitary nation-states with limited sovereignty, while I reject that whole idea in favour of a more plural nesting of political structures; and (2) he disavows democratic rights at the global level, while my argument establishes that the rights to full free speech and democracy are fundamental requirements of global justice. We are thus led to support quite different liberal approaches to the aims and methods of world politics.

RAWLS'S THIN STATIST CONSTRUCTIVISM

In LP, Rawls attempts to provide "a particular political conception of right and justice that applies to principles and norms of international law and practice" (p. 3). The question to which this conception answers is the following: how can the conception of justice as fairness, elaborated in Political Liberalism for a closed and self-sufficient liberal democratic society, be convincingly "extended" to cover relations between societies, including some nonliberal societies (p. 9)? This question emerges since, after the principles of domestic justice have been decided on, many issues of justice remain to be resolved—namely, those that arise once the assumption of a closed society is dropped. How is a domestically just society to interact with other societies? Rawls thinks the extension of political liberalism to global justice can be achieved by running a second session of the original position. At this "second level," the parties in the original position represent peoples, with the result that the constructivist procedure models conditions for arriving at terms of cooperation that are "fair to peoples and not to individual persons" (p. 17, n. 9). Persons are not the relevant "(moral) actors" precisely because persons' basic claims to justice have already been taken into account (p. 10): the principles of domestic justice are established prior to and independently of the principles of global justice (which are either derivative or compatible) and are given lexical priority. This is the methodological heart of LP: Rawls works upward and "outward" from sufficiently just societies (peoples) to a just Society of Peoples (pp. 3, 23).

A Rawlsian constructivist procedure has three steps. If each step of the procedure can be justified, then the principles chosen will be fair. The first
step is to say for whom justice is being derived by answering the question, “what is a people?”; the second is to identify what alterations must be made to the original position if account is to be taken of the change in moral agents at this second level; and the third is to determine which principles of global justice would be chosen by representatives of those agents, deliberating under those procedural constraints on argument.

In his 1993 Amnesty lecture “The Law of Peoples,” which served as a prelude to the book, Rawls initially defined a people as “persons and their dependants seen as a corporate body and organised by their political institutions, which establish the powers of government.” In the book, he provides a more extensive characterisation of peoples as having, in ideal theory, three basic features—institutional, cultural, and moral. Institutionally, each people has a “reasonably just . . . government that serves their [a people’s] fundamental interests”: protecting their territory; preserving their political institutions, culture, independence, and self-respect as a corporate body; and guaranteeing the safety, security, and well-being of their citizens (pp. 23-29, 34-35). Each people’s citizens are also culturally “united by what Mill called ‘common sympathies’”; Rawls clearly means by this “an idea of nationality,” generally based on “a common language and shared historical memories” (pp. 23-25). Finally, each people has “a moral nature,” in that each is firmly attached to a moral conception of right and justice that is at least not unreasonable (pp. 23-25, 61-68). Each is prepared—in rationally advancing its fundamental interests—to propose as well as abide by fair terms of cooperation, as long as other peoples do so as well.

This normative idea of a “not unreasonable” and “reasonably just” people is less demanding than the idea of a reasonable and fully just society specified in Political Liberalism. Politically liberal societies are certainly included, but so are comprehensive liberal societies (such as that specified in A Theory of Justice) and “decent peoples.” The latter are also schemes of social cooperation, but they are associationist in that persons are respected not directly as free and equal individuals but rather as reasonable and rational “co-operating members of their respective groups” (p. 64). This minimal criterion of respect, which defines a decent people, is derived from the basic idea of a bona fide system of law (and not from the idea of persons as free and equal) as follows: a law-governed scheme of social cooperation differs from a “scheme of commands imposed by force” precisely because persons are able to recognise, understand, and be moved to act on the law without necessarily being coerced (p. 65). Yet, without some reassurance that domestic institutions of justice take some account of citizens’ important interests—at the very least as members of groups that each cleave to a comprehensive doctrine—a legal system cannot impose such moral duties and obligations on
all members of society since citizens will not be thus (morally) motivated. The pursuit of the common aims of a decent people must thus be constrained by "a common good idea of justice," which at least takes citizens' important interests into account, thus allowing them all to play a responsible role in public life (pp. 66-68). Most significant among persons' interests are those in having their human rights secured and in having laws nonarbitrarily administered (pp. 78-81).

The idea of a decent people is a central innovation of LP. As with any construct, it is created to serve a particular analytic purpose; Rawls's main aim is to develop liberal principles of global justice that are also tolerant of peoples with other moral and political traditions. (The idea of toleration in LP is the subject of section 2.) To generate these liberal principles and ensure their acceptability "from a decent non-liberal point of view" (p. 10), the second session of the original position is run in two stages—once for liberal peoples and thereafter for decent nonliberal peoples. As in the case of establishing the fair terms of cooperation for a closed society, parties to each stage are situated symmetrically behind a veil of ignorance that screens out information (this time it is territory size, level of development, common good conception of justice, etc.) that might make them less than impartial in the rational pursuit of the good of those they represent. The strong claim that Rawls makes is that, in virtue of sharing the three minimal features of decency described above, delegates in both stages would independently come up with the same law of peoples.

This result may not seem at all intuitively obvious: why should every decent nonliberal people accept a liberal law of peoples? Rawls reminds us that decent peoples are not unreasonable and so do not engage in aggressive wars or pursue expansionist ends or fail to respect the civic order and integrity of other peoples; thus, the delegates of decent peoples would accept the symmetrical (equal) situation of the original position as fair (p. 69). He also reminds us of the common good conception of justice, which takes account of persons' important interests, ensuring that decent peoples would accept principles honouring human rights (pp. 78-81). Finally, a decent people's fundamental interests—in security, independence, the benefits of trade, and so on—would lead it to accept and adopt the laws of peace (nonintervention, war only in self-defence, restrictions on conduct in war) and duties of contract (observing treaties and undertakings, mutual assistance in times of need) (pp. 30-43, 89-113). According to Rawls, these are nothing less than liberal principles of global justice.

Notably missing from such a law of peoples are principles for respecting persons as free and equal citizens with constitutional democratic rights; if the latter were included, decent peoples would certainly not accept them. But
Rawls wants to draw a clear line between urgent human rights (to bodily integrity, etc.), on one hand, and more extensive liberal democratic rights, on the other.\textsuperscript{11} He regards such an exclusion as required by liberal conceptions themselves: liberal peoples must express toleration for decent nonliberal ways of ordering society (see section 2). Drawing the line in this place does allow Rawls to address a major programmatic concern by identifying what liberals should \textit{not} tolerate:

We must reformulate the powers of sovereignty in light of a reasonable Law of Peoples and deny to states the traditional rights to war and to unrestricted internal autonomy . . . included in the (positive) international law for the three centuries after the Thirty Years’ War. (Pp. 25-27)

This claim needs careful interpretation, lest it appear more radical than it is. Rawls endorses the existence of sovereign states and of an international state system, with the important caveat that such sovereignty is not absolute. When he writes that peoples are not “states as traditionally conceived,” he means only to “emphasise” that his conception of states is very far from the traditional Realist conception of states as predominantly concerned with power (pp. 25-27). Realist states pursue their “rational prudential interests” in power, unconstrained by “the reasonable,” and are thus unmoved by the criterion of reciprocity; Rawlsian peoples have moral conceptions of justice and regimes that “limit their basic interests as required by the reasonable,” but they are still states (pp. 28-29). Indeed, as we have seen, they are \textit{nation}-states, each with a single independently derived system of law and a “so-called monopoly of power” on the enforcement of that law and on the pursuit of persons’ politically important interests in a particular territory (pp. 23-26, esp. nn. 20, 22). The difference is that in Realist theory, the shell of state sovereignty may not be pierced or removed if and when a regime acts unjustly or unreasonably—this exemplifies what I shall call “thick statism”—whereas in Rawls’s theory, the law of peoples reasonably constrains what a state may rightly do to its own people and other states; this exemplifies what I shall call “thin statism.”

The crucial methodological question, which Rawls himself asks, is why this issue of extension—from justice within a closed society to international justice—is what a theory of global justice ought to address. Why are peoples assumed to be the politically relevant subjects with which to start? Rawls himself once pointed to much the same question, as follows: “Wouldn’t it be better to start with the world as a whole, with a global original position, so to speak, and discuss the question whether, and in what form, there should be states or peoples at all?”\textsuperscript{12} At the time, he had “no clear initial answer to this
question”; indeed, he saw no reason why such a starting point would not result in the adoption of exactly the same principles. In the book, however, his reasons for preferring a thin statist procedure can now be discerned. I term them the arguments from incorporation, toleration, cohesion, and realism:

1. Incorporation: if peoples are stipulated to take members’ interests into account, and all persons are members of peoples, then all persons’ interests are fully accounted for and given due consideration.
2. Tolerance: liberal principles require respect for other cultures and ways of ordering society, and so imposing on them a conception of global justice based on the idea of persons as free and equal would be wrong.
3. Cohesion: the alternative to a society of peoples is an illiberal, strife-torn world state; thus, even if the former involves some injustice, it is preferable.
4. Realism: as a practical matter, to secure the great goods of world peace and respect for human rights, liberal regimes should fully engage decent nonliberal peoples rather than excluding them from international forums and law.

