

Rawlsian Compromises in Peacebuilding?

Response to Agafonow

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Abstract: This paper responds to recent criticism from Alejandro Agafonow. In section I, I argue that the dilemma that Agafonow points to – while real – is in no way unique to liberal peacebuilding. Rather, it arises with respect to any foreign involvement in post-conflict reconstruction. I argue further that Agafonow’s proposal for handling this dilemma suffers from several shortcomings: first, it provides no sense of the magnitude and severity of the “oppressive practices” that peacebuilders should be willing to institutionalize. Second, it provides no sense of a time frame within which we can hope that endogenous liberalization should emerge in the local political culture. Finally, it provides no suggestion for what the international community should do if the desired liberalization should fail to materialize within that time frame. In section II, I show that Agafonow’s argument resonates poorly with the concepts and ideas that he claims to adopt from Rawls’s *Political Liberalism*. Instead, his argument evokes the guiding ideas behind Rawls’s later work *The Law of Peoples*. I offer a critical perspective on these ideas, focusing specifically on Rawls’s treatment of women’s rights. Section III applies this critical perspective to Agafonow’s arguments, before closing with an example of a more constructive and empirically informed approach that critical studies of post-conflict reconstruction could take.

Key words: liberal peace, human security, peacebuilding, post-conflict reconstruction, Rawls, political liberalism, women’s rights.

In “Human Security and Liberal Peace,”¹ J. Peter Burgess and I undertook to defend the idea of liberal peacebuilding from a recent spate of criticism. These critics, we argued, draw erroneous conclusions from otherwise legitimate data. It does not follow from the failure of any number of liberal peacebuilding operations that there is something inherently misguided about the principles and ideals of the liberal peace as such. In fact, we argued, much of the criticism can be seen to implicitly confirm the very principles and ideals it purports to criticize: for instance, individual peacebuilding operations are said to fail because they seek to impose political institutions from outside in a way that neglects the importance of self-determination and local ownership of political processes.² But self-determination and local ownership are precisely among the core principles underlying the philosophy of liberal internationalism. The problem, then, is not with these principles and ideals themselves, but with our failure to implement them in practice.

Further, we argued that these criticisms typically rely on rhetorical moves which underestimate the depth and extent of conflict in the communities in question. We can see this from critics’ brazen reference to a putative opposition of interest between “us” – Western hegemony looking to impose our political values from outside – and “them” – the

1] Begby and Burgess 2009.

2] Cf. Begby and Burgess 2009, 98, 100.

natives whose legitimate interest in upholding their own way of life is jeopardized by such hegemonic imposition. We pointed out that most liberal peacebuilding operations occur in the aftermath of humanitarian interventions or, at any rate, in the aftermath of conflict scenarios grave enough to warrant such intervention. In such scenarios, we cannot simply speak of a unitary political subject – a “they” – whose interests we must seek to take into account. Instead, the communities in question are torn precisely by deep conflicts of interest. Thus, one of the defining aims of liberal peacebuilding is to assist in the creation of a political institutional framework capable of dealing equitably and peacefully with ethnic or religious tensions as well as other sources of conflict. Nothing in the critics’ arguments could so much as begin to suggest that liberal democratic institutions are not best suited to that aim, no matter how challenging it can be to realize such institutions in practice.³

At heart, much of the criticism is rooted in the view that liberal internationalism is founded on the presumption of the absolute universality and political priority of a certain conception of human rights. Such rights-thinking, the suspicion has it, is fundamentally individualistic (i.e., Western), and may therefore fail to find a footing in more traditional societies. Burgess and I were concerned to show that with the more recent incorporation into liberal internationalist thought of ideas about human security,⁴ these suspicions can be quelled, at least to some extent. Human security, we wrote, accommodates the idea that “the needs of human individuals to be part of larger communities is among their *basic needs*, inasmuch as it is through membership in such communities that individuals derive their basic sense of self and the value-sets around which they organize their lives” (Begby and Burgess 2009, 99).

I. AGAFONOW’S ARGUMENT

These latter remarks provide the starting point for a recent response paper by Alejandro Agafonow.⁵ Agafonow raises questions concerning the ability of liberal internationalism – even as tempered by ideas concerning human security – to provide a framework for thinking about peacebuilding in conflict-torn societies. While by and large sympathetic to our argument, as well as to the larger program of liberal peacebuilding, Agafonow wonders nevertheless whether the liberal peace, with its rights-centered agenda, might be blind to the sorts of compromises of moral and political principle which might be required in order to construct stable political institutions in societies emerging from conflict. Facing up to the exigencies of such peacebuilding tasks might require privileging “community security over personal security, institutionalizing what, from a liberal point of view, are oppressive practices.” By contrast, if such compromises were ruled out in principle, in the name of upholding a liberal conception of individual political

3] Cf. Begby and Burgess 2009, 93.

