

***WARNING CONCERNING COPYRIGHT RESTRICTIONS***

*The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproduction of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction.*

*One of these specified conditions is that the photocopy or reproduction is not to be used for any purpose other than private study, scholarship or research. If electronic transmissions of reserve material are used for purposes in excess of what constitutes "fair use", that user may be liable for infringement.*

eral constitutional (and decent) regimes sufficiently established and effective to yield a viable Society of Peoples.

### §3. Two Original Positions

3.1. *Original Position as Model of Representation.* This part describes the first step of ideal theory. Before beginning the extension of the liberal idea of the social contract to the Law of Peoples, let us note that the original position with a veil of ignorance is a model of representation for liberal societies.<sup>30</sup> In what I am now calling the first use of the original position, it models what we regard—you and I, here and now<sup>31</sup>—as fair and reasonable conditions for the parties, who are rational representatives of free and equal, reasonable and rational citizens, to specify fair terms of cooperation for regulating the basic structure of this society. Since the original position includes the veil of ignorance, it also models what we regard as appropriate restrictions on reasons for adopting a political conception of justice for that structure. Given these features, we conjecture that the conception of political justice the parties would select is the conception that you and I, here and now, would regard as reasonable and rational and supported by the best reasons. Whether our conjecture is borne out will depend on whether you and I, here and now, can, on due reflection, endorse the principles adopted. Even if the conjecture is intuitively plausible, there are different ways of interpreting the reasonable and the rational, and of specifying restrictions on reasons and explaining the primary goods. There is no *a priori* guarantee that we have matters right.

Here five features are essential: (1) the original position models<sup>32</sup> the parties as representing citizens fairly; (2) it models them as ra-

30. See the discussion of the original position and the veil of ignorance in *Political Liberalism*, I: §4.

31. Note: “you and I” are “here and now” citizens of the same liberal democratic society working out the liberal conception of justice in question.

32. What is modeled is a *relation*, in this case, the relation of the parties representing citizens. In the second original position at the second level, what is modeled is the relation of the parties representing peoples.

### 3. Two Original Positions

tional; and (3) it models them as selecting from among available principles of justice those to apply to the appropriate subject, in this case the basic structure. In addition, (4) the parties are modeled as making these selections for appropriate reasons, and (5) as selecting for reasons related to the fundamental interests of citizens as reasonable and rational. We check that these five conditions are satisfied by noting that citizens are indeed represented fairly (reasonably), in view of the symmetry (or the equality) of their representatives' situation in the original position.<sup>33</sup> Next, the parties are modeled as rational, in that their aim is to do the best they can for citizens whose basic interests they represent, as specified by the primary goods, which cover their basic needs as citizens. Finally, the parties decide for appropriate reasons, because the veil of ignorance prevents the parties from invoking inappropriate reasons, given the aim of representing citizens as free and equal persons.

I repeat here what I have said in *Political Liberalism*, since it is relevant below.<sup>34</sup> Not allowing the parties to know people's comprehensive doctrines is one way in which the veil of ignorance is thick as opposed to thin. Many have thought a thick veil of ignorance to be without justification and have queried its grounds, especially given the great significance of comprehensive doctrines, religious and nonreligious. Since we should justify features of the original position when we can, consider the following. Recall that we seek a political conception of justice for a democratic society, viewed as a system of fair cooperation among free and equal citizens who willingly accept, as politically autonomous, the publicly recognized principles of justice determining the fair terms of that cooperation. The society in question, however, is one in which there is a diversity of comprehensive doctrines, all perfectly reasonable. This is the fact of reasonable pluralism, as opposed to the fact of pluralism as such. Now if all citizens are freely to endorse the political conception of justice, that conception must be able to

33. The idea here follows the precept of similar cases: persons equal in all relevant respects are to be represented equally.

34. This paragraph restates a long footnote on pp. 24–25 of the 1996 paperback edition of *Political Liberalism*. This footnote draws on an essay by Wilfried Hinsch, to whom I am much indebted, presented by him at Bad Homburg, in July 1992.

gain the support of citizens who affirm different and opposing, though reasonable, comprehensive doctrines, in which case we have an overlapping consensus of reasonable doctrines. I suggest that we leave aside how people's comprehensive doctrines connect with the content of the political conception of justice and, instead, regard that content as arising from the various fundamental ideas drawn from the public political culture of a democratic society. Putting people's comprehensive doctrines behind the veil of ignorance enables us to find a political conception of justice that can be the focus of an overlapping consensus and thereby serve as a public basis of justification in a society marked by the fact of reasonable pluralism. None of what I am arguing here puts in question the description of a political conception of justice as a freestanding view, but it does mean that to explain the rationale of the thick veil of ignorance we must look to the fact of reasonable pluralism and the idea of an overlapping consensus of reasonable comprehensive doctrines.

3.2. *Second Original Position as Model.* At the next level, the idea of the original position is used again, but this time to extend a liberal conception to the Law of Peoples. As in the first instance, it is a model of representation, since it models what we would regard—you and I, here and now<sup>35</sup>—as fair conditions under which the parties, this time the rational representatives of liberal peoples, are to specify the Law of Peoples, guided by appropriate reasons. Both the parties as representatives and the peoples they represent are situated symmetrically and therefore fairly. In addition, peoples are modeled as rational, since the parties select from among available principles for the Law of Peoples guided by the fundamental interests of democratic societies, where these interests are expressed by the liberal principles of justice for a democratic society. Finally, the parties are subject to a veil of ignorance properly adjusted for the case at hand: they do not know, for example, the size of the territory, or the population, or the relative strength of the people whose fundamental interests they represent. Though they

35. In this case "you and I" are citizens of some liberal democratic society, but not of the same one.

### 3. Two Original Positions

do know that reasonably favorable conditions obtain that make constitutional democracy possible—since they know they represent liberal societies—they do not know the extent of their natural resources, or the level of their economic development, or other such information.

As members of societies well-ordered by liberal conceptions of justice, we conjecture that these features model what we would accept as fair—you and I, here and now—in specifying the basic terms of cooperation among peoples who, as liberal peoples, see themselves as free and equal. This makes the use of the original position at the second level a model of representation in exactly the same way it is at the first. Any differences are not in how the model of representation is used but in how it needs to be tailored given the agents modeled and the subject at hand.