In the ensuing four sections, I explicate and rebut these arguments for thin statist in turn; in doing so, I show how an alternative conception of global justice might be developed from less unsatisfactory basic assumptions. To put it another way, Rawls has not gone far enough in distancing himself from the Realists; he still tolerates too much. I sketch a theory of global justice that is not statist at the outset and is, I argue, more in keeping with political liberalism.

1. INCORPORATION: DIFFERENT INTERESTS OF PERSONS AND STATES

In laying out the Law of Peoples, we begin with principles of political justice for the basic structure of a closed and self-contained liberal democratic society (P. 86).

Familiarity with Rawls’s theory of justice should not mask just how odd it is to take “society . . . as a closed system,” “self-contained and . . . having no relations with other societies,” as the founding assumption of a theory of international or, better, global justice. As Onora O’Neill points out, this assumption is not the mere “considerable abstraction” that Rawls claims it is “since abstractions (taken strictly) omit or bracket certain predicates true of the matter from which they abstract. Rather the idea of a closed society is an idealisation, that assumes predicates which are false of all existing human societies.” Now, like the idea of a frictionless surface used in science, this idealisation is not necessarily objectionable so long as there are very strong arguments for why the false construction can, by resemblance (for no strict
inference to a true conclusion is possible), show something useful about cases that are not idealised. Rawls will maintain that his idealisation shows the following: (1) if peoples were to always conscientiously protect their members' rights, and (2) if all persons are members of peoples, then (3) all rights claims would be fully accounted for and protected. No one is left out; therefore persons would in no way be disadvantaged by starting from societies and not from persons. But I now argue that there is a strong presumption against Rawls's idealisation: the assumption of a closed society obscures the fact that the interests of persons and of peoples do not necessarily coincide. So even if a confederation of peoples secures rights, it may well do so in a less than optimal way; other institutional configurations may better secure persons' rights as well as other fundamental interests.

Do peoples' and persons' interests necessarily coincide? There is good reason to think not: depending on how subjects are divided into sets at the outset, the outcomes of reasonable and rational deliberation—about what interests are and how to best pursue them—will differ. Consider the following example. In a world of two states, U and D (underdeveloped and developed), the government of each intends to act rationally so as to secure the interests of persons in their territories to the maximal extent possible. It might be rational for D to restrict immigration because it would result in a loss of capacity to secure the rights and well-being of its citizens; and it might be rational for U to restrict emigration for similar reasons. If two parties representing these states, although they did not know which, had to establish a law governing their relations, it would be one that allows for only highly restricted movement of persons between the two from U to D. Yet, it is not true in principle that this law best secures the rights and well-being of all the persons in both countries. It may be the case that allowing some more movement of people between the two would result in a gain for those who are worst off or even in a more extensive scheme of basic liberties for all: a minor worsening of the well-being situation of those who were citizens of D and for those left behind in U might make immigrants from U significantly better off, sufficiently to justify the movement. This is not, however, a consideration that could count for parties representing U and D (sets of citizens) but only for parties representing all the persons in U and D as individual persons.

This example evidences a more general point about social choice: what is rational to agree on at the level of two parties representing two sets of interests (that together exhaust the set of existing interests) is not the same as what is rational if it is the interests of each person that are being considered. Thus, there is no reason to think that what proves—as Rawls put it—"more or less sound" for one domain (e.g., justice for persons in a closed society) is appropriate to another (e.g., global justice for persons) any more than there is rea-
son to think that the principles for packing eggs into padded boxes are extend-
able to the principles for packing egg boxes into a crate. Nor is it apparent that
the sequence should be to design egg boxes first and only later ask any ques-
tions about how to design the crate. Therefore, Rawls's theory of domestic
justice might provide tools for the independent construction of a theory of
global justice, but it cannot simply be incorporated as the first step in that con-
struction. Since the idea of decent peoples as a starting point embodies two
layers of distortion (comprehensive associations, thin states) in representing
individuals' interests, liberals—for whom individual persons are the ultimate
locus of concern—should be deeply wary.22

We have seen that the interests of all human individuals and those of the
same persons assumed to be grouped as members of states do not necessarily
coincide and that we may come to have good reason to jettison thin statism in
favour of a global original position that represents all the persons of the
world. But Rawls might object that my example concerns interests that are
not "fundamental" and so risks impugning a possible global human rights
order by raising less urgent socioeconomic claims. This objection is telling if
one accepts the implausible stipulation that the important interests of persons
can be narrowly confined to sufficient domestic justice only. But it is pro-
dfendly counterintuitive to assume that parties should take no interest at all in
the well-being or standard of living of persons "beyond the minimum neces-
sary for [minimally] just institutions."23 Rawls himself acknowledged that a
just regime cannot be a final and circumscribed end in itself; rather it is
"something we ought to realise for the sake of individual human persons,
who are the ultimate units of moral concern. . . . Their well-being is the point
of social institutions."24 Of course, some interests are more important than
others, and it might be thought that a thin statism secures the most important
interests of all persons, in world peace and respect for human rights (on these
interests, see sections 2 and 4). But this begs the question: it cannot be
assumed that thin states best secure persons' important interests; if they do,
then that is something that will count for parties representing individual per-
sons; thus, parties will endorse thin states (as the basic institutions of global
justice). There is the greatest difference between a liberal constructivism that
takes thin states as a possible outcome of the procedure, on one hand, and, thin
statism—which assumes them as foundational to global justice—on the
other. The former leaves two things open: (1) thin states may not best secure
those important interests; and (2) there may be an alternative that secures
those interests and more, such as added security and increased well-being. I
offer such an alternative in sections 3 and 4; here I have simply established
that these are live issues. In sum, because of its potentially suboptimal results
for persons, any initial demarcation of groups must be justified. Rawls's first
main argument—that persons' fundamental interests are already addressed by peoples since peoples take members' interests into account—fails to justify his basic assumption of thin statism.

2. TOLERATION: THE UNIVERSAL SCOPE OF GLOBAL JUSTICE

We have seen that the law of peoples may represent the fair terms of cooperation for peoples, but it certainly does not necessarily represent the fair terms of cooperation for all the persons of the world; this is a serious concern for the liberal. But Rawls's most powerful and explicit argument might be thought to provide reasons to override such concern since it stresses the overwhelming importance of recognising—by starting with the idea of peoples—the value of national-cultural affiliation:

Leaving aside the deep question of whether some forms of culture and ways of life are good in themselves (as I believe they are), it is surely, ceteris paribus, a good for individuals and associations to be attached to their particular culture and to take part in its common public and civic life. In this way political society is expressed and fulfilled. This is no small thing. It argues for preserving significant room for the idea of a people's self-determination and for some kind of loose or confederative form of a Society of Peoples. (P. 61)

The common sympathies arising out of a shared history and tradition are profoundly valuable to individuals, and an adequate theory of global justice must recognise and respect that fact—rather than insensitively and destructively ignoring it. I am in full agreement with Rawls that it would be foolish and wrong not to recognise the value of culture to individual persons; but the question is not whether to tolerate cultures but rather how to do so. In this section, I argue—from politically liberal premises—that the Rawls of LP seeks toleration of the wrong kind. Only an original position that includes all the persons of the world as free and equal persons can be tolerant in the right way.

Rawls's argument for toleration of decent nonliberal peoples seeks to establish that toleration is required by features internal to liberal justice theory. The argument proceeds by analogy to domestic justice:

If all societies were required to be liberal, then the idea of political liberalism would fail to express due toleration for other acceptable ways (if such there are, as I assume) of ordering society. We recognise that a liberal society is to respect its citizens' comprehensive doctrines—religious, philosophical, and moral—provided that these doctrines are pursued in ways compatible with a reasonable political conception of justice and its pub-
lic reason. Similarly, we say that, provided a nonliberal society's basic institutions meet certain specified conditions of political right and justice and lead its people to honor a reasonable and just law for the Society of Peoples, a liberal people is to tolerate and accept that society. (Pp. 59-60)

A law of peoples, then, embodies "principles of the foreign policy" of a liberal people, in which the requirement of toleration of comprehensive conceptions held by other societies is met by ensuring that such a policy could also be acceptable "from a decent non-liberal point of view. The need for such assurance is a feature inherent in the liberal conception" (p. 10).

