



Global Justice, Basic Goods and the Sufficiency Threshold Claim

By/Par **Mario Solís**

mariosu_1999@yahoo.com
Universidad de Costa Rica

ABSTRACT

This paper deals with a prevailing assumption that basic goods are accessory to claims of justice. Against such an assumption, the paper advances the idea that basic goods (the core of what I wish to call the sufficiency threshold) are *fundamental as a matter of justice*. The paper then addresses the question as to what is the *elemental justifiability* of a *social minimum* and how that relates to theories of justice, particularly to emerging theories of global justice. The arguments against the aforementioned assumption call upon the strengths of a general theory of justice already in place, namely, John Rawls's theory of justice and the enriching response and criticism thereof—particularly David Miller's theory of justice.

Keywords: justice, global justice, basic goods principle, John Rawls, moral cosmopolitanism, David Miller

RÉSUMÉ

Cet article traite d'une hypothèse répandue selon laquelle les biens de base sont accessoires aux demandes de la justice. Contre une telle hypothèse, le papier avance l'idée que les produits de base (le noyau de ce que je veux appeler le seuil de suffisance) jouent un rôle fondamental en tant qu'enjeu de la justice. L'article aborde ensuite la question de la justification élémentaire d'un minimum social et de son rapport aux théories de la justice, en particulier pour les théories émergentes de la justice mondiale. Les arguments développés appellent à renforcer une théorie générale de la justice déjà en place, à savoir la théorie de John Rawls et de réponse critique proposée par David Miller.

Mots clés : justice, justice globale, biens de base, John Rawls, cosmopolitisme moral, David Miller

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INTRODUCTION

This paper draws on the idea that the demands of global social justice are best captured by the requirement that everybody has enough to lead a decent life. This requirement lies at the core of the most salient theories of *social justice* and circumscribes *global social justice*. I shall call this central proposition *the sufficiency threshold claim* (ST hereafter). The underlying issue can be set out as follows. In order for the ST claim to fully correspond to the demands of global social justice, it must be (1) a matter of social justice and (2) the *particular* demand of global social justice. The underlying claim is that global social justice cannot be simply an extension of domestic social justice and yet it has to have a significant connection to social justice. This paper in particular is concerned with the elements identifying ST with social justice, which means that the focus of the analysis is on (1) rather than on (2).

For a number of contemporary theorists the relationship between ST and social justice is a closed matter. Andrea Sangiovanni (2007) at one point called attention to the “fact” that, whether one takes the internationalist, globalist, statist or cosmopolitan stance, there is a general agreement that securing the adequate minimum threshold to lead a decent life for everybody is a requirement of justice (2007: 4). It does not seem so clear that there is a real consensus about this. The connection between ST and social justice may well seem obvious, but it is difficult to establish and still in need of clarification. It suffices to recall that there are influential philosophers such as Nagel (2005) who strongly disagree with this thesis and whose objections are not necessarily easy to refute – not to mention a complete trend of thought such as libertarianism, whose opposition to the very idea of social justice in the form of positive rights and duties challenges this alleged consensus. I think that more needs to be said in order to make the case for ST and to provide a justification of basic goods as a matter of justice—let alone global justice. What is more, there is more to do in order to bring to full consciousness the convergence Sangiovanni seems to recognize. Such is precisely the general aim of this paper.

There is a prevailing assumption that basic goods are accessory to claims of justice. The contrasting thesis I advocate is that the content of the sufficiency threshold (basic goods at its core) is *fundamental as a matter of justice*. The notion of ST, I argue, is conceptually connected to the notion of basic goods (or basic needs). The arguments against the aforementioned prevailing assumption call upon the strengths of a general theory of justice already in place, namely, Rawls’s theory of justice and the enriching response and criticism thereof—particularly Miller’s theory of justice. As explained below, this paper seeks to draw on these particular theories to support the ST claim.

It seems politically and morally relevant to set out the very idea of the sufficiency threshold separately from establishing the bundle of goods and, if tenable, the precise level where the sufficiency bars should be set. The point is that global justice should not be restricted to issues of quantities and distributive procedures; it is not purely about establishing or determining metrics and calculating goods, populations, life standards, etc. Global justice is about coming to terms with the fundamental demand for basic goods in the first place; it is about gaining awareness of the moral and political aberration in neglecting the very rationale of a decent existence for every human being on earth (a *global* minimum benchmark).