Having said this, let us check that all five features are covered for the second original position. Thus, people's representatives are (1) reasonably and fairly situated as free and equal, and peoples are (2) modeled as rational. Also their representatives are (3) deliberating about the correct subject, in this case the content of the Law of Peoples. (Here we may view that law as governing the basic structure of the relations between peoples.) Moreover, (4) their deliberations proceed in terms of the right reasons (as restricted by a veil of ignorance). Finally, the selection of principles for the Law of Peoples is based (5) on a people's fundamental interests, given in this case by a liberal conception of justice (already selected in the first original position). Thus, the conjecture would appear to be sound in this case as in the first. But again there can be no guarantee.

Two questions, though, may arise. One is that in describing peoples as free and equal, and so as fairly and reasonably represented, it may appear that we have proceeded differently than in the domestic case. There we counted citizens as free and equal because that is how they conceive of themselves as citizens in a democratic society. Thus, they think of themselves as having the moral power to have a conception of the good, and to affirm or revise that conception if they so decide. They also see themselves as self-authenticating sources of claims, and capable of taking responsibility for their ends.<sup>36</sup> In the Law of Peoples

36. See *Political Liberalism*, pp. 29–35.

we do somewhat the same: we view *peoples* as conceiving of themselves as free and equal *peoples* in the Society of Peoples (according to the political conception of that society). This is parallel to, but not the same as, how in the domestic case the political conception determines the way citizens are to see themselves according to their moral powers and higher-order interests.

The second question involves another parallel to the domestic case. The original position denied to the representatives of citizens any knowledge of citizens' comprehensive conceptions of the good. That restriction called for a careful justification.<sup>37</sup> There is also a serious question in the present case. Why do we suppose that the representatives of liberal peoples ignore any knowledge of the people's comprehensive conception of the good? The answer is that a liberal society with a constitutional regime does not, *as a liberal society*, have a *comprehensive* conception of the good. Only the citizens and associations within the civic society in the domestic case have such conceptions.

3.3. *Fundamental Interests of Peoples*. In thinking of themselves as free and equal, how do peoples (in contrast to states) see themselves and their fundamental interests? These interests of liberal peoples are specified, I said (§2.3), by their reasonable conception of political justice. Thus, they strive to protect their political independence and their free culture with its civil liberties, to guarantee their security, territory, and the well-being of their citizens. Yet a further interest is also significant: applied to peoples, it falls under what Rousseau calls *amour-propre*.<sup>38</sup> This interest is a people's proper self-respect of themselves as a people, resting on their common awareness of their trials during their history and of their culture with its accomplishments. Altogether distinct from

37. See the long footnote on pp. 24–25 of the 1996 paperback edition of *Political Liberalism*, restated above.

38. My account here follows N. J. H. Dent in his *Rousseau* (Oxford: Basil Blackwell, 1988) and Frederick Neuhouser's essay "Freedom and the General Will," *Philosophical Review*, July 1993. Donald Kagan in his *Origins of War and the Preservation of Peace* notes two meanings of honor. As I describe them in the text (above and in the next section), one is compatible with satisfied peoples and their stable peace, whereas the other is not, setting the stage for conflict. I believe Kagan underestimates the great difference between the two meanings of honor.

their self-concern for their security and the safety of their territory, this interest shows itself in a people's insisting on receiving from other peoples a proper respect and recognition of their equality. What distinguishes peoples from states—and this is crucial—is that just peoples are fully prepared to grant the very same proper respect and recognition to other peoples as equals. Their equality doesn't mean, however, that inequalities of certain kinds are not agreed to in various cooperative institutions among peoples, such as the United Nations, ideally conceived. This recognition of inequalities, rather, parallels citizens' accepting functional social and economic inequalities in their liberal society.

It is, therefore, part of a people's being reasonable and rational that they are ready to offer to other peoples fair terms of political and social cooperation. These fair terms are those that a people sincerely believes other equal peoples might accept also; and should they do so, a people will honor the terms it has proposed even in those cases where that people might profit by violating them.<sup>39</sup> Thus, the criterion of reciprocity applies to the Law of Peoples in the same way it does to the principles of justice for a constitutional regime. This reasonable sense of due respect, willingly accorded to other reasonable peoples, is an essential element of the idea of peoples who are satisfied with the status quo for the right reasons. It is compatible with ongoing cooperation among them over time and the mutual acceptance and adherence to the Law of Peoples. Part of the answer to political realism is that this reasonable sense of proper respect is not unrealistic, but is itself the outcome of democratic domestic institutions. I will come back to this argument later.

#### §4. The Principles of the Law of Peoples

4.1. *Statement of the Principles*. Initially, we may assume that the outcome of working out the Law of Peoples only for liberal democratic societies will be the adoption of certain familiar principles of

39. This account parallels the idea of the reasonable used in a liberal society. See *Political Liberalism*, II: §1.

equality among peoples. These principles will also, I assume, make room for various forms of cooperative associations and federations among peoples, but 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.<sup>40</sup> As I discuss below, it may turn out that there will be many different kinds of organizations subject to the judgment of the Law of Peoples and charged with regulating cooperation among them and meeting certain recognized duties. Some of these organizations (such as the United Nations ideally conceived) may have the authority to express for the society of well-ordered peoples their condemnation of unjust domestic institutions in other countries and clear cases of the violation of human rights. In grave cases they may try to correct them by economic sanctions, or even by military intervention. The scope of these powers covers all peoples and reaches their domestic affairs.

These large conclusions call for some discussion. Proceeding in a way analogous to the procedure in *A Theory of Justice*,<sup>41</sup> let's look first

40. Kant says in *Ak:VIII:367*: "The idea of international law presupposes the separate existence of independent neighboring states. Although this condition is itself a state of war (unless federative union prevents the outbreak of hostilities), this is rationally preferable to the amalgamation of states under one superior power, as this would end in one universal monarchy, and laws always lose in vigor what government gains in extent; hence a condition of soulless despotism falls into anarchy after stifling seeds of good." Kant's attitude to universal monarchy was shared by other writers of the eighteenth century. See, for example, Hume's "Of the Balance of Power" (1752), in *Political Essays*, ed. K. Haakonssen (Cambridge: Cambridge University Press, 1994). F. H. Hinsley, *Power and the Pursuit of Peace* (Cambridge: Cambridge University Press, 1966), also mentions Montesquieu, Voltaire, and Gibbon, pp. 162ff., and he has an instructive discussion of Kant's ideas in chapter 4. See also Patrick Riley, *Kant's Political Philosophy* (Torowa, N.J.: Rowman and Littlefield, 1983), chaps. 5 and 6.