4] See, for instance, the 1994 Human Development Report and the 2001 report of the ICISS.

5] Agafonow 2010.

rights and their priority, “it might close the door for liberalism to thrive in the long run in more traditional societies” (Agafonow 2010, 78).

One example of what, on this view, might have to be compromised in order to reach stable political arrangements in more traditional societies is – predictably, one must say – the rights of women, as well as principles that directly and asymmetrically impinge on women’s essential interests, such as marriage law and family law.⁶ The flipside of this would be that allowing such compromises in the early stages of peacebuilding might provide for liberalization to be achieved “in the long run,” but now a form of liberalization which would emerge spontaneously from within the local political culture itself. Such endogenous liberalization will hold significantly better prospects for achieving long-term stability than liberal institutions imposed from outside. As an illustration, Agafonow points to the emergence of the All-India Muslim Women’s Personal Law Board (AIMWPLB) in 2005. He writes:

This act of self-determination, prompted from within the Muslim minority itself, was motivated by what is perceived as discriminatory decisions against Muslim women. [...] It is possible that this act of self-determination would have taken more time to occur if Muslims did not have to live together with the Hindu minority. (Agafonow 2010, 82)

Thus, Agafonow’s argument is structured around two main ideas. The first idea is that achieving any kind of workable political stability in post-conflict societies might require that certain matters of importance be compromised, at least for the time being. And, one might think, women’s political rights and domestic security are less pressing concerns, at least right away, than putting an end to ongoing large-scale atrocities. The other idea is that allowing such interim compromises might, in the long run, induce the political factions to liberalize on their own initiative, in ways that bear the imprint of the local culture, and which therefore might prove more sustainable than similar measures imposed from outside.

Agafonow’s argument certainly does point to a real challenge. It is doubtful, however, that it is a challenge unique to liberal peacebuilding. Any kind of foreign involvement in peacebuilding processes will face these sorts of compromise-dilemmas. Maybe the best one can say is that liberal internationalism at least requires one to be honest and explicit about the sorts of ideals and principles that would be compromised in a given case. It thus provides a framework in which we can at least begin to assess the magnitude of the predicament that the local political culture finds itself in.

Concerning the second idea, I am less convinced: ideally, of course, one would hope for liberalization to emerge spontaneously from within. But Agafonow’s argument can hardly claim to provide much in the way of a constructive proposal here: for instance, it provides no sense of the magnitude and severity of the “oppressive practices” that peacebuilders should be willing to institutionalize. Further, it provides no sense of a

⁶ Agafonow 2010, 81.

time frame within which we can hope that liberalization should emerge spontaneously from within. Finally, and relatedly, it provides no suggestion for what the international community should do if the desired liberalization should fail to materialize within that time frame.

Like so many of the recent criticisms of liberal peacebuilding, then, Agafonow's argument no doubt succeeds in highlighting a problem (though not one that is unique to liberal peacebuilding), but fails to provide anything that could reasonably be described as an alternative. I will return briefly to these issues toward the end of this paper, after first considering another aspect of Agafonow's argument.

II. THE RAWLSIAN BACKGROUND

Agafonow calls on certain Rawlsian concepts to make his points: sensitivity to the need for compromise is the hallmark of *political liberalism*; the product of the compromise is what we may call an *overlapping consensus*.⁷ As Rawls famously argued, an overlapping consensus may serve as the foundation of legitimate and properly stable political institutions in irreducibly pluralistic societies. Agafonow may be right that societies emerging out of civil conflict can indeed be marked by an irreducible pluralism in this sense. Moreover, we can surmise that their ability to find a way of recognizing and working around this irreducible pluralism would be a vital first step toward forging the foundations of a lasting peace.

But there are obvious problems with Agafonow's invocation of Rawlsian concepts such as political liberalism and overlapping consensus to bolster his arguments. Political liberalism applies to well-ordered societies. "Well-ordered society" is a technical term in Rawls, subject to at least three substantial constraints. A well-ordered society is one, first, in which "everyone accepts, and knows that everyone else accepts, the very same principles of justice;" second, where "[the] basic structure [...] is publicly known, or with good reason believed, to satisfy these principles;" and finally, where "citizens have a normally effective sense of justice and so they generally comply with society's basic institutions, which they regard as just." Rawls summarizes as follows: "In such a society the publicly recognized conception of justice establishes a shared point of view from which citizens' claims on society can be adjudicated" (Rawls 1996, 35).