More specifically, the point is that we should first of all try to answer the question as to what is implied in the notion of a sufficiency threshold, or in more familiar terms, to answer the question as to what is the *elemental justifiability* of a *social minimum* and how that relates to theories of justice. This must be the first phase of the analysis because the question as to why we should look at a social minimum as a matter of justice is independent from (and a condition of) the question as to whether this minimum is too restrictive or too demanding as a matter of justice (some theorists – libertarians for the most part – would even reject the very idea of a *social minimum* from the start, independent from how demanding the social minimum may be). As already mentioned, this paper will draw on two influential lines of thought that are commonly used as the basis for the affirmation of the idea of justice (and the rejection of the idea of global justice).

II

It is worth stressing from the outset that ST entails not only basic goods as such but also a qualitative dimension in basic goods. If we talk about ST solely in terms of basic goods, then there is the danger of missing the fact that goods in themselves (if there are truly such things) are nothing but elements that create a condition of life.¹ Similarly, if we talk about ST solely in terms of a standard, it becomes too loose and ambiguous as an approach: only when a standard contains a strict account of the goods does it have a reasonably objective meaning. ST should thus be the combination of these two elements; and a full account of it consists in specifying which goods are to be taken within the bundle of basic goods and what standard is brought about in the inclusion or exclusion of each one of the considered goods.

Setting aside the specific content of ST, allow me to address the very idea of basic goods.² Basic goods are fundamental in an uncontroversial sense. It needs no proof that without basic goods such as water, clean air, food, or shelter it would be impossible to lead a life. But here is the controversial element of the claim: basic goods are fundamental as a matter of justice.

For one thing, basic goods – and all goods for that matter – are fundamental in virtue of their social-relational character. Their value is given in socio-historical contexts and in the context of socio-institutional interaction. Evidently, basic goods matter for what they simply are (what matters to someone who is starving is some food, or what matters to someone who “lives” on the streets is proper shelter). Nonetheless, in this general description, goods are valuable mostly because they are, in Michael Walzer’s words, “the crucial medium of social

¹ The charge of fetishism might rightly be made here if the sufficiency threshold is reduced to objects.

² This doesn’t mean that this is all there is to the idea of basic goods in relation to the idea of justice. We should see in detail what is required to have a really balanced bundle of basic goods in order to thoroughly account for this and for the idea of global justice. It suffices to say at this point that basic goods can be understood minimally as subsistence goods (basic vital resources such as food and shelter) or less minimally as ‘larger’ or more elaborated goods that include health, education, political freedoms and socio-economic security.

relations” (Walzer: 1983, 7).³ Social interaction is not just interaction between individuals or collectives of different kinds, but it is also interaction with respect to goods that in turn become social in such a dynamic.⁴

I maintain that the very fact of the social character of basic goods makes them fundamental as a matter of justice in virtue of this other truth: *justice is relational*.⁵ Let me put this claim in context. Andreas Sangiovanni (2007) instructively points out that we can distinguish between relational and non-relational conception of justice.⁶ As he puts it, the former states that “[...] principles of justice cannot be formulated or justified independently of the practices they are intended to regulate” (2007: 5) whereas the latter “... reject the idea that content, scope, or justification of those principles depend on the practice-mediated relations in which individuals stand.” (2007: 6)

The best instance of a non-relational account of justice can be found in Peter Singer’s ethical approach (clearly laid out in his very influential article “Famine, Affluence and Morality” (1972)). Singer’s idea is that our moral duties are not fundamentally grounded on the relations we have with others but on the universal value of humanity and the universal moral duty that we all share as human beings. Although the basic intuition of this conception of justice is shared by many political philosophers (especially the advocates of moral cosmopolitanism), the non-relational stance is exceptional (even among many cosmopolitans philosophers such as Thomas Pogge and Charles Beitz who defend a type of moral universalism). Note however that I do not intend to make a conclusive case for debate here or to expand on the opposition between the relational and non-relational viewpoints.

³ Michael Walzer (1983) proposed a theory of goods in which the simplistic approach of justice — “people distribute goods to (other) people” — is improved by a socially more complex understanding of distributive matters. My approach shares this same idea of goods as social and relational goods; however, it does not share two of his central claims, namely that (1) the ‘socialisation of social goods’ is restricted to closed political communities and that (2) “there is no single set of primary or basic goods conceivable across all moral and material worlds” (1983: 8).