41. See *A Theory of Justice*, where chapter 2 discusses the principles of justice and chapter 3 gives the reasoning from the original position concerning the selection of principles. All references to *A Theory of Justice* are to the original edition (Harvard University Press, 1971).

#### 4. *The Principles of the Law of Peoples*

at familiar and traditional principles of justice among free and democratic peoples:<sup>42</sup>

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. Peoples are to observe a duty of non-intervention.
5. Peoples have the right of self-defense but no right to instigate war for reasons other than self-defense.
6. Peoples are to honor human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.
8. Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime.<sup>43</sup>

*4.2. Comments and Qualifications.* This statement of principles is, admittedly, incomplete. Other principles need to be added, and the principles listed require much explanation and interpretation. Some are superfluous in a society of well-ordered peoples, for example, the seventh regarding the conduct of war and the sixth regarding human rights. Yet the main point is that free and independent well-ordered peoples are ready to recognize certain basic principles of political justice as governing their conduct. These principles constitute the basic charter of the Law of Peoples. A principle such as the fourth—that of non-intervention—will obviously have to be qualified in the general case of outlaw states and grave violations of human rights. Although suitable for a society of well-ordered peoples, it fails in the case of a so-

42. See J. L. Brierty, *The Law of Nations: An Introduction to the Law of Peace*, 6th ed. (Oxford: Clarendon Press, 1963), and Terry Nardin, *Law, Morality, and the Relations of States* (Princeton: Princeton University Press, 1983). Both Brierty and Nardin give similar lists as principles of international law.

43. This principle is especially controversial. I discuss it in §§15–16.

ciety of disordered peoples in which wars and serious violations of human rights are endemic.

The right to independence, and equally the right to self-determination, hold only within certain limits, yet to be specified by the Law of Peoples for the general case.<sup>44</sup> Thus, no people has the right to self-determination, or a right to secession, at the expense of subjugating another people.<sup>45</sup> Nor may a people protest their condemnation by the world society when their domestic institutions violate human rights, or limit the rights of minorities living among them. A people's right to independence and self-determination is no shield from that condemnation, nor even from coercive intervention by other peoples in grave cases.

There will also be principles for forming and regulating federations (associations) of peoples, and standards of fairness for trade and other cooperative institutions.<sup>46</sup> Certain provisions will be included for mutual assistance among peoples in times of famine and drought and, insofar as it is possible, provisions for ensuring that in all reasonable liberal (and decent) societies people's basic needs are met.<sup>47</sup> These provisions will specify duties of assistance (see §15) in certain situations, and they will vary in stringency with the severity of the case.

**4.3. Role of Boundaries.** An important role of a people's government, however arbitrary a society's boundaries may appear from a historical point of view, is to be the representative and effective agent of a people as they take responsibility for their territory and its environmental in-

44. Charles Beitz, *Political Theory and International Relations* (Princeton: Princeton University Press, 1979), chap. 2, has a valuable discussion of the question of the autonomy of states, with a summary of the main points on pp. 121–123. I owe much to his account.

45. A clear example regarding secession is whether the South had a right to secede in 1860–1861. On my account it had no such right, since it seceded to perpetuate its domestic institution of slavery. This was as severe a violation of human rights as any, and it extended to nearly half the population.

46. On these principles, see Robert Keohane, *After Hegemony* (Princeton: Princeton University Press, 1984).

47. By basic needs I mean roughly those that must be met if citizens are to be in a position to take advantage of the rights, liberties, and opportunities of their society. These needs include economic means as well as institutional rights and freedoms.

tegrity, as well as for the size of their population. As I see it the point of the institution of property is that, unless a definite agent is given responsibility for maintaining an asset and bears the loss for not doing so, that asset tends to deteriorate. In this case the asset is the people's territory and its capacity to support them *in perpetuity*; and the agent is the people themselves as politically organized. As I noted in the Introduction, they are to recognize that they cannot make up for their irresponsibility in caring for their land and its natural resources by conquest in war or by migrating into other people's territory without their consent.<sup>48</sup>

It does not follow from the fact that boundaries 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. In a reasonably just (or at least decent) Society of Peoples, the inequalities of power and wealth are to be decided by all peoples for themselves. How all this works out in my account—an essential feature of a realistic utopia—must wait until §§15 and 16, where I discuss the duty of assistance that reasonably just liberal peoples and decent peoples owe to societies burdened by unfavorable conditions.

**4.4. Argument in Second Original Position.** A large part of the argument in the original position in the domestic case concerns selecting among the various formulations of the two principles of justice (when the view adopted is liberal), and between liberal principles and such

48. This remark implies that a people has at least a qualified right to limit immigration. I leave aside here what these qualifications might be. There are also important assumptions I make here which are not considered until Part III, §15, where I examine the duties of well-ordered societies to those societies burdened by unfavorable conditions. Another reason for limiting immigration is to protect a people's political culture and its constitutional principles. See Michael Walzer, *Spheres of Justice* (New York: Basic Books, 1983), pp. 38ff. for a good statement. He says on page 39: "To tear down the walls of the state is not, as Sidgwick worriedly suggested, to create a world without walls, but rather to create a thousand petty fortresses. The fortresses, too, can be torn down: all that is necessary is a global state sufficiently powerful to overwhelm the local communities. Then the result would be the world of the political economist, as Sidgwick described it [or of global capitalism, I might add]—a world of deracinated men and women."

alternatives as the classical, or the average, principle of utilitarianism, and various forms of rational intuitionism and moral perfectionism.<sup>49</sup> By contrast, the only alternatives for the parties to pick from in the second-level original position are formulations of the Law of Peoples. Three main ways in which the first and the second use of the original position are not analogous are these:

(1) A people of a constitutional democracy has, as a *liberal* people, no *comprehensive* doctrine of the good (§3.2 above), whereas individual citizens within a liberal domestic society do have such conceptions, and deal with their needs as citizens, the idea of primary goods is used.

(2) A people's fundamental interests as a people are specified by its political conception of justice and the principles in the light of which they agree to the Law of Peoples, whereas citizens' fundamental interests are given by their conception of the good and their realizing to an adequate degree their two moral powers.

(3) The parties in the second original position select among different formulations or interpretations of the eight principles of the Law of Peoples, as illustrated by the reasons mentioned for the restrictions of the two powers of sovereignty (§2.2).

Part of the versatility of the original position is displayed in how it is used in the two cases. These differences between the two cases depend importantly on how, in each instance, the parties are understood.