This argument is unconvincing because it trades on a partial analogy between peoples and persons—organising their respective "lives" around reasonable comprehensive doctrines—that Rawlsian constructivism cannot sustain and liberals should not endorse. States, even thin states, institutionalise political coercion, and any coercive institution raises questions about its legitimacy. Rawls recognises this element of disanalogy and tries to deal with it by stipulating that each people simply is legitimate in virtue of having decent institutional features. To tolerate decent societies is, then, to tolerate what is sufficiently tolerant of persons already, all with a view to achieving broad agreement on common principles of justice. But here Rawls is mistaken. "Sufficient tolerance" is not simply a pale approximation of full liberal tolerance; rather the two are deeply contradictory. Liberal tolerance expresses ethical neutrality by remaining impartial between particular moral conceptions of the good; for this very reason, liberalism must reject any political neutrality, that is, neutrality in respect of justifications for coercion: "a commitment to ethical neutrality necessarily entails a commitment to a particular type of political arrangement, one which, for one, allows for the pursuit of different private conceptions of the good."25 As Thomas Pogge put it, while a society or world can contain numerous associations and conceptions of the good, its basic political structure "can be structured or organised in only one way. . . . There is no room for accommodation here" since it is precisely the characteristic of a liberal fundamental law backed by coercive force that it must apply to and be justifiable to all.26

The idea of tolerance in LP is, then, fundamentally different from and opposed to—and not simply a less demanding version of—the idea of a liberal regulatory framework presented in Political Liberalism. There, Rawls argues repeatedly that it would be intolerant, oppressive, and unjust for a liberal political framework to be organised around any one comprehensive doctrine—precisely because such endorsement fails to respect other such doctrines and the persons that hold them.27 And there he is correct. It is the essence of a politically liberal regulatory framework that it expresses tolera-
tion by not incorporating any comprehensive doctrine into the principles of justice; to fail to do so is not to extend but rather to eliminate liberal tolerance. In *LP*, on the other hand, he is mistaken. Decent peoples are not ethically neutral, nor is a Law of Peoples that recognises their comprehensive doctrine ethically neutral; thus, at neither stage is there any basis for saying that what is being expressed counts as liberal toleration.\(^{28}\)

One can imagine Rawls making the following reply. The idea of ethical toleration in a liberal society is all very well, but it is much too stringent for global toleration. For one thing, it is simplistic to regard decent nonliberal peoples as ethically intolerant; they are better characterised as ethically “not intolerant” [my term, though Rawlsian in spirit]. Unlike outlaw states, decent peoples show significant respect for persons not only by honouring human rights but also by allowing associations in civil society which hold a range of comprehensive moral doctrines.\(^{29}\) Furthermore, the political structure of a decent society, although organised around a comprehensive common good conception of justice, does not entirely reject citizens’ comprehensive doctrines. One condition stipulated for a decent people is, as we saw, that citizens’ interests must be taken into account; but for this to be the case,

the basic structure of the society must include a family of representative bodies whose role in the hierarchy is to take part in an established procedure of consultation and to look after what the people’s common good idea of justice regards as the important interests of all members of society. (P. 71)

This is a strong demand for what might be called a “decent consultation hierarchy” (pp. 71-78). It cannot be said that where peoples merely have these features, there is no bona fide system of law: extensive consultation ensures an “institutional basis for protecting the rights and duties of the members of the people”; thus, persons have their interests taken into account and can be morally motivated to obey the law (p. 71). These protective, expressive, and deliberative features “deserve respect, even if their institutions as a whole are not sufficiently reasonable from the point of view of political liberalism” (p. 84). Ethical toleration is not an on-off affair: a decent people is structured around one comprehensive doctrine only in a very limited way and does pass an adequate threshold of respect for persons; we must, in turn, respect the basic institutions of such a people.

This argument appears to be appealing in that it seems to take cultural pluralism seriously, but—I now want to argue—it does so by not taking seriously the reasonable pluralism of individual persons. Consider, for one thing, some profoundly antiliberal implications of “toleration” as specified in *LP*:
The fact is that none of Rawls's "well-ordered" hierarchies will be free of natives who are themselves inspired by liberal ideas of liberty and equality. There is no Islamic nation without a woman who insists on equal rights; no Confucian society without a man who denies the need for deference. Sometimes these liberals will be in a minority in their native lands; but given the way Rawls defines a "well-ordered" hierarchy, it is even possible that they might be a majority. . . . [Why] should we choose to betray our own principles and side with the oppressors rather than the oppressed?

When a liberal regulatory framework recognises a decent hierarchical regime as sufficiently just, it participates in the denial of freedom and equality to such individuals. Dissenting individuals with liberal views would surely, it seems, dispute the idea that accommodation of reasonable pluralism requires that their individual moral claims be taken less seriously. But then one could not really know what they would think since their views could well be sealed off from view by the decent consultation hierarchy.

To take only one significant instance, a regime with a decent consultation hierarchy does not allow free speech: persons may only dissent as members of associations and only with reference to the common good conception of justice (pp. 72-75). It follows that citizens must argue within the conceptual terms of the regime and only through representatives of a group; this closes off large domains and numerous types of discussion. The most serious exclusion is that it prevents proper critical discussion of how the rules of discussion might be altered—the latter are determined by some interpretation of the dominant cultural tradition only (although it must make some room for the survival of others). A claim that this represents "freedom" of speech but "not equal" freedom of speech is thus farcical, as is Rawls's claim that barring persons of certain religions from occupying public offices represents "liberty of conscience, but not equal liberty" (p. 65, n. 2).

These so-called inequalities are in fact serious restrictions on liberty that would rightly horrify a liberal at home, and it is not apparent that they should be any less rightly horrifying when perpetrated against people that are not part of one's liberal society. This would certainly be apparent to parties in a single global original position who, when the veil lifts, might find themselves dissenters in a nonliberal society. Rawls might say that other societies do not share and cannot be expected to share our conception of the person as free and equal, and so no such original position can be constructed, but this misses the point. From a liberal perspective—for reasons Rawls himself has done most to elaborate—the geographical location and group membership status of a woman born into a nonliberal Islamic society, or indeed anyone else, is morally arbitrary. She does not suddenly come to be a free and equal person for us when she crosses the border into a liberal society. On the contrary, as Charles Beitz points out,
Although the basis of the [liberal] conception of the person may be parochial, the conception itself...is not. One might say that we are compelled to take a global view in matters of social justice by features internal to our conception of moral personality, however parochial it may be.31

It is this most basic internal feature—the respect for persons captured by the idea of ethical toleration—that must be the cornerstone of a consistent global liberal regulatory framework. Decent hierarchical peoples could not agree with it, but that is precisely the ethical problem with them and not grounds to seek their agreement on some lesser mixture of respect in some parts and disrespect in others. As Rawls argues at the beginning of *A Theory of Justice*, “Being first virtues of human activities, truth and justice are uncompromising” (p. 4).

The foregoing points are no less true of nonmetaphysical liberalism than they are of a metaphysical liberalism. Political liberalism starts from ideas implicit in a liberal democratic culture, but none of the major intellectual progenitors of that culture—Locke, Rousseau, Kant, Mill, to name but a few—does not begin with some idea of all persons as free and equal. Each thinker then goes on to justify the state or something like it on the very grounds that such an institutional formation is in some way rational to will for persons thus construed.32 Indeed, even such a vociferous opponent of liberalism as Carl Schmitt is clear that liberal community rests on the idea of a “democracy of mankind”—which, although it may not be practically achievable, is philosophically universalist at its core: “Every adult person should eo ipso be politically equal to every other person.”33 To the extent that the moral claims of states have any normative force in liberalism, it is derivative—it must be justified. In political liberalism, we do not close off the possibility that parties representing free and equal persons in a global original position would decide in favour of thin states or even in favour of an inferior position for a woman within a particular state (although I doubt they would); rather, we say that thin states, and her occupying this position, must be justified.34

What then about the good of community? It would be a mistake to interpret my cosmopolitan position as a form of abstract individualism. A global original position does not rule out people banding together in communities with special bonds of sentiment and obligation between them; all it demands is that such a form of organisation—as Rawls himself once wrote—cannot be assumed as foundational or not subject to justification: “we want to account for the social values, for the intrinsic good of institutional, community and associative activities, by a conception of justice that in its theoretical basis is individualistic.”35 If loyalties and sentiments of affiliation to particular cultural and national groups have value for the members of those communities (and I believe they do), then “on a cosmopolitan point of view, this fact should
matter for practical reasoning. The important question is not whether it should matter but how." This is the question that—I have argued—LP does not even countenance. The fact that community and solidarity enrich and partly constitute a valuable human life should not block consideration of the implications of such arrangements for nonmembers and dissenters. A liberal background culture implies universalist justification. That is to say, the importance of cultural differences does not obviate the requirement to refer in the last instance to individual lives and not to a social formation as "an organic whole with a life of its own distinct from and superior to that of all its members in their relation to one another." These are Rawls's words. To say that a social milieu or institutional formation is not automatically sealed away from critical scrutiny—by minimal gestures toward human rights and consultation—is not to abstract from real individuals; rather, it is to treat their claims to moral consideration, including their cultural claims, entirely seriously.

3. COHESION: TOWARD NONSTATIST PRINCIPLES OF GLOBAL JUSTICE

Rawls might be taken to impugn all my conclusions above, in one fell swoop, with his third argument, as follows: on the second page of A Theory of Justice, another statement can be found: "an injustice is tolerable only when it is necessary to avoid an even greater injustice." Now, although "the social world of liberal and decent peoples is not one that, by liberal principles, is fully just," there are "strong reasons" for "permitting this injustice" (p. 62). One primary reason is that a world state—which Rawls might also think is the outcome of a global original position—would have even greater drawbacks (i.e., cause even more injustice) than a law-governed Society of Peoples:

These principles ... will not affirm a world-state. Here I follow Kant's lead in Perpetual Peace (1795) in thinking that a world government—by which I mean a unified political regime with the legal powers normally exercised by central governments—would either be a global despotism or else would rule over a fragile empire torn by frequent civil strife as various regions and peoples tried to gain their political freedom and autonomy. (P. 36)

He also approvingly cites Kant's dictum that "laws always lose in vigour what government gains in extent." Rawls seems then to be making one or both of the following psychological claims: persons as they are would not, on an ongoing basis, morally affirm a world state; and the centralisation and cumulation of power in a world state would encourage administrative abuse, laxity, or ineffectuality. It follows that although a confederation of peoples
may have some illiberal consequences, these are far less severe—given persons as they are—than the consequences of concentrating power excessively in a world state.