⁴ As platitudinous as it may appear, this stance is not devoid of controversy. It suffices to recall Nozick’s libertarianism (and some versions of liberal individualism) where individuals are assumed as ‘closed units’, making social life a simple aggregation of individuals (equally unitary), institutions, and objects all around. This is a misleading universalistic conception of ‘the individual’. The claim about the social character of basic goods stands against this dubious universalism. The social character of (basic) goods might well be taken as a corollary of this other general claim about the social nature of our existence.

⁵ Note that I keep untouched the distinction between basic and non-basic goods at this stage (needless to say, a relevant specific area of concern in the current theories of justice and theories of human rights). It is true that the meaning of goods (or what they represent) depend upon a wide variety of aspects of social life: the socio-historical context, the cultural context, the specific conditions where those goods are produced, distributed, claimed for, etc. And it is true that this plurality makes the very definition of *basic* goods a difficult one (as we will discuss in detail below). Nonetheless, it is also true that, in any case, goods are grounded on social interaction. The point I am trying to make is on the connection between the fact of basic goods as grounded on social interaction and relational conceptions of justice.

⁶ The other distinction Sangiovanni stresses relates to the question of the scope of justice. This is the discussion about whether justice should be understood strictly within the limits of nation-states or whether one might claim that there is a global dimension over demands of justice (2007, 6-7).

For the non-relational case it suffices to highlight the fact that, although such a line of argument does not utilise the language of social justice strictly speaking, it does support the demand to ensure that every person should have access to basic goods. In addressing Andrew Kuper's criticism, Singer makes clear his fundamental claim, namely that "failure of people in the rich nations to make any significant sacrifices in order to assist people who are dying from poverty-related causes is ethically indefensible" (2002b: 128). Singer's case – which is made by a utilitarian-minded thinker who is trying to make a case about "the obligation to assist the world's poorest people" without relying "on utilitarian premises for that argument" (2002b: 128) – is ultimately supporting the view that having access to the basic goods to live a minimum decent life is at the core of any moral demand independently of whether we call it a matter of justice and independently of the grounds on which justice is invoked.⁷

Having said this, I maintain that the general case of the *ST claim* and the particular sub-claim that *ST* is a matter of social justice should be made along the lines of the relational conception. The two theses I endorse—justice as relational and goods as grounded on social interaction – precisely encompass such a framework. Of course, this is not to say that the relational approach has resolved the crucial disagreements on global justice. Evidently, it is on the "details" of the relational account where some of the more pressing contentions appear. And yet, as I see it, there is a very telling common terrain where some of the contrasting views on global justice possibly overlap; this is the terrain of the sufficiency threshold claim.

There are two recognizable contrasting trends of thought whereby the relational bases of justice are commonly defended, namely cultural or social meanings and "the nature of shared social and political institutions" (Sangiovanni, 2007, 5). We can call these the cultural and institutional interpretations, and these two trends are best portrayed in David Miller and John Rawls respectively. Independently of the doubts and challenges that these philosophers pose to the idea of global justice – or, what is more, even considering that these philosophers are somehow sceptical about global justice – the relevant point is that they can constantly and consistently be brought in to defend the very idea that basic goods are a fundamental matter of justice. In what follows I will lay out some of the most important claims (particularly those of Miller) and then argue for the central role that basic goods (especially what may be called the *basic goods principle*) play within Rawls's general theory of justice.

III

Consider the line of thought of David Miller. The relational aspect of his conception of justice is clearly delineated by his commitment to the ethical significance of nationality. Indeed, Miller's idea of ethical agency is substantively reliant upon the very fact of individuals already embedded in social relationships.

⁷ In a recently published book called *The Life You Can Save* (2009) Peter Singer defends once again his general argument focusing on the moral responsibility that everyone has to help those in need. Singer is more interested in the case of private charity rather than in political-institutional action. On the issue of responsibility in particular, see Miller 2007, Chapter 9.

In his very influential book *On Nationality*, Miller (1995) defends a contextual understanding of justice. Miller believes that nations are the socio-cultural and political locus of justice. The idea of justice is rooted, in his view, in “communities of obligation” and the demands for social justice (the demands of basic goods) are fundamentally observed in the demands of nationality: “Nations are communities of obligation, in the sense that their members recognize duties to meet their basic needs and protect the basic interests of other members” (1995: 83). For Miller, one strong reason for favouring what he calls “the principle of nationality” (1995: 2) is precisely the justification (legitimacy) and possible realization of the ideals of social justice. According to this view, justice “appears” in the articulated relation among individuals within their socio-cultural and institutional milieu and social goods are recognizable therein. Mutual commitment, shared history, shared beliefs, territory and a collective sense of goods and of the meaning of social goods and institutions (“the elements of nationality”) are the grounds for the demand of securing social goods (2005: 27).