The parties' first task in the second original position is to specify the Law of Peoples—its ideals, principles, and standards—and how those norms apply to political relations among peoples. If a reasonable pluralism of comprehensive doctrines is a basic feature of a constitutional democracy with its free institutions, we may assume that there is an even greater diversity in the comprehensive doctrines affirmed among the members of the Society of Peoples with its many different cultures and traditions. Hence a classical, or average, utilitarian principle would not be accepted by peoples, since no people organized by its government is prepared to count, as a *first principle*, the benefits for another people as outweighing the hardships imposed on itself. Well-ordered peoples insist on an *equality* among themselves as peoples, and this insistence rules out any form of the principle of utility.

49. See *A Theory of Justice*, chapters 2 and 3.

I contend that the eight principles of the Law of Peoples (see §4.1) are superior to any others. Much as in examining the distributive principles in justice as fairness, we begin with the baseline of equality—in the case of justice as fairness the equality of social and economic primary goods, in this case the equality of and the equal rights of all peoples. In the first case we asked whether any departure from the baseline of equality would be agreed to provided that it is to the benefit of all citizens of society and, in particular, the least advantaged. (I only hint here at the reasoning.) With the Law of Peoples, however, persons are not under one but many governments, and the representatives of peoples will want to preserve the equality and independence of their own society. In the working of organizations and loose<sup>50</sup> confederations of peoples, inequalities are designed to serve the many ends that peoples share. In this case the larger and smaller peoples will be ready to make larger and smaller contributions and to accept proportionately larger and smaller returns.

Thus, in the argument in the original position at the second level I consider the merits of only the eight principles of the Law of Peoples listed in §4.1. These familiar and largely traditional principles I take from the history and usages of international law and practice. The parties are not given a menu of alternative principles and ideals from which to select, as they are in *Political Liberalism*, or in *A Theory of Justice*. Rather, the representatives of well-ordered peoples simply reflect on the advantages of these principles of equality among peoples and see no reason to depart from them or to propose alternatives. These principles must, of course, satisfy the criterion of reciprocity, since this criterion holds at both levels—both between citizens as citizens and peoples as peoples.

Certainly we could imagine alternatives. For example: principle (5) has the obvious alternative, long supported by the practice of European states in modern history, that a state may go to war in the rational pursuit of its own interests. These may be religious, dynastic, territorial, or the glory of conquest and empire. In view of the account below of democratic peace (§5), however, that alternative would be rejected

50. I use this adjective to emphasize that confederations are much less tight than federations and do not involve the powers of federal governments.

by liberal peoples. As shown later, it would also be rejected by decent peoples (§8.4).

The discussion in §2 of the two traditional powers of sovereignty brings out that the eight principles are open to different interpretations. It is these *interpretations*, of which there are many, that are to be debated in the second-level original position. Regarding the two powers of sovereignty, we ask: What kind of political norms do liberal peoples, given their fundamental interests, hope to establish to govern mutual relations both among themselves and with nonliberal peoples? Or what moral climate and political atmosphere do they wish to see in a reasonably just Society of well-ordered Peoples? In view of those fundamental interests, liberal peoples limit a state's right to engage in war to wars of self-defense (thus allowing collective security), and their concern for human rights leads them to limit a state's right of internal sovereignty. In the Law of Peoples the many difficulties of interpreting the eight principles I have listed take the place of the arguments for first principles in the domestic case. The problem of how to interpret these principles can always be raised and is to be debated from the point of view of the second-level original position.

4.5. *Cooperative Organizations.* In addition to agreeing to the principles that define the basic equality of all peoples, the parties will formulate guidelines for setting up cooperative organizations and agree to standards of fairness for trade as well as certain provisions for mutual assistance. Suppose there are three such organizations: one framed to ensure fair trade among peoples; another to allow a people to borrow from a cooperative banking system; and the third an organization with a role similar to that of the United Nations, which I will now refer to as a Confederation of Peoples (not states).<sup>51</sup>

Consider fair trade: suppose that liberal peoples assume that, when suitably regulated by a fair background framework,<sup>52</sup> a free competi-

51. Think of the first two organizations as in some ways analogous to GATT and the World Bank.

52. Here I assume, as in the domestic case, that, unless fair background conditions exist and are maintained over time from one generation to the next, market transactions will not remain fair, and unjustified inequalities among peoples will gradually develop. These background conditions and all that they involve have a role analogous to that of the basic structure in domestic society.

itive-market trading scheme is to everyone's mutual advantage, at least in the longer run. A further assumption here is that the larger nations with the wealthier economies will not attempt to monopolize the market, or to conspire to form a cartel, or to act as an oligopoly. With these assumptions, and supposing as before that the veil of ignorance holds, so that no people knows whether its economy is large or small, all would agree to fair standards of trade to keep the market free and competitive (when such standards can be specified, followed, and enforced). Should these cooperative organizations have unjustified distributive effects between peoples, these would have to be corrected, and taken into account by the duty of assistance, which I discuss later in §§15-16.

The two further cases of agreeing to a central bank and to a Confederation of Peoples can be treated in the same way. Always the veil of ignorance holds, and the organizations are mutually beneficial and are open to liberal democratic peoples free to make use of them on their own initiative. As in the domestic case, peoples think it reasonable to accept various functional inequalities once the baseline of equality is firmly established. Thus, depending on their size, some will make larger contributions to the cooperative bank than others (suitable interest being due on loans) and will pay larger dues in the organization of the Confederation of Peoples.<sup>53</sup>

53. What does the Law of Peoples say about the following situation? Suppose that two or more of the liberal democratic societies of Europe, say Belgium and the Netherlands, or these two together with France and Germany, decide they want to join and form a single society, or a single federal union. Assuming they are all liberal societies, any such union must be agreed to by an election in which in each society the decision whether to unite is thoroughly discussed. Moreover, since these societies are liberal, they adopt a liberal political conception of justice, which has the three characteristic kinds of principles, as well as satisfying the criterion of reciprocity, as all liberal conceptions of justice must do (§1.2). Beyond this condition, the electorate of these societies must vote on which political conception they believe to be the *most* reasonable, although all such conceptions are at least reasonable. A voter in such an election might vote for the difference principle (the most egalitarian liberal conception), should he or she think it is the most reasonable. Yet so long as the criterion of reciprocity is satisfied, other variants of the three characteristic principles are consistent with political liberalism. To avoid confusion, I add that what I later call the "duty of assistance" applies only to the duty that liberal and decent peoples have to assist *burdened* societies (§15). As I explain there, such societies are neither liberal nor decent.