But leaving aside whether this is a plausible moral psychology, we must ask, are these the only two options? We need not debate the relative merits of two illiberal conceptions of the outcomes of the global original position if there is another alternative that does not fail to be liberal. In this section, I present an alternative, albeit a modest sketch. As is appropriate at this phase of Rawlsian theory, my conception is an ideal; its relevance and feasibility in nonideal conditions for justice are considered at length in the next section.

We want principles of justice to regulate a global institutional scheme, principles that are not statist in their assumptions. It will be a cosmopolitan conception because it requires institutions to meet three criteria: taking individual human persons as the ultimate units of concern (individualism), attaching that status to every human being equally (universality), and regarding persons as the ultimate unit of concern for everyone (generality). It will be a Rawlsian conception in that it uses the original position as a device to represent conditions for agreeing on fair terms of cooperation for all. But “all” will not be defined as a closed community, involved in a scheme for mutual advantage, who need to agree on rules of engagement with other peoples. Rather, the “parochial” assumptions of liberalism require that parties in the original position act as if they represent all human persons who share this world and affect one another. These parties will be far more concerned with individuals’ abilities to pursue their reasonable conceptions of the good and with individuals’ well-being than would be delegates of peoples (thin states). It is not possible in this limited space to consider the many issues on which parties would decide; therefore I concentrate on one central issue: the nature and limits of sovereignty—its appropriate moral bases and political extent.

In constructing a law of persons to answer the sovereignty question, I begin by recalling what the original position does: it embodies constraints on substantive argument for principles of justice; it tell us what kinds of reasons cannot count. By making some substantive points about why the notion of a people cannot be assumed to ground even thin state sovereignty, I want to show what reasons cannot count for parties in a global original position. Thereafter, I argue, by considering what kinds of nonarbitrary reasons are left—as legitimate bases for principles of global justice—we can get a surprisingly long way toward an outline of just cosmopolitan institutions.

The first thing to note is that there is a veritable catalogue of empirical difficulties in identifying any people that is not contested in practice or that clearly coincides with a particular political boundary. Each difficulty can be seen to underpin a reason why the idea of a people cannot justify legitimate
divisions between sovereign political units.⁴³ Now, it might be thought that such a catalogue, while sufficient to reject closed and organicist views of the nation, does not constitute an argument against Rawls's liberal account of peoplehood. For one thing, Rawls fully acknowledges that

if those [common] sympathies were entirely dependent upon a common language, history, and political culture, with a shared historical consciousness, this feature would rarely, if ever, be fully satisfied. . . . Notwithstanding, . . . [there is a] need for common sympathies, whatever their source may be. My hope is that, if we begin in this simplified way, we can work out political principles that . . . enable us to deal with more difficult cases where all the citizens are not united. (Pp. 24-25)

For another,

It does not follow from the fact that boundaries [of thin states] are historically arbitrary that their role in the Law of Peoples cannot be justified. On the contrary, to fix on their arbitrariness is to fix on the wrong thing. In the absence of a world state, there must be boundaries of some kind, which when viewed in isolation will seem arbitrary, and depend to some degree on historical circumstances. (P. 39)

Such arguments do not, however, answer the empirical catalogue of critique: it may be necessary to have simplifying assumptions and historically contingent boundaries, but this does not show that these particular assumptions (those of Rawls in LP) are not bad ones. For instance, it is not apparent that bonds of sympathy need be primarily between citizens of thin states. It is true that many people have cultural allegiances, but persons have many other legitimate allegiances too, and the idealisation of a homogenous nation removes the possibility of any basic political consideration of how those claims ought to be prioritised. Those other claims are only accommodated once the basic regulatory framework has been determined in favour of an international thin state system—to which those with other allegiances must adjust (gaining as much respect as is possible within that system). Rawls has confused the putative value of common national sympathies with their moral primacy for establishing political institutions. The effect is to give peoples or nations a veto on what identities and bonds persons may take to be of predominant political significance. Yet, this cannot be assumed to be just: "A central objective of politics may be the reconstrual of political identities, the separation or the merging of destinies rather than the working out of principles of justice to be shared within a closed society."⁴⁴

It is not apparent that sovereignty has to be located at one level, nor is it evident that there are not better bases for borders—bases that take different historical contingencies into account and for good reasons. One of the most
interesting attempts to reformulate the notion of sovereignty so as to encompass these complexities is that of Thomas Pogge in "Cosmopolitanism and Sovereignty." He proposes a multilayered institutional scheme in which the powers of sovereignty are "vertically dispersed" rather than concentrated almost entirely at the level of states:

What we need is both centralization and decentralization... Thus, persons should be citizens of, and govern themselves through, a number of political units of various sizes, without any one unit being dominant and thus occupying the traditional role of the state. And their political allegiance and loyalties should be widely dispersed over these units: neighbourhood, town, county, province, state, region, and world at large. People should be politically at home in all of them, without converging upon any one of them as the lodestar of their political identity.45

He argues that dispersing governmental authority over such "nested territorial units" would have significant benefits, such as reducing the stakes and hence the intensity of the "struggle for power and wealth within and among states, thereby reducing the incidence of war, poverty, and oppression," not to mention environmental degradation.46

An obvious objection to this idea is the traditional Hobbesian claim (which makes its way into much of the later social contract literature) that there must be a final decision mechanism that uniquely resolves any dispute—thereby preventing formal, ongoing, destructive conflict—and this can only be a supreme agency of violent last resort. As Pogge points out, though, the history of the past two hundred years—particularly the success of the division of powers within states—attests to the possibility of law-governed coexistence even when ultimate conflicts between legitimate powers are theoretically possible. The three branches of government within liberal states rarely engage in all-out power struggles, and when more minor constitutional crises do arise, they tend to be rapidly resolved.47 Similarly, the vertical division of sovereignty in federal regimes—in ways that leave open some conflict over constitutional allocation of powers and hence no authoritative path of resolution—has proved a remarkably effective underpinning of robust and enduring institutions in many cases (including the United States, the United Kingdom, Switzerland, Germany; the list is long). It therefore seems mistaken to rigidly insist that sovereignty must be located in the last instance. Dispersed sovereignty—what might be called "taking regionalism seriously"48—may well be effective and highly beneficial.49 Rawls thinks we must rid ourselves of the cult of unqualified state sovereignty, but he does not see that the cult of unitary sovereignty may similarly deserve to be consigned to the flames of history. In any case, Pogge's suggestion stands as at least one broad, plausible, nonstatist (in its assumptions and outcomes) alternative to both a world
state and a state-dominated system. Rawls cannot assume that the problem of a world state provides, by process of elimination of alternatives, a justification for representing peoples in the original position or for endorsing them as the primary political configurations in the principles of global justice.

It seems to me, though, that even Pogge does not go far enough in that he has imported an unjustified assumption that sovereignty can and should only be exercised over territorially defined units. It seems that we may have escaped the cults of unqualified and unitary state sovereignty only to fall prey to the lesser cult of territorial sovereignty. Why should the parties in the original position accept this arbitrary restriction on the domain of government? Why should sovereignty not be dispersed horizontally as well as vertically? Considering the numerous issues that territorial demarcations of governmental functions could not (best) resolve—for example, crime on the Internet, prosecution of violators of human rights, and environmental protection—there seems to be good reason to divide the tasks of governments on functional rather than territorial lines. Some functions may be best exercised within territorial demarcations, and some groups of functions may coincide at various levels of Pogge’s vertical scheme; but it is unlikely that they would exhaust all governmental functions.

My argument, then, aims to extend both the classical doctrine of the division of powers and contemporary reinterpretations of the “the political” (of what can constitute a regulatory institution). What are needed are political agencies that appropriately regulate different spheres of human action, and since not all action is primarily territorially based, neither will those agencies always be. Persons would still band together over various functions, many of them territorially and communally based, but there would by no means be the overweening concentration of legitimate power in states or a state system. The rapid pace of globalisation and technological innovation suggests that nonterritorial “spaces” of interaction (such as Web pages) will have an increasingly significant role in human affairs. It may thus be more appropriate to think of sovereignty as legitimate power over kinds of human practice and resources. In this way, we could imagine a universalist account of global justice that avoids assuming territorial boundaries while still taking the particularity of human practices into account. One model for such a world order is to be found in the literature on polyarchy, which looks to smaller, diverse metropolitan areas such as New York or Los Angeles as a guide to a more cosmopolitan vision:

These megalopolises comprise numerous municipal and special-purpose jurisdictions, many of which overlap, but they lack a strong central government for the whole metropolitan area. The polyarchic ‘global city’ could exhibit an analogous structure....
national institutions, with memberships and spans of control congruent with the interdependent relationships, could be accorded with responsibility for co-ordination, rule making, and even rule enforcement.