The societies we are considering are emphatically not well-ordered in Rawls's sense. Nor should we entitle "an overlapping consensus" just anything that will support a relatively stable form of political co-operation. Instead, an overlapping consensus is a consensus on the *actual* principles of justice (as opposed to a consensus about what to designate by the term "principles of justice"). That is, a Rawlsian overlapping consensus is, in substantial part, a consensus precisely about individuals' basic rights and their

7] Cf. Rawls 1996.

political priority.⁸ These rights are emphatically not a matter for compromise in political liberalism. Rawls's point in developing the theory of political liberalism is to show that an irreducibly pluralistic society can be stable in spite of its pluralism, provided it can achieve an overlapping consensus about these very rights and their priority. An overlapping consensus would have all parties agree that these are indeed the rights that constitute the foundation of their political co-operation, even though they might disagree about the further reasons *why* these are the rights in question. An overlapping consensus is *stable for the right reasons* (a matter of great significance in Rawlsian theory) only in virtue of being precisely a consensus concerning these very rights; a society can be *well-ordered* only in virtue of being founded on a consensus concerning these rights. Neither of these conditions holds in the sorts of cases Agafonow considers. Accordingly, his argument cannot support itself on the strength and prestige of the Rawlsian concepts that he invokes.

Instead, Agafonow's thinking evokes another strand of Rawls's philosophy, namely that which comes to expression in his later work *The Law of Peoples*.⁹ But this strand of thought is much more controversial, and enjoys little of the plausibility and robustness of the ideas that form political liberalism. *The Law of Peoples* is about the limits of toleration in international affairs. The argument on offer is that the threshold of tolerability (and hence of legitimacy) of political systems in international affairs is significantly lower than what we – liberal democracies – would recognize as affording legitimacy in our own domestic setting. Here is one way to think about it: *Political Liberalism* aims to articulate the ideals and self-image of a pluralistic democratic society – *our* society. The claim made in *The Law of Peoples*, then, is that not every society need satisfy the standards of a pluralistic democratic society in order nonetheless to be a legitimate partner in international co-operation to a democratic society like ours, i.e., in order to qualify for full standing in the "Society of Peoples."

But such "decent hierarchical societies," as Rawls calls them, must nonetheless satisfy substantial political constraints. Specifically, they must honor a "special class of urgent rights," which includes "freedom from slavery and serfdom, liberty (but not equal liberty) of conscience, and security of ethnic groups from mass murder and genocide" (Rawls 1999, 79). Further, they must also afford to every population group some input on political processes through what Rawls calls a "decent consultation hierarchy."¹⁰

Maybe this vision of a hierarchically structured but nonetheless decent society can provide a more precise sense of what Agafonow has in mind. Liberal peacebuilders, then, would need to be open to the tolerability of political institutions which compromise on certain sorts of non-basic rights, including but not limited to the right of democratic

8] A different way of putting this point is that only "reasonable" views should be taken into account in the overlapping consensus. Bigoted views have no place there. By contrast, Agafonow speaks of the need to take into account "the specific kind of irrationalities that may be found in traditional societies" (Agafonow 2010, 81).

9] Rawls 1999.

10] Rawls 1999, 71-78.

representation, but which do not compromise on basic or fundamental rights, such as the right to life and freedom from enslavement.

We note that, like Agafonow, Rawls pins the tolerability of such arrangements in part on the psychological supposition that such toleration may well, in the long run, prove the best way to get these societies to liberalize.¹¹ But we note also that, like Rawls, Agafonow is *not* explicit about the fact that such internally generated liberalization is not to be relied upon. There is no empirical support for the thesis that liberalization will, as a matter of fact, occur as the result of such compromises, nor that such compromises constitute the best or most reliable method of encouraging liberalization. We further note that in Rawls's theory, decent societies are to be tolerated (and thus to be regarded as legitimate) *as they currently are*, not for what we hope they might become if left to their own devices. As pointed out above, Agafonow commits himself to no comparable stance concerning the long-term tolerability of compromised political arrangements which fail to precipitate the desired kind of endogenous liberalization. This is a serious lacuna in Agafonow's argument.

Finally, there is one further structural feature of Rawls's Law of Peoples which is worth remarking on here. The Law of Peoples is intended to satisfy the idea that non-Western, non-democratic societies may be hierarchically organized, in ways that are at odds with our liberal ideals (and which are thus "not fully just" by liberal lights¹²), yet which may be legitimate by domestic criteria. In this way, Rawls aims to make room for an alternative to the perceived individualism of Western society. Yet the way Rawls structures this proposal is striking and in many ways peculiar. In a decent, non-liberal society, political legitimacy is founded not on the assumption that every individual has adequate political representation (*qua* individual), but rather on the assumption that every *group* has adequate political representation, and that every individual is a member of some such group.