## §5. Democratic Peace and Its Stability

5.1. *Two Kinds of Stability.* To complete this overview of the Law of Peoples for well-ordered liberal societies, I must do two things. One is to distinguish two kinds of stability: stability for the right reasons and stability as a balance of forces. The other is to offer a reply to political realism as a theory of international politics, and to those who say that the idea of a realistic utopia among peoples is quixotic. I do so by sketching a view of democratic peace, from which follows a different view of war.

Consider first the two kinds of stability. Recall (from §1.2) that, in the domestic case, I mentioned a process whereby citizens develop a sense of justice as they grow up and take part in their just social world. As a realistically utopian idea, the Law of Peoples must have a parallel process that leads peoples, including both liberal and decent societies, to accept willingly and to act upon the legal norms embodied in a just Law of Peoples. This process is similar to that in the domestic case. Thus, when the Law of Peoples is honored by peoples over a certain period of time, with the evident intention to comply, and these intentions are mutually recognized, these peoples tend to develop mutual trust and confidence in one another. Moreover, peoples see those norms as advantageous for themselves and for those they care for, and therefore as time goes on they tend to accept that law as an ideal of conduct.<sup>54</sup> Without such a psychological process, which I shall call moral learning, the idea of realistic utopia for the Law of Peoples lacks an essential element.

As I have said, peoples (as opposed to states) have a definite moral nature (§2.1). This nature includes a certain proper pride and sense of honor; they may be proud of their history and achievements, as a *proper patriotism* allows. Yet the due respect they ask for is a due respect consistent with the equality of all peoples. Peoples must have interests—otherwise they would be either inert and passive, or likely to be swayed by unreasonable and sometimes blind passions and impulses. The interests which move peoples (and which distinguish them

54. The process here is similar to the gradual, if at first reluctant, acceptance of a principle of toleration.

## 5. Democratic Peace and Its Stability

from states) are reasonable interests guided by and congruent with a fair equality and a due respect for all peoples. As I will note later, it is these reasonable interests that make democratic peace possible, and the lack thereof causes peace between states to be at best a *modus vivendi*, a stable balance of forces only for the time being.

Recall that, in the domestic case, in adopting the principles for a conception of political right and justice, the parties must ask whether in a liberal society those principles are likely to be stable for the right reasons. Stability for the right reasons describes a situation in which, over the course of time, citizens acquire a sense of justice that inclines them not only to accept but to act upon the principles of justice. The selection of principles by the parties in the original position is always to be preceded by a careful consideration of whether the psychology of learning by citizens in well-ordered liberal societies leads them to acquire a sense of justice and a disposition to act from those principles.

Similarly, once the second original position argument is complete and includes the account of moral learning, we conjecture, first, that the Law of Peoples the parties would adopt is the law that we—you and I, here and now—would accept as fair in specifying the basic terms of cooperation among peoples. We also conjecture, second, that the just society of liberal peoples would be stable for the right reasons, meaning that its stability is not a mere *modus vivendi* but rests in part on an allegiance to the Law of Peoples itself.

Yet plainly, this second conjecture needs to be confirmed by what actually happens historically. The society of liberal peoples must in fact turn out to be stable with respect to the distribution of success among them. Here success refers not to a society's military prowess or the lack of it, but to other kinds of success: achievement of political and social justice for all its citizens, securing their basic freedoms, the fullness and expressiveness of the society's civic culture, as well as the decent economic well-being of all its people. Since the society of liberal peoples is stable for the right reasons, it is stable with respect to justice; and the institutions and practices among peoples continue to satisfy the relevant principles of right and justice, even though their relations and success are continually changing in view of political, economic, and social trends.

5.2. *Reply to Realist Theory.* I reply to the realist theory that international relations have not changed since Thucydides' day and that they continue to be an ongoing struggle for wealth and power<sup>55</sup> by recalling a familiar view of peace for a society of liberal peoples. It leads to a different view of war than the hegemonic theory of the realist.

The idea of a liberal democratic peace unites at least two ideas. One is the idea that between the unalterable miseries of life such as plagues and epidemics, on the one hand, and remote unchangeable causes such as fate and the will of God, on the other, there are political and social institutions that can be changed by the people. This idea led to the movement toward democracy in the eighteenth century. As Saint-Just said, "The idea of happiness is new in Europe."<sup>56</sup> What he meant was that the social order was no longer viewed as fixed: political and social institutions could be revised and reformed for the purpose of making peoples happier and more satisfied.

The other idea is that of the *moeurs douces* of Montesquieu,<sup>57</sup> the idea that a commercial society tends to fashion in its citizens certain virtues such as assiduity, industriousness, punctuality, and probity; and that commerce tends to lead to peace. Putting these two ideas together—that social institutions can be revised to make people more satisfied and happy (through democracy), and that commerce tends to lead to peace—we might surmise that democratic peoples engaged in commerce would tend not to have occasion to go to war with one another. Among other reasons, this is because what they lacked in commodities they could acquire more easily and cheaply by trade; and because, being liberal constitutional democracies, they would not be moved to try to convert other peoples to a state religion or other ruling comprehensive doctrine.

Recall the features of liberal societies (§2.1). They are, we have said,

55. See note 27 above.

56. See Albert Hirschman's *Rival Views of Market Society* (Cambridge, Mass.: Harvard University Press, 1992), pp. 105ff.

57. See Hirschman, *Rival Views*, pp. 107ff. The phrase *moeurs douces* (gentle manners) is in Montesquieu's *The Spirit of Laws*, trans. and ed. Anne Cohler, Basia Miller, and Harold Stone (Cambridge: Cambridge University Press, 1989), book 20, p. 338. In chapter 2 of that book, Montesquieu argues that commerce tends to lead to peace.

satisfied peoples, to use Raymond Aron's term.<sup>58</sup> Their basic needs are met, and their fundamental interests are fully compatible with those of other democratic peoples. (To call a people satisfied, by the way, doesn't mean that citizens of the society are necessarily cheerful and happy.) There is true peace among them because all societies are satisfied with the status quo for the right reasons.

Aron calls such a state of peace "peace by satisfaction" (as opposed to "peace by power" or "peace by impotence"), and he describes the conditions, in the abstract, necessary for it to obtain. He argues that political units must seek neither to extend their territory nor to rule over other populations. They must not seek to extend themselves, either to increase their material or human resources, to disseminate their institutions, or to enjoy the intoxicating pride of ruling.