In such a world order, the dispersal of jurisdictional authority over a plurality of agencies would of course be limited, on functional grounds, by a need for effective coordination. Each will operate "on the lowest possible level," but there will generally be advantages to assigning jurisdiction over several functions to each agency and benefits to creating agency clusters—not least that it is then possible to exercise some form of direct or indirect democratic control over governance. Grounds of this kind for allocating authority are already recognised in Article 5 of the Treaty Establishing the European Community, which endorses both a Principle of Democracy and a Principle of Subsidiarity (this is the principle that powers and tasks should be vested in effective subunits unless a more encompassing unit can better achieve the specified goals). There are, then, nonarbitrary reasons for drawing boundaries of sovereignty—boundaries that are historically contingent only in the sense that they take account of the best current means to reach the ends of free and equal persons. The result would be what I am calling a system of functionally plural sovereignty. This is merely to sketch the broad outlines of another alternative global institutional configuration, one that cannot be arbitrarily assumed out of parties' purview by stipulating peoples (thin states) either as the represented subjects or as the necessary institutional outcomes of appropriately constrained practical reasoning.

4. REALISM: PRACTICAL APPLICATION IN A NONIDEAL WORLD

But, an imagined critic might say, your liberal principles of global justice will put us at odds with hierarchical regimes: they will not accept the privileging of the individual as free and equal, and so will not endorse the same principles, and we will surely come into conflict. Whereas Rawls at least recognises pragmatic limitations and strategic difficulties, the cosmopolitan scheme you have provided is uncompromisingly idealistic and of little help as a guide to political action. What are you going to suggest that liberal regimes do to decent nonliberal regimes? Are they to be subject to military attack, colonisation, or intervention in their domestic affairs? Are they to be ostracised from cooperative international schemes altogether? Rawls gives us good reasons why liberal regimes must—by their own principles—rule out these kinds of action. Not only that, he gives us good reasons to engage
such societies so as at least to ensure minimal adherence to international legal rules of nonaggression and respect for human rights. And he even gives us reasons to think that nonliberal regimes would accept engagement on these terms. In any case, setting the ideal too high may lead to frustration and disillusionment for liberals, and that would adversely affect progress on peace and human rights issues. Finally, tolerance of this injustice is not as distasteful as you claim. Liberals are still able to criticise nonliberal regimes since acceptance of decent peoples in international law by no means implies endorsement of their principles by liberals more generally, nor does it require that nonliberal regimes are viewed as beyond reproach. Rawls has provided us with a "realistic utopia" (pp. 7, 11-23); you have given us an impracticable pipe-dream.58

This forceful critic would surely be right in one important respect: the distance between an imagined cosmopolitan world and current grim realities "is so great that it would be madness to use the conclusions of ideal theory as the unmediated basis for a practical application program."59 However, in this section I want to argue that the scheme I have presented is more feasible than that of LP on two grounds: Rawls is neither sufficiently utopian nor sufficiently realistic. This may seem paradoxical, but careful consideration of the relationship between ideal and nonideal theory reveals that Rawls has created a unitary term—"realistic utopia"—by watering down both its elements; furthermore, a perspective that maintains the distinct role of each element is far more practical. In what follows, I discuss each element in turn.

Rawls's argument for his (in my view, limited) utopianism is in part an argument from stability: the situation of ideal justice must generate ongoing support and not be subject to "assurance problems" arising out of shifts in power. It must be a sustainable ideal. But if this is to be achieved at the global level, the standards of the reasonable need to be "relaxed" since treating all persons as free and equal—as having the two moral powers regardless of culture or location—"makes the basis of the law of peoples too narrow."60 Actual peoples do cleave so strongly (and not unreasonably) to their "different cultures and traditions of thought," and a liberal world order will constantly be faced with civil strife if it expects them to sacrifice what is most dear to them to endorse global legal rules and institutions (p. 11): "Historically speaking, all principles and standards proposed for the law of peoples must, to be feasible, prove acceptable to the considered and reflective public opinion of peoples and their governments."61 This is not simply a matter of toleration (fortunately for Rawls, since in section 2 we saw that this argument must fail); rather it is a matter of "speculation" on what is "feasible and might actually exist," given that persons do in general organise themselves into peoples (pp. 12-13). Liberals should thus adopt "a minimum standard of realism
which requires that the law of peoples not call into question the existence of the international state system," at least where that refers to a confederation of thin states.62

The fatal flaws in this argument are immediately apparent if we recall the meaning of stability in Political Liberalism: a regime is stable when "members will tend increasingly over time to accept its principles and judgements as they come to understand the ideas of justice expressed in the law among them and appreciate its benefits."63 Breadth of agreement, Rawls writes there, can establish a wide modus vivendi—an agreement based on prudential considerations and that is therefore unstable—but not an overlapping consensus, which is the only kind of agreement that is stable. The former is a question in nonideal theory of how assent could be won from within current societies given that so many are organised into states that cleave to comprehensive doctrines; the latter is a question of ideal theory and involves a moral affirmation by the politically relevant subjects of the social framework regulated by principles of justice.64 Who those subjects are is not settled by the ease of achieving assent from peoples rather than individual persons. Rather it is settled by (1) who is an authentic source of moral claims in this domain and (2) whether those agents would continue to support the resultant conception of global justice even if shifts occurred in their conceptions of the good.

Regarding (1), I have tried to show not only that peoples (thin states) are not self-authenticating sources of valid moral claims but also that their having taken each person in each territory's important interests into account is insufficient to secure that normative status. It is in any case deeply questionable whether a historical analysis would guide us to an acceptance of peoples as the politically relevant subjects. The horrors of nationalistic wars, xenophobia, and unnecessary starvation might motivate instead a greater focus on human individuals regardless of their geographical location and—as Pogge argues—on lowering the stakes (and hence incentives to abuse) that attach to each institutional level and domain.65 If history suggests anything, it is that we should scrupulously interrogate and dismiss assumptions that might be destructively "trapping us in the buildings and boundaries" of the past or present.66 The goal of any Kant-inspired utopian political theory of global relations thus cannot be to show which principles are likely to be accepted at present (by the powers that be or by persons simpliciter, with all our distorting prejudices). Rather, it is to specify which principles ought to be accepted by those subjects in this domain, considered in terms of their moral status, and their plausible moral psychology were the background institutions to be just. In this sense, the Rawls of LP fails to heed Kant's injunction in Perpetual Peace not to end up tailoring a political morality to the concerns of those currently in power:
I can easily conceive of a moral politician, i.e. one who so chooses political principles that they are consistent with those of morality; but I cannot conceive of a political moralist, one who forges a morality in such a way that it conforms to the statesman's advantage.67

A vital task of the liberal political theorist is to subject the status quo to (sometimes speculative) critique: "One finds no great concern to stabilise every existing order, nor should one. There is no reason to mourn the destruction of unjust social and political orders."68

As for the question (2) of whether the ideal presented in LP is sustainable, it seems quite evident that decent nonliberal peoples—and thus a law of peoples—are profoundly unstable since they are organised around comprehensive conceptions of the good. There may be demographic or doctrinal shifts such that a majority no longer cleaves to that conception, or (perhaps due to liberal support for liberals within these societies) particular individuals may strenuously oppose the existing organisation of such a society, leading to civil strife. Because persons (even the majority) can reasonably claim that they should be treated equally, such fundamental strife can occur even within an ideal society in which everybody acts reasonably (as we have seen, the decent consultation hierarchy does not provide any negotiating mechanisms for such fundamental conflicts).69 Worse still, illiberal reactions to, say, the institutionalisation of one religion might be aroused when such historically contingent shifts occur. Civil strife is hardly the basis for consistent performance of one's duties in respect of a global scheme of cooperation!70 My functionally differentiated global scheme does not face the same problems: if persons change their comprehensive doctrines, or there are shifts in demographics or power, an ethically neutral scheme of political structures is equally and always accommodating. As Ackerman points out, liberals must insistently not accommodate the exigencies of current power relations in ideal theory:

Of course government officials [representing a dominant religion or comprehensive view] will not accept a fundamental critique of existing boundaries—their political power presupposes their legitimacy. Giving them a veto on the question of boundaries is like giving the rich a veto on the distribution of wealth. . . . Rawls proposes a disastrous political compromise. . . . [Even if illiberal regimes] satisfy these very minimal minima. . . . I fail to see why it justifies anything more than a modus vivendi with oppressor states.71

Why is it important to keep in view the fact that this supposed "‘overlapping consensus' is really just a modus vivendi among quite different models of society'”72 One reason is to be found in Kant: to limit a conception of global justice to a "hybrid solution such as pragmatically conditioned right halfway between right and utility" is to "eternalise the violation of right."73 A
practical foreign policy is one thing; sacrificing the proper ideal is quite another. It was in this spirit that Rawls wrote in "The Idea of an Overlapping Consensus" that "The politician looks to the next election, the statesman to the next generation, and philosophy to the indefinite future." This is what is meant when I say that the Rawls of LP is insufficiently utopian: his conception is neither robust nor aspirant enough.

But there is an even greater pragmatic danger than limiting our distant future—a danger of not being appropriately realistic, if we do not keep the correct regulative ideal in view. We need, as Rawls put it in A Theory of Justice, "a standard for appraising institutions and for guiding the overall direction of social change"; and if we do not get the standard right, we will misjudge how to pursue justice in the present nonideal conditions: "Non-ideal theory is . . . more immediately relevant to practical problems, but ideal theory is more fundamental, establishing the ultimate goal of social reform and a basis for judging the relative importance of departures from the ideal." A modus vivendi with hierarchical regimes may be the best that is achievable right now, and it will have its own special prudential rules; but let us be aware of what we are compromising, and let us be able to judge which are the least offensive such rules. It is well, then, to constantly bear in mind an injunction from Thomas Pogge, which is very much in the spirit of Kant and the early Rawls:

Realism hardly requires that the principles of justice conform themselves to the prevailing sordid realities. We don't feel justified to give up our ideals of domestic justice or personal honesty just because we despair of achieving them fully. We cannot reasonably demand of moral principles that they vindicate the status quo. All we may ask is that a conception of justice provide a criterion for assessing our global order that allows us to choose from among the feasible . . . avenues of institutional change and thus specifies our moral task gradually to improve the justice of this order.