Rawls thereby appears to assume that the communities in question divide neatly along familiar group lines, say, of ethnicity or religion. His idea is that a political arrangement can be decent if each individual person is a member of some such sub-group, and every sub-group receives adequate political representation through the consultation hierarchy. What is remarkable about this proposal is that it asks no questions about the quality of representation *internal* to any of these groups, so long as basic human rights are not violated. Accordingly, there is a double sense in which a decent, non-liberal society can be hierarchical: it can be hierarchical, first, in the sense that not every group has the same political status.¹³ But there is also a second sense in which a decent society can be hierarchical, namely that each group could itself be hierarchically organized. Thus,

11] Cf. Rawls 1999, 62.

12] Rawls 1999, 24, 62.

13] For instance, it is compatible with decency that political office is restricted to members of a privileged group.

particular individuals can be doubly disenfranchised: first, in being a member of a non-privileged group; second, in being a non-privileged member of such a group.

These peculiarities are compounded by the fact that Rawls gives no serious consideration to the political interests of groups that cut across the recognized group lines, prominently, women. In the few places that Rawls does consider women as a group in their own right, it is with an eye toward stipulating that in decent hierarchical societies, their basic human rights are not violated.¹⁴ But even when these basic human rights are secured, there is still ample room for the institutionalization of oppressive practices, with no outlook toward improvement. With this, Rawls seems to hold that our definition of political decency has no need to take into account any special interest groups apart from the familiar religious or ethnic divisions, and that women's rights are adequately dealt with in terms of gender-neutral basic human rights. Needless to say, this is extremely controversial and deeply problematic.¹⁵

III. CLOSING REMARKS

Analogous causes for concern arise from Agafonow's argument. On his view, as we saw, women's rights are among the political principles that we might have to be prepared to sacrifice in order to achieve stable political institutions. Thus, we should have to be prepared to institutionalize practices that are oppressive from the point of view of liberal thought. To my mind, such proposals merit serious consideration only when they can meet a set of further constraints. First, they should offer a clear sense of the magnitude and severity of the compromises that we should be willing to accept, or, perhaps better put, what sorts of compromises we should not be willing to accept. Second, they should offer a clear sense that these compromises are interim measures, and that the status of these oppressive practices should be reevaluated on a relatively sharply defined time frame. Third, they should offer a clear sense of how we are to comport ourselves if the desired liberalization fails to precipitate at the end of that time frame. Finally, the rationale for the compromises in question should draw on actual empirical evidence concerning what is and what is not conducive to peace, stability, and political justice under the relevant conditions. They should not, that is, rest merely on speculative psychological claims about what "traditional societies" may and may not be ready for at the present time.

As a suggestion about the form that such studies might take, it might be helpful to consider the recent work of Paul Collier and associates.¹⁶ In opposition to the widespread assumption that democratization is intrinsically conducive to peace, Collier and associates

14] Cf. Rawls 1999, 75, 110.

15] For further remarks on the status of women in the Law of Peoples, see Nussbaum 2002; Tasioulas 2002, 384; Cabrera 2001, 174-75; Martin and Reidy 2006, 14-15.

16] Cf. Collier and Rohner 2008; Collier, Hoeffler, and Söderbom 2008. A popular exposition can be found in Collier 2009.

have shown that in low-income post-conflict societies, democratization actually increases the likelihood of relapse into civil war. This is a remarkable finding. But the explanation for the finding is surely not, for instance, that these societies are not ready for democracy, or that democratization must emerge spontaneously from within the local culture itself if it is to take hold. Instead, a rather more plausible and concrete explanation is that rapid democratization drastically reduces a government's ability to repress rebellion before such time as it has been able to properly address the issues that would typically provide incentives for rebellion. Further, Collier and Rohner take care to point out that these results are only "superficially troubling for the agenda of promoting democracy in low-income societies. [...] democracy may still be highly desirable because of its intrinsic merits. An implication is that in low-income societies that democratize additional strategies may be needed to secure peace" (Collier and Rohner 2008, 533).

This sort of research provides an empirically informed perspective on the kinds of challenges that confront liberal peacebuilding. In no way does it purport to overthrow the discourse of liberal internationalism as such, so much as to point out that the order and timing of reforms is relevant to our prospects for a peaceful and just society. Such nuance is altogether missing from much of the current criticism of liberal peacebuilding. Even when these criticisms are sound and draw on empirical example, they do not offer an alternative to the liberal peace. They serve rather as reminders that building stable and just political institutions takes time, and that it would be naïve and counterproductive to seek to implement all the relevant reforms in one go.¹⁷

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