I agree with Aron that these conditions are necessary to a lasting peace, and I argue that they would be fulfilled by peoples living under liberal constitutional democracies. These peoples honor a shared principle of legitimate government and are not swayed by the passion for power and glory, or the intoxicating pride of ruling. These passions may move a nobility and lesser aristocracy to earn their social standing and place in the sun; yet this class, or caste rather, does not have power in a constitutional regime. Such regimes are not bent on the religious conversion of other societies, since liberal peoples by their constitution have no state religion—they are not confessional states—even if their citizens are highly religious, individually or together in associations. Domination and striving for glory, the excitement of conquest and the pleasure of exercising power over others, do not move them against other peoples. All being satisfied in this way, liberal peoples have nothing to go to war about.

Moreover, liberal peoples are not inflamed by what Rousseau diagnosed as arrogant or wounded pride or by lack of due self-respect. Their self-respect rests on the freedom and integrity of their citizens and the justice and decency of their domestic political and social institutions. It rests also on the achievements of their public and civic

58. In this and the following paragraphs I draw on Raymond Aron's treatise, *Peace and War*, trans. R. Howard and A. B. Fox (Garden City: Doubleday, 1966), pp. 160ff.

culture. All these things are rooted in their civic society and make no essential reference to their being superior or inferior to other peoples. They mutually respect one another and recognize equality among peoples as consistent with that respect.

Aron also says that peace by satisfaction will be lasting only if it is general, that is, if it holds among all societies; otherwise there will be a return to competition for superior strength and an ultimate breakdown of peace. One strong state possessed of military and economic power and embarked on expansion and glory is sufficient to perpetuate the cycle of war and preparation for war. So once the idea of a world state is given up (§4.1), liberal and decent peoples' acceptance of the Law of Peoples is not alone sufficient. The Society of Peoples needs to develop new institutions and practices under the Law of Peoples to constrain outlaw states when they appear. Among these new practices should be the promotion of human rights: it should be a fixed concern of the foreign policy of all just and decent regimes.<sup>59</sup>

The idea of democratic peace implies that, when liberal peoples do go to war, it is only with unsatisfied societies, or outlaw states (as I have called them). This they do when such a state's policies threaten their security and safety, since they must defend the freedom and independence of their liberal culture and oppose states that strive to subject and dominate them.<sup>60</sup>

*5.3. More Precise Idea of Democratic Peace.* The possibility of democratic peace is not incompatible with *actual* democracies—being marked, as they are, by considerable injustice, oligarchic tendencies, and monopolistic interests—intervening, often covertly, in smaller or weaker countries, and even in less well-established and secure democ-

59. In Part III, §15 I note that insistence on the protection of human rights may put pressure on a society to move toward a constitutional regime, for example, if such a regime is necessary for the prevention of famine and starvation.

60. Add also when they are harshly pressured by a state to accept oppressive terms of accommodation that are so unreasonable that no self-respecting liberal people affirming the liberty of its culture could reasonably be expected to accept them. An illustrative example is Germany's presumptive demand to France before the outbreak of World War I. On this example see Kagan, *Origins of War and the Preservation of Peace*, p. 202.

racies. But to prove as much, the idea of a democratic peace needs to be made more precise; and I shall formulate a guiding hypothesis to express its meaning.

- (1) To the extent that each of the reasonably just constitutional democratic societies fully satisfies the five features (briefly described below) of such a regime—and its citizens understand and accept its political institutions with their history and achievements—the peace among them is made more secure.
- (2) To the extent that each of the liberal societies fully satisfies the conditions described in (1) above, all are less likely to engage in war with nonliberal outlaw states, except on grounds of legitimate self-defense (or in the defense of their legitimate allies), or intervention in severe cases to protect human rights.

A reasonably just constitutional democratic society, to review, is one that combines and orders the two basic values of liberty and equality in terms of three characteristic principles (§1.2). The first two specify basic rights, liberties, and opportunities, and assign to these freedoms a priority characteristic of such a regime. The third principle is the assurance of sufficient all-purpose means to enable all citizens to make intelligent and effective use of their freedoms. This third feature must satisfy the criterion of reciprocity, and it requires a basic structure that prevents social and economic inequalities from becoming excessive. Without institutions (a) to (e) below, or similar arrangements, such excessive and unreasonable inequalities tend to develop.

The guaranteed constitutional liberties taken alone are properly criticized as purely formal.<sup>61</sup> By themselves, without the third characteristic principle above, they are an impoverished form of liberalism—indeed not liberalism at all but libertarianism.<sup>62</sup> The latter does not combine liberty and equality in the way liberalism does; it lacks the criterion of reciprocity and allows excessive social and economic inequalities as judged by that criterion. A libertarian regime would not

61. See *Political Liberalism*, VII: §3 and VIII: §7.

62. *Ibid.*, VII: §3.

have stability for the right reasons, which is always lacking in a purely formal constitutional regime. Important requirements to achieve that stability are these:

- (a) A certain fair equality of opportunity, especially in education and training. (Otherwise all parts of society cannot take part in the debates of public reason or contribute to social and economic policies.)
- (b) A decent distribution of income and wealth meeting the third condition of liberalism: all citizens must be assured the all-purpose means necessary for them to take intelligent and effective advantage of their basic freedoms. (In the absence of this condition, those with wealth and income tend to dominate those with less and increasingly to control political power in their own favor.)
- (c) Society as employer of last resort through general or local government, or other social and economic policies. (The lack of a sense of long-term security and of the opportunity for meaningful work and occupation is destructive not only of citizens' self-respect, but of their sense that they are members of society and not simply caught in it.)
- (d) Basic health care assured for all citizens.
- (e) Public financing of elections and ways of assuring the availability of public information on matters of policy.<sup>63</sup> (A statement of the need for these arrangements merely hints at what is needed both to ensure that representatives and other officials are sufficiently independent of particular social and economic interests and to provide the knowledge and information upon which policies can be formed and intelligently assessed by citizens.)

These requirements are satisfied by the principles of justice of all liberal conceptions. They cover essential prerequisites for a basic structure within which the ideal of public reason, when conscientiously fol-

63. *Ibid.*, VIII: §§12-13.

lowed by citizens, may protect the basic liberties and prevent social and economic inequalities from becoming excessive. Since the ideal of public reason contains a form of public political deliberation, these conditions, most clearly the first three, are necessary for this deliberation to be possible and fruitful. A belief in the importance of public deliberation is vital for a reasonable constitutional regime, and specific arrangements need to be laid down to support and encourage it.