I now want to complete this reply to my imagined critic by demonstrating that Rawls's conception in LP leads him to prioritise the wrong things and that my "relevant utopianism" serves as a better guide to political action. Above all, I want to focus on the omission of free speech and democracy from Rawls's list of basic human rights. Consider the following two statements from LP about political strategy:

With confidence in the ideals of constitutional liberal democratic thought, it [the law of peoples] respects decent peoples by allowing them to find their own way to honor those ideals. (P. 122)
The Law of Peoples considers this wider background basic structure and the merits of its political climate in encouraging reforms in a liberal direction as overriding the lack of liberal justice in a decent society. (P. 62)

These points suggest that peoples are more likely to come round to liberal views if they are engaged as full participants and are included as members in good standing of the Society of Peoples under international law. But, insofar as we can make informed judgements about these matters, is any part of this claim plausible? Why should the liberal expect that deliberative rationality—leading to a liberal outcome—is a characteristic of the decent consultation hierarchy? The most that dissent can expect to achieve, according to Rawls, is that the government “spells out how the government thinks it can both reasonably interpret its policies in line with its common good idea of justice and impose duties and obligations on all members of society” (p. 78). There is no reason that constrained internal critique within a comprehensive notion should have liberal results; if anything, it is more likely to result in a spiral of doctrinal self-confirmation. So perhaps Rawls means only that engagement will encourage decent peoples to respect human rights and the laws of peace—the limited “liberal” aims of a law of peoples—on an ongoing basis.

There are extremely strong empirical reasons to doubt this latter claim. The single most extensive analysis of the effects of nondemocratic political structures on the rights and well-being of persons is to be found in the work of Amartya Sen. In wide-ranging diachronic and synchronic studies, Sen and his collaborators have demonstrated repeatedly that nondemocratic regimes are in fact almost unfailingly detrimental to human rights and well-being. The most significant reason for this—although there are many—is that there are insufficient political incentives for the regime to secure decent social, economic, and legal conditions for persons. Rulers owe their legitimacy to a tradition, a way of life, and not so much to their efficacy in achieving the present important interests of individual persons; states are thus insufficiently attentive and unresponsive to persons’ plights:

[There are] extensive interconnections between political freedoms and the understanding and fulfillment of economic needs. The connections are not only instrumental (political freedoms can have a major role in providing incentives and information . . . ), but also constructive. Our conceptualization of economic needs [as well as, he goes on to say, our interpretation and application of rights claims] depends crucially on open public debates and discussions. . . . Furthermore, to express publicly what we value and to [effectively] demand that attention be paid to it, we need free speech and democratic choice.
The highly likely and disturbing results of not having democratic freedoms are dramatic: social disintegration, famine, and abuse of rights. This is not good for cultures or ways of life either. Sen adds that respect for human rights as well as democratic ideas are by no means "Western" values or impositions but that elements are to be found in all major cultures and traditions, despite the claims of nondemocratic rulers (who have an interest in persons thinking otherwise). He also makes the crucial epistemological and eminently practical point that without democracy, it is impossible to tell which interpretations of a culture are the impositions of semiautocratic rulers and which are widely held and justifiable.

So we can accept, with Rawls, the notion that we should respect cultures, and even that "the crucial element in how a country fares is its political culture" (p. 117), while strenuously insisting that a political culture ought to be liberal and democratic. This seriously undermines Rawls's project since he writes that,

Should the facts of history, supported by the reasoning of social and political thought, show that hierarchical regimes are always, or nearly always, oppressive and deny human rights, the case for liberal democracy is made. The Law of Peoples assumes, however, that decent hierarchical peoples exist, or could exist. (P. 79)

The case for liberal democracy has been made: there are no secure minimal human rights without (a right to) democracy. Human rights and democratic rights are inextricably intertwined. And it might even be argued—although I shall not do so much here—that without the political incentives that a liberal democratic political culture provides, (thin) states are likely to be unreasonable and hence potentially aggressive. The less powerful sections of the population suffer the full ravages of war, not the leaders of associations or states (unless they are subject to popular judgement); so giving every person a say is likely, due to information and incentives, to be more conducive to the perpetual peace we seek. As Rawls himself notes, democracies do not fight one another; I have suggested that decent regimes, on the other hand, might. In sum, my arguments and the best evidence available establish that the notion of an ongoing scheme of cooperation that has the features of decency is unstable, unrealistic, and undesirable from the point of view of justice.

At this point, my critic throws up his or her hands: "Fine, our liberal principles do not lead us to accept decent peoples as sufficiently just. But what do you propose to do?!" My answer is that decent regimes must be engaged in a global legal structure but only to a limited extent. First, the conditions for entry must require reforms in a democratic direction rather than avoiding this issue. Far from being impracticable, that is increasingly the practice of trans-
national bodies such as the Commonwealth (which excluded Pakistan’s military rulers from the 1999 conference in South Africa), the European Union (which makes democratic reforms a condition for entry), and the International Monetary Fund (which, whatever else it does wrong, does put democratising conditions on loans). Rather than being a pipe dream, this kind of perspective has won the support of—and has been implemented by—numerous hardened pragmatists. Moreover, the theory and practice of international law increasingly, and rightly, invokes such democratising imperatives. Since the initial United Nations endorsement of those imperatives in Article 19 of the 1966 “International Covenant on Civil and Political Rights,” full free speech and democracy requirements have been increasingly crisply and demandingly formulated in broad African, American, and European conventions on human rights and are now to be found in most such charters.\textsuperscript{86} In Rawls’s scheme, there is, on the contrary, no “political case for intervention [of any kind] based on the public reason of the Law of Peoples” (p. 84). While liberals can express their private views about the injustices in nonliberal societies,

Rawls’s international law principles do not even authorise representatives of liberal societies to publicly (that is, in an international forum such as the United Nations) criticise the non-liberal practices (for example, suppression of speech) in hierarchical societies, when such practices are consistent with hierarchical conceptions of the good.\textsuperscript{87}

Our complaints have the same political status that comprehensive doctrines have in Rawls’s idea of a domestic society; that is, they carry no political weight whatsoever. While minimal human rights remain a national duty—rather than a global obligation—rights to free speech and democracy are removed from global view entirely. It seems to me deeply regrettable that Rawls has taken a serious step backward from recent hard-won advances and from the possibility of using global forums to bring about change in a liberal democratic direction—especially since political practice has shown this compromise to be unnecessary.\textsuperscript{88}

This leads to my second point about the practical application of ideals, which is that Rawls and my imagined critic seem to have confused two things. It is one thing to treat illiberal regimes as outlaws—to a greater or lesser extent, depending on the extent of violation, that is, on where they fall on the decent-tyrannical continuum—but it is quite another to think that it is morally permissible to colonise or eliminate them by force. The legitimacy of a regime is only one among many reasons that preclude war and the use of force:
War [may be] excluded because it is grossly disproportionate to the goal sought. Even in cases where the regime is overtly tyrannical (such as the present Chinese regime) waging war would be wrong because of the impossibility or prohibitive cost of victory, that is for purely prudential reasons. So humanitarian intervention (that is, wars to liberate oppressed populations) is subject to a number of moral constraints that counsel moderation. 89

The use of force must be reserved for cases in which force is the only realistic way to achieve democracy or to prevent egregious abuses of human rights. Clearly, if force will do more harm than good, it is not to be adopted, and clearly there are other methods that should be preferred. Every effort should be made first to bring moral suasion and diplomatic pressure to bear on illiberal regimes. It follows that there are independent grounds for rejecting heavy-handed intervention. Furthermore, the efficacy of less drastic and morally vexing means than force is increased by the existence of a global law that recognises the underlying value of the ends that liberals promote.

Finally, where there are transnational bodies such as the World Trade Organisation (WTO), the World Court, and the World Bank, liberals should—following the scheme I have outlined—do everything in their power to encourage the entry of players other than nation-states. 90 There have been some advances in this area too. For instance, a WTO judicial panel ruled against the banning of British beef by several European countries, thereby trumping those countries' putative sovereignty over basic issues like food safety laws. 91 The WTO also increasingly accepts participation of nongovernmental organisations, companies, and the like that are not tied to any one country or set of countries. But the workings of the judicial panels of the WTO are problematically shrouded in secrecy. It is absolutely critical that these shifts in sovereignty be encouraged along with a focus on how such bodies can be made democratically accountable; otherwise we may be left with either a nondemocratic functionally dispersed sovereignty or a state-dominated global order. Neither sort of global regime is an appealing prospect. There is every reason to develop a relevantly liberal and realistic utopian democratic alternative.

Commitment to such an ideal vision is entirely consistent with and even requires realism about practical obstacles, constraints, and opportunities. Our practical task is to gradually pluralise the global basic structure by creating a variety of forms of democratically responsive, semiautonomous legal authority; they will in turn develop a texture of relationships that is sufficiently complex and that meets an important range of needs so that the entire scheme is widely accepted and stable. It is time to end the dominance of what David Luban has called "the romance of the nation-state" 92 and to discern principles for a more complex and more promising global institutional configuration. Those principles will take individuals to be the normative epi-
centre of a system of functionally plural sovereignty. In this article, I have critically utilised the profound work of John Rawls to construct a sketch of such a cosmopolitan Law of Persons.

**NOTES**

3. This constructivist procedure relies on the idea of pure procedural justice developed by Rawls (see esp. *A Theory of Justice*, 83-90).
5. “[J. S. Mill] uses an idea of nationality to describe a people’s culture” (p. 25, n. 20); and “I think of the idea of nation as distinct from the idea of government or state, and I interpret it as referring to a pattern of cultural values of the kind described by Mill” (p. 23, n. 17). Rawls approvingly quotes *Considerations on Representative Government*, in which Mill writes of common sympathies, which do not exist between them and any others—which make them co-operate with each other more willingly than with other people, desire to be under the same government, and desire that it should be a government by themselves, or a portion of themselves, exclusively. (Ibid.)
6. Rawls’s ideas of the reasonable and rational are discussed extensively in *Political Liberalism*, esp. 48-54.
8. “Well-ordered societies with liberal conceptions of political justice also have a common good conception in this sense: namely, the common good of achieving political justice for all its citizens over time and preserving the free culture that justice allows” (p. 71, n. 10). The idea of a comprehensive “common good conception,” which includes a “decent consultation hierarchy,” is discussed at length in section 2.
9. These are discussed in sections 1 and 2. In addition to liberal and decent societies, Rawls discusses “outlaw states” (those that fail even to be decent), “burdened societies” or “states suffering from unfavourable conditions” (to which decent and liberal peoples have duties of assistance), and “benevolent absolutisms” (which honour human rights but in which citizens play no major role in public life) (pp. 4 and 90-112). The principles for dealing with each type are different and important, but my focus is the liberal-decent divide.
10. These are unpacked in LP as eight principles of international justice, summarised at 37.
11. The primacy of this aim is repeatedly emphasised in *LP* and is based on a stipulation that all persons in a decent hierarchical society are not regarded as free and equal citizens, nor as separate individuals deserving equal representation . . . they are seen as decent and rational and as capable of moral learning as recognised in their society. (p. 71)
In section 2, I evaluate and criticise the basis for this stipulation.


Why does the Law of Peoples use an original position at the second level that is fair to peoples and not to individual persons? What is it about peoples that gives them the status of the (moral) actors in the Law of Peoples?” (Rawls, Law of Peoples, 17, n. 9)

13. “Offhand it is not clear why proceeding in this way should lead to different results than proceeding, as I have done, from separate societies outwards. All things considered, one might reach the same law of peoples in either case” (Rawls, “Law of Peoples,” 54-55).

14. I use the term Realism to denote schools of power politics in international relations theory; realistic and realism denote practical workability.

15. Rawls, A Theory of Justice, 8; Political Liberalism, 12.


17. O’Neill thinks, however, that there are still considerable disanalogies between uses of idealization in practical and theoretical reasoning, because the direction of fit is reversed. In theoretical reasoning idealizations that are wide of the mark will reveal their failure, or are likely to. In practical reasoning we may conclude that we ought to live up to the idealizations. (Personal correspondence, but see ibid.)

18. Rawls will also reply that the idealisation of a closed society is justified because it recognises and represents the existence and value of common sympathies or nationhood while it at least forms a constructivist basis to secure persons’ important interests (especially in human rights). In section 2, I assess this argument and show that Rawls tolerates common sympathies in the wrong way.

19. This example obviously raises various issues about the status of immigration in Rawls’s work and about the social embeddedness of persons’ identities. These underlying issues are discussed extensively later in the article. For the moment, I use this example to illustrate a more general point about (grouping for the purposes of) social choice—in a way relevant to boundary setting.

20. Say, immigrants from U would require additional resources that reduce general standards of living and security of current citizens in D, while emigration would result in a “brain drain” from U, reducing the skills base the government can deploy to secure rights and well-being. Many such scenarios are imaginable; indeed, some would argue that America-Mexico and South Africa-Zimbabwe relations, among others, fit this model (my point is, rather, conceptual).


22. As a mathematician friend of mine puts it, “the answer depends where you place the brackets!” There is a historical story to be told that impugns the incorporation claim too; see Hannah Arendt, The Origins of Totalitarianism (New York: Harcourt Brace, 1973), 290-302. She writes that after the French Revolution, humankind was conceived in the image of a family of nations, [and] it gradually became self-evident that the people, and the individual, was the image of man. The full implication of this identification of the rights of man with the rights of peoples [was “severe”]. (P. 291)

The consequences were especially awful for marginalised (not to mention stateless) individuals and minorities (pp. 291-93). Rawls’s vision would avoid many but arguably not all of these adverse consequences.


26. Pogge, "An Egalitarian Law," 217. Such justification must apply to all regardless—for the liberal—of their colour, creed (particular moral conception), or the like.

27. Rawls, *Political Liberalism*, 10, 37, 60, 137, and 154. It is especially evident at 190-200 that politically liberal toleration is of an ethically neutral sort.

28. Which is why, contra Rawls's assertion at 82-83, we can know that decent regimes are unacceptable. Respect for persons' comprehensive conceptions of the good precisely does not translate into respect for comprehensive regimes.

29. A law of peoples respects persons as reasonable and rational and as capable of (sharing) a conception of the good and of moral learning as defined by their society; but they are "not regarded as free and equal citizens, nor as separate individual persons deserving equal representation" (p. 71).


32. The assumption that persons are free and equal is more complex and varied than this makes it sound; only one notorious instance is Mill's refusal of political equality to those in a "primitive" cultural state. But leaving aside such badly justified and unjustifiable exceptions, the broad idea can be found alike in Locke, Rousseau, and Mill; it is stated most clearly by Immanuel Kant in "Theory and Practice" and "The Metaphysics of Morals," in *Practical Philosophy* (Cambridge, UK: Cambridge University Press, 1996).


34. There is some question as to the nature of the cooperative activity that gives rise to the global original position. Brian Barry and Charles Beitz initially disagreed over whether international society "constitutes a scheme of co-operation in Rawls's sense"; Onora O'Neill and Beitz now both think that in any case, since "human beings possess these essential [moral] powers regardless of whether, at present, they belong to a common co-operative scheme," there is no need to "depend on any claim about the existence or intensity of international social co-operation" (Beitz, "Cosmopolitan Ideals," 595; and O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning* [Cambridge, UK: Cambridge University Press, 1996], 91-121). Beitz and O'Neill discuss these debates, and I will not do so here: my arguments concerning political liberalism's universalism strongly endorse their position.


38. Rawls, *A Theory of Justice*, 264. It is not the case that the cosmopolitan position necessarily assumes a self that is not embedded or that is prior to its ends, as is claimed by Michael Sandel.
in *Liberalism and the Limits of Justice* (Cambridge, UK: Cambridge University Press, 1982) and several so-called communitarian thinkers. Rather, the cosmopolitan position demands that a "critical moment" be possible for persons living in different societies, that the value of social practices and a way of life for persons should not be fixed and determined. Just because culture is significant in that it provides us with a context for becoming who we are does not mean that it has normative value in determining what it is about people that we respect. Political community has no *a priori* legitimacy. Yet, it seems quite evident that for there to be a critical moment, persons must have the minimal freedoms that allow for such reflection and deliberation all the way down. *That* is what communitarian positions often ignore and wrongly sign away in their enthusiasm to have culture respected. There is no need to pay such a heavy price.

42. The catalogue includes the following: (1) real persons are often unsure about their (political) identity or have multiple such identities (they may "belong" with no people or many); (2) persons "may find those whom they live with in a particular society are not identical with those whom they regard as of their own culture or people" (O'Neill, "Political Liberalism," 16); (3) there is no clear cut distinction between peoples, cultures, and other kinds of groupings (Pogge, "Cosmopolitanism," 197); (4) virtually no national territory contains only the members of a single people (ibid.); (5) official borders do not coincide with "the main characteristics that are normally held to identify a people... such as a common ethnicity, language, culture, history, tradition" (ibid.); (6) "whether some group does or does not constitute a people would seem... to be a matter of more-or-less rather than either-or" (ibid.); (7) appeals to "a mythical past" or a "desired future" as constituting a people beg the question of why that particular conception of national identity ought to be constructed (Onora O'Neill, "Justice and Boundaries," in *Political Restructuring*, 69-88, at 76); and (8) "national and community identity is always framed in terms of" concepts that have no "sharp boundaries, and hence cannot provide a basis for sharp demarcations such as political boundaries between states" (ibid.). This list is hardly exhaustive.
44. O’Neill, "Political Liberalism," 16. Identity—and its motivational force—is not essentially unipolar. That unipolarity should even seem plausible to us is due largely to the contingent (now changing and changeable) configuration of Europe after 1648. Those who remain in the grip of a picture that allows only a state system or a world state would do well to recall that the state is such a historically recent phenomenon, and thus evidently not a necessary, eternal unit of political organisation and psychological affiliation, let alone the fundamental or exclusive unit. Rawls does say that the "psychological principle [of limits on affinity] sets limits to what can sensibly be proposed as the content of the Law of Peoples" (112, n. 44) and that "the moral learn-
ing of political concepts and principles works most effectively in the context of society-wide political and social institutions” (p. 112). But this mere assertion rests on an implausibly narrow moral psychology to which we have very little reason to subscribe (for one thing, “society” and “nation” come in so many sizes that stipulating numeric limits on affinity is dubious). For persuasive arguments to similar effect, see the contributions by Martha Nussbaum, “Patriotism and Cosmopolitanism,” and Amartya Sen, “Humanity and Citizenship,” in For Love of Country: Debating the Limits of Patriotism, Nussbaum et al., ed. Joshua Cohen (Boston: Beacon, 1996).