Much more would need to be said to sharpen the hypothesis of democratic peace, for many important questions remain. For example, to what degree must each of the requirements (a) through (e) be institutionalized? What are the consequences when some of them are weak while others are strong? How do they work together? Then there are comparison questions: for example, how important is public financing of elections in comparison with, say, fair equality of opportunity? It would be difficult even to guess at definitive answers to these questions, as this would require much background and information. Yet history may enlighten us about much that we want to know. The essential point is that, to the extent that constitutional democratic peoples have the features (a) through (e), their conduct supports the idea of a democratic peace.

5.4. *Democratic Peace Seen in History.* The historical record seems to suggest that stability for the right reasons would be satisfied in a society of reasonably just constitutional democracies. Though liberal democratic societies have often engaged in war against nondemocratic states,<sup>64</sup> since 1800 firmly established liberal societies have not fought one another.<sup>65</sup>

64. See Jack S. Levy, "Domestic Politics and War," in *The Origin and Prevention of Major Wars*, ed. Robert Rothberg and Theodore Rabb (Cambridge: Cambridge University Press, 1989), p. 87. Levy refers to several historical studies that have confirmed the findings of Small and Singer in the *Jerusalem Journal of International Relations*, vol. 1, 1976.

65. See Michael Doyle's fine treatise, *Ways of War and Peace* (New York: Norton, 1997), pp. 277-284. The whole of chapter 9 on Kant is relevant. Aspects of Doyle's view appeared earlier in a two-part article, "Kant, Liberal Legacies, and Foreign Affairs," in *PAPA*, vol. 12, Summer/Fall 1983. A survey of evidence is in the first part, pp. 206-232. Doyle writes on page 213: "These conventions [based on the international implications of liberal principles and institutions] of mutual respect have formed

None of the more famous wars of history was between settled liberal democratic peoples. Certainly not the Peloponnesian war, since neither Athens nor Sparta was a liberal democracy;<sup>66</sup> and similarly not the Second Punic war between Rome and Carthage, though Rome had some features of republican institutions. As for the religious wars of the sixteenth and seventeenth centuries, since freedom of religion and liberty of conscience were not recognized, none of those states involved qualify as constitutionally democratic. The great wars of the nineteenth century—the Napoleonic wars, Bismarck's war,<sup>67</sup> and the American Civil War—were not between liberal democratic peoples. Germany under Bismarck never had a properly established constitutional regime; and the American South, with nearly half of its population slaves, was not a democracy, though it may have thought of itself as such. In wars in which a number of major powers were engaged, such as the two World Wars, democratic states have fought as allies on the same side.

The absence of war between major established democracies is as close as anything we know to a simple empirical regularity in relations

cooperative foundations for relations among liberal democracies of a remarkably effective kind. Even though liberal states have become involved in numerous wars with non-liberal states, *constitutionally secure liberal states have yet to engage in war with one another*. No one should argue that such wars are impossible; but preliminary evidence does appear to indicate . . . a significant predisposition against warfare between liberal states." See also Bruce Russett, *Grasping the Democratic Peace* (Princeton: Princeton University Press, 1993), and John Oneal and Bruce Russett, "The Classical Liberals Were Right: Democracy, Independence, and Conflict," *International Studies Quarterly* June 1997. Oneal and Russett hold that three factors reduce the likelihood of conflict among nations: shared democracy, mutual trade and commerce, and membership in international and regional organizations. The relevance of the third element would arise in following the Law of Peoples and is hence fully allowed for. Membership in these organizations presumably establishes diplomatic ties, making it easier to manage potential conflicts.

66. It is enough to say that they both had slaves. Although the cultural glories of Athens are real, one cannot ignore the fact of slavery or that the 30,000 or so who could attend the assembly were autocrats ruling over a population of 300,000, slaves and artisans and women.

67. By this I mean the three wars he connived to bring about Prussia's conquest of Germany: Schleswig-Holstein (1864), the Austrian-Prussian War (1866), and the Franco-Prussian War (1870-1871).

among societies.<sup>68</sup> From this fact, I should like to think the historical record shows that a society of democratic peoples, all of whose basic institutions are well-ordered by liberal conceptions of right and justice (though not necessarily by the same conception), is stable for the right reasons. As Michael Doyle has noted, however, an enumeration of favorable historical cases is hardly sufficient, since the idea of democratic peace sometimes fails. In these cases, my guiding hypothesis leads me to expect to find various failures in a democracy's essential supporting institutions and practices.

Hence, given the great shortcomings of actual, allegedly constitutional democratic regimes, it is no surprise that they should often intervene in weaker countries, including those exhibiting some aspects of a democracy, or even that they should engage in war for expansionist reasons. As for the first situation, the United States overturned the democracies of Allende in Chile, Arbenz in Guatemala, Mossadegh in Iran, and, some would add, the Sandanistas in Nicaragua. Whatever the merits of these regimes, covert operations against them were carried out by a government prompted by monopolistic and oligarchic interests without the knowledge or criticism of the public. This subterfuge was made easier by the handy appeal to national security in the context of superpower rivalry, which allowed such weak democracies to be cast, however implausibly, as a danger. Though democratic peoples are not expansionist, they do defend their security interest, and a democratic government can easily invoke this interest to support covert interventions, even when actually moved by economic interests behind the scenes.<sup>69</sup>

Of course nations that are now established constitutional democracies have in the past engaged in empire building. A number of European nations did so in the eighteenth and nineteenth centuries and

68. See Levy's "Domestic Politics and War," p. 88. In the studies to which he refers, most definitions of democracy are comparable to that of Small and Singer. Levy lists the elements of their definition in a footnote: (1) regular elections and the participation of opposition parties; (2) the participation of at least 10 percent of the adult population; (3) the institution of a parliament either controlling or sharing parity with an executive branch. Our definition of a liberal democratic regime goes well beyond this definition.

69. On this point see Allan Gilbert, "Power Motivated Democracy," *Political Theory*, November 1992, esp. pp. 684ff.

during the rivalry among Great Britain, France, and Germany before World War I. England and France fought a war for empire—the so-called Seven Years' War—in the mid-eighteenth century. France lost its colonies in North America, and England lost its American colonies after the Revolution of 1776. I cannot offer here an explanation of the events of these centuries, as it would involve examining the class structure of these nations over time, and how that structure affected the desire of England and France for colonies as early as the seventeenth century, as well as the role of the armed forces in supporting this desire. It would also involve a study of the role played in an age of mercantilism by chartered trading companies (awarded a monopoly by the Crown), such as the East India Company and the Hudson Bay Company.<sup>70</sup> Clearly the shortcomings of these societies as constitutional democracies with their required support elements—(a) to (e) above—are evident even from a cursory inquiry. Thus, whether Kant's hypothesis of a *foedus pacificum* is met depends on how far the conditions of a family of constitutional regimes attain the ideal of such regimes with their supporting elements. If the hypothesis is correct, armed conflict between democratic peoples will tend to disappear as they approach that ideal, and they will engage in war only as allies in self-defense against outlaw states. I believe this hypothesis is correct and think it underwrites the Law of Peoples as a realistic utopia.