46. Ibid., 89 and 102-5.
47. Ibid., 100-1. Contra Weber, it is not the case that the threat of force is foundational of sovereignty, as numerous empirical examples attest: who has the monopoly on legitimate violence over Bavaria—the state? Germany? The European Union? NATO? The United Nations Security Council?! And contra Schmitt, it is not the case that the absence of a unitary sovereign makes decisive action impossible (see my nn. 49, 55, 56).
48. I owe this phrase to Onora O’Neill.
49. Here, Habermas and deliberative democrats may well be correct, at least in the sense that we must focus on procedures of resolution rather than on finding one supreme, legitimate, and incorruptible authority. This issue is discussed again in section 4 (see also my nn. 47, 55, 56). On deliberative democracy, see the excellent essays in James Bohman and William Rehg, eds., Deliberative Democracy: Essays on Reason and Politics (Cambridge: MIT Press, 1997).
50. O’Neill, “Justice and Boundaries,” 72. Rawls cleaves to an entirely territorial ideal on the following grounds:

Unless a definite agent is given responsibility for maintaining an asset and bears the responsibility and loss for not doing so, that asset tends to deteriorate. On my account the role of the institution of property is to prevent this deterioration from occurring. In the present case, the asset is the people’s territory and its potential capacity to support them in perpetuity; and the agent is the people itself as politically organised. (LP, p. 8)

Not only does Rawls here beg the question as to why peoples should be that responsible agent—as has and will become increasingly apparent, they should not (at least, not necessarily)—it also shifts spuriously from the idea of property to that of closed territories. Yet, it is not the case that all or even most property is underpinned by territorial regimes or—as will also become evident—that the kinds of property we take to be important are best conserved by the political regimes of peoples.

51. An agency for regulating the Internet, for example, would have jurisdiction over all material regardless of whether that material was posted from space. An environmental agency for safeguarding forests, wherever they may be, might be functional (i.e., best achieve that end) and would work in conjunction with other units with which it is “nested.” The literature on “non-state actors” is illuminating in this regard; see, for instance, Thomas Risse-Kappen, “Structures of Governance and Transnational Relations: What Have We Learned?” in Bringing Transnational Relations Back In: Non-State Actors, Domestic Structures and International Institutions, ed. Thomas Risse-Kappen (Cambridge, UK: Cambridge University Press, 1995): 280-313.
52. On why the so-called differences between particularists and universalists are widely misunderstood and largely bridgeable, see O’Neill, Towards Justice and Virtue.
54. There would certainly be more transnational and cross-territorial units; but, in considering the political agencies that would best fulfil various government functions, parties to the original position may consider territory—global or restricted—as a secondary or much less relevant factor. My argument—that dispersal would be beneficial—is even stronger if Carl Schmitt is at all correct that bounded territoriality necessarily leads to conflict (Schmitt, *Crisis*, 53, 69-71). In my plural system, neither the “founding moment” nor the units of dispersed sovereignty are necessarily violent.

55. I cannot take the question of democratic institutional responsiveness very far here, although it is discussed in section 4 (and see my nn. 47, 49, 56). The central concern is that a cosmopolitan theory should not be so complex and unwieldy that it undermines the kind of democratic citizenship it is introduced to promote. On solutions to the problem of democratic control over dispersed agencies, see Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* (Oxford, UK: Robertson, 1983); and *Thick and Thin: Moral Argument at Home and Abroad* (Notre Dame, IN: University of Notre Dame Press, 1994). His solutions are discussed in Govert den Hartogh, “The Architectonic of Michael Walzer’s Theory of Justice,” *Political Theory* 27, no. 4 (1999): 491-522. Walzer, however, has an exclusivist conception of membership with which I strongly disagree. A more inclusive approach can be found in Jurgen Habermas’s extensive corpus, especially in his recent text, *The Inclusion of the Other* (Cambridge: MIT Press, 1998).

56. Article 5 of the Consolidated Version (post-Amsterdam) of the Treaty Establishing the European Community. Although the treaty retains an element of unjustified bias in favour of allocating powers (including powers to shape decision rules) to states—to the detriment, in my view, of other levels and kinds of political formations—it is a pioneering practical document for organising nonunitary sovereignty.

57. Rawls is quite clear that these kinds of general facts, including economic theory, are allowed behind the veil (*A Theory of Justice*, 136-42).

58. This critic is not entirely imaginary; I am indebted to one of my anonymous reviewers for taxing me on the questions of stability and feasibility.

59. Ackerman, “Political Liberalisms,” 377-78.

60. This is his most succinct, explicit statement of the stability argument (Rawls, “Law of Peoples,” 55).

61. Ibid., 43.


64. Rawls, *Political Liberalism*, 64.

65. Indeed, Rawls has answered one set of Realists but not all: structural Realists insist that it is the interaction between states and not features internal to states per se that generate conflict.

66. This felicitous constructivist phrase is from O’Neill, *Towards Justice and Virtue*, 212.


69. Rawls surely cannot brand politically liberal persons in comprehensive societies unreasonable! They may not agree with this hierarchical scheme of cooperation, but wanting the benefits and burdens to be shared more equally is surely wrongly characterised as uncooperative. Those persons would be holding a perfectly reasonable interpretation of cooperation, and it does not cease to be so because they happen to be unlucky enough to be born into a less than liberal
society. To say otherwise would be to repudiate the value of even the minimally free exercise of reason, and to characterise such liberal dissenters as obstructionist misfits.

70. Here again we note the deep disanalogy between tolerating persons as opposed to regimes with comprehensive doctrines: internal strife in the former over adherence to rival conceptions of the good tends not to affect the broader system of cooperation, whereas internal strife within the latter often impacts far more adversely.

71. Ackerman, "Political Liberalisms," 381-83.


74. See Pogge's interesting discussion of this statement in "An Egalitarian Law," 224. Rawls's essays on the overlapping consensus are reprinted in his Collected Papers.

75. Rawls, A Theory of Justice, 263.


78. The term relevant utopia was suggested to me in conversation by Stanley Hoffmann. For Hoffmann's remarkably historically informed views, see especially Duties beyond Borders: On the Limits and Possibilities of International Politics (Syracuse, NY: Syracuse University Press, 1981).

79. In particular, their domestic institutions of public reasoning—their decent consultation hierarchy—should be supported by that law. The idea seems to be that cultures have their own modes of argument and processes of change, and where these are sufficiently deliberative we not only have grounds to believe that they will lead to more liberal principles for regulating a people's common life but grounds to respect those modes themselves.

80. Sen's contribution is without doubt the most widely accepted and substantiated in both academic and policy circles, as evidenced by the Nobel Committee's statement on the award of his 1998 Prize in Economic Science and by his work's foundational importance to the UNDP Human Development Reports (which have acknowledged his centrality every year since 1994).


85. Rawls argues for the democratic peace thesis at 44-54.
87. Teson, "Rawlsian Theory," 88-89. This marks an increasingly conservative turn in Rawls since—in debarring all but intrastatal efforts to change cultures (excepting minimal rights)—he leaves liberals wringing our hands about socially oppressive minorities beyond our current society's borders. Cultures are difficult to change and must be treated with sensitivity, but that does not imply a counsel of despair so much as a careful and inclusive (proto-democratic) approach to the process of change.
88. For further discussion, see Gregory Fox, "The Right to Political Participation in International Law," Yale Journal of International Law 17, no. 2 (1992): 539-607.
89. Teson, "Rawlsian Theory," 97. In more philosophical terms, it is a simple and unfortunate category error to confuse illegitimate interventions, on one hand, with judgements of regime illegitimacy, on the other.
90. In doing so, it would be a serious mistake to underestimate the prevalence and pervasive appeal of the ideology of territorially based, communally justified states:

For nearly every human being, and for almost every piece of territory, there is exactly one government with pre- eminent authority over, and primary responsibility for, this person or territory. And each person is thought to owe primary political allegiance and loyalty to this government . . . National governments dominate and control the decision-making of smaller political units as well as supranational decisions, which tend to be made through intergovernmental bargaining. (Pogge, "Cosmopolitanism," 99)

Pogge overstates the case here, especially given developments in Europe, NATO expansion, and shifts brought about by dramatic technological change. There are also large swaths of territory over which no government has clear control (e.g., in the so-called Democratic Republic of the Congo) and in which the position of inhabitants is precarious and uncertain. Nevertheless, we do live in a state-dominated global system; the point is that it is not immutable and that we have good moral reasons to change it.
91. Adherence to rulings of this kind is often entirely voluntary (for example, France has defied several rulings); that is unfortunate: peoples, I have argued, must not be given a veto on this or on numerous other governmental decisions.

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