## §6. Society of Liberal Peoples: Its Public Reason

6.1. *Society of Peoples and Reasonable Pluralism.* What can be the basis for a Society of Peoples given the reasonable and expected differences of peoples from one another, with their distinctive institutions

70. On these matters and their economic effects, see Adam Smith's *The Wealth of Nations* (1776) and Joseph Schumpeter's "The Sociology of Imperialisms," in *Imperialism and Social Classes* (1917), ed. Paul Sweezy (New York: Kelley, 1951). See also Albert Hirschman's *Rival Views of Market Society*, note what he says about the feudal-shackles thesis, pp. 126–132. Relevant also is Michael Doyle, *The Ways of War and Peace*, chapter 7, where he discusses the idea of commercial pacifism, which goes back to the eighteenth century, and of which Smith and Schumpeter are important representatives.

and languages, religions and cultures, as well as their different histories, variously situated as they are in different regions and territories of the world and experiencing different events? (These differences parallel the fact of reasonable pluralism in a domestic regime.)

To see how to obtain a basis, I repeat what I said in the Introduction: it is important to understand that the Law of Peoples is developed within political liberalism. This beginning point means that the Law of Peoples is an extension of a liberal conception of justice for a domestic regime to a *Society of Peoples*. Developing the Law of Peoples within a liberal conception of justice, we work out the ideals and principles of the foreign policy of a reasonably just liberal people. I distinguish between the public reason of liberal peoples and the public reason of the Society of Peoples. The first is the public reason of equal citizens of domestic society debating the constitutional essentials and matters of basic justice concerning their own government; the second is the public reason of free and equal liberal peoples debating their mutual relations as peoples. The Law of Peoples with its political concepts and principles, ideals and criteria, is the content of this latter public reason. Although these two public reasons do not have the same content, the role of public reason among free and equal peoples is analogous to its role in a constitutional democratic regime among free and equal citizens.

Political liberalism proposes that, in a constitutional democratic regime, comprehensive doctrines of truth or of right are to be replaced in public reason by an idea of the politically reasonable addressed to citizens as citizens. Here note the parallel: public reason is invoked by members of the Society of Peoples, and its principles are addressed to peoples as peoples. They are not expressed in terms of comprehensive doctrines of truth or of right, which may hold sway in this or that society, but in terms that can be shared by different peoples.

6.2. *Ideal of Public Reason.* Distinct from the idea of public reason is the *ideal* of public reason. In domestic society this ideal is realized, or satisfied, whenever judges, legislators, chief executives, and other government officials, as well as candidates for public office, act from and follow the idea of public reason and explain to other citizens their

reasons for supporting fundamental political questions in terms of the political conception of justice that they regard as the most reasonable. In this way they fulfill what I shall call their duty of civility to one another and to other citizens. Hence whether judges, legislators, and chief executives act from and follow public reason is continually shown in their speech and conduct.

How is the ideal of public reason realized by citizens who are not government officials? In a representative government, citizens vote for representatives—chief executives, legislators, and the like—not for particular laws (except at a state or local level where they may vote directly on referenda questions, which are not usually fundamental questions). To answer this question, we say that, ideally, citizens are to think of themselves *as if* they were legislators and ask themselves what statutes, supported by what reasons satisfying the criterion of reciprocity, they would think it most reasonable to enact.<sup>71</sup> When firm and widespread, the disposition of citizens to view themselves as ideal legislators, and to repudiate government officials and candidates for public office who violate public reason, forms part of the political and social basis of liberal democracy and is vital for its enduring strength and vigor. Thus in domestic society citizens fulfill their duty of civility and support the idea of public reason, while doing what they can to hold government officials to it. This duty, like other political rights and duties, is an intrinsically moral duty. I emphasize that it is not a legal duty, for in that case it would be incompatible with freedom of speech.

Similarly, the ideal of the public reason of free and equal peoples is realized, or satisfied, whenever chief executives and legislators, and other government officials, as well as candidates for public office, act from and follow the principles of the Law of Peoples and explain to other peoples their reasons for pursuing or revising a people's foreign policy and affairs of state that involve other societies. As for private citizens, we say, as before, that ideally citizens are to think of themselves *as if* they were executives and legislators and ask themselves what foreign policy supported by what considerations they would think it most rea-

71. There is some resemblance between this criterion and Kant's principle of the original contract. See *Metaphysics of Morals, Doctrine of Right*, §§47–49, and "Theory and Practice," part II.

sonable to advance. Once again, when firm and widespread, the disposition of citizens to view themselves as ideal executives and legislators, and to repudiate government officials and candidates for public office who violate the public reason of free and equal peoples, is part of the political and social basis of peace and understanding among peoples.

6.3. *Content of the Law of Peoples.* Recall that, in the domestic case,<sup>72</sup> the content of public reason is given by the family of liberal principles of justice for a constitutional democratic regime, and not by a single one. There are many liberalisms and therefore many forms of public reason specified by the family of reasonable political conceptions. Our task in developing the public reason of the Society of Peoples was to specify its content—its ideals, principles, and standards—and how they apply to the political relations among peoples. And this we did in the first argument in the original position at the second level when I considered the merits of the eight principles of the Law of Peoples listed in §4. These familiar and largely traditional principles I took from the history and usages of international law and practice. As I said in §4, the parties are not given a menu of alternative principles and ideals from which to select, as they were in *Political Liberalism*, and in *A Theory of Justice*. Rather, the representatives of liberal constitutional democracies reflect on the advantages of the principles of equality among peoples. The principles must also satisfy the criterion of reciprocity, since this criterion holds at both levels—both between citizens as citizens and between peoples as peoples. In the latter case it requires that, in proposing a principle to regulate the mutual relations between peoples, a people or their representatives must think not only that it is reasonable for them to propose it, but also that it is reasonable for other peoples to accept it.

6.4. *Conclusion.* We have just completed in §§3–5 the first step of ideal theory. When can we reasonably accept this first step of the Law of Peoples as provisionally sound and justified?

- (i) We must find the reasoning in the second original position for

72. See "The Idea of Public Reason Revisited."