I am not discussing here Miller’s defence of ethical particularism and the way he understands ethical universalism, nor will I take a stance in regard to his views against cosmopolitanism at this stage. All I am saying is that Miller’s approach instructively draws upon the relational character of justice and the relevance of basic goods. Schematically put, Miller (1) endorses the fundamental connection between the demands of justice and the demands for securing basic goods (the sufficiency threshold) and, closer to the idea of global justice, (2) recognizes a universal obligation to protect basic rights (1995: 75), stressing the positive obligation to protect basic rights not only of co-members of political-cultural communities but also, at least in certain circumstances, of “outsiders”. He puts it this way: “But if we take nationality seriously, then we must also accept that positive obligations to protect basic rights (e.g. to relieve hunger) fall in the first place on co-nationals, so that outsiders would have strong obligations in this respect only where it was strictly impossible for the rights to be protected within the national community” (1995: 79).

To further strengthen the case, let me briefly put forward a couple of relevant points closely related to the idea of the social character of basic goods from two of his influential later books. In *Principles of Social Justice* (1999) Miller positively engages with the idea of social justice through a more detailed exposition of his contextualist approach. The social-relational character of justice (or justices) is defended here through a threefold typology of human relationships: solidaristic community, instrumental association, and citizenship, (1999: 26). Again in the same way as his nationalistic account mentioned above, this approach to social justice is controversial. Irrespective of that, however, the relevant point for our theme is that Miller instructively argues about how basic goods (through his analysis of basic needs) are relational and how they call on social justice rather than on plain humanitarianism.⁸ Here Miller emphasises the strong and crucial connections between basic goods and justice (basic goods as “justice-relevant goods”).

⁸ Miller takes an indirect route (considering the reasons offered for thinking about needs as a principle of justice) because he “does not know what could be said to someone who claims that needs have nothing to do with justice...” (1999: 221).

This stance is clearly stated in what he calls “the need principle” and the thesis that it is a principle of social justice (1999: 204, 221).⁹ Miller makes the case for the need principle by highlighting the problems that occur when claims of need are treated as humanitarian (1999: 222-25) and arguing that claims of need are not generally parasitic on other claims such as entitlement or merit—or, positively stated, that the need principle stands independently of other principles such as entitlement or merit (1999: 225-227).

In his most recent book, *National Responsibility and Global Justice*, Miller further strengthens his case of basic goods as a matter of justice. Here Miller develops a very insightful yet controversial theory of global justice, introducing strong contrasts between *social justice*, *global justice* and *distributive justice* (2007: 12-17). He also posits the thesis of the particularly “unique” (or exclusive) relation between citizenship, social justice and what he calls societal needs (2007: 15, 167, 182). Setting aside for the moment all of the above crucial notions (particularly the ones that make him reject the *social* in the idea of global justice), I wish to call attention specifically to chapter 7 where the centrality of basic goods is clearly stated.

Very much in the way I think one can explain and argue for global justice and the sufficiency threshold, Miller presents his theory of basic human rights in search of “... a list of rights that can specify a global minimum that people everywhere are entitled to as a matter of justice” (2007: 166). In his approach to human rights, Miller uses what he calls a “humanitarian strategy” (not to be confused with humanitarianism) that directly appeals to basic human *needs* (2007: 179). Human rights are thus justified in terms of needs that are assumed as *essential*, morally urgent, and required to avoid harm (biological and social). Human rights are also strictly justified in terms of the provision of a minimum of decency for everybody to develop their own life plans (2007: 180-181), or to exercise what he later calls “*core human activities*” (2007: 184).

IV

Consider, on the other hand, the case of John Rawls, unsurprisingly the main theoretical interlocutor in contemporary theories of justice. In Rawls’s political philosophy, the relational aspect of justice is given in several interconnected theses about individuals, societal life, political institutions and moral principles. Take for instance Rawls’s familiar idea that the basic structure of society is the subject of justice (1971: 7-10). The basic structure alludes to the major political, economic and social institutions that govern society – the constitution, competitive market, rules governing private property, and so on – taken together as one “scheme” (“the social system as a whole” (1971: 50)). The basic structure, so understood, not only determines people’s lives in terms of how those institutions affect people’s access to (basic) goods, which is indeed the main reason for the fundamental character of goods to the theory of justice as discussed later in this chapter, but also, and to a

⁹ Note that Miller understands ‘needs’ as ‘intrinsic needs’. This supposes that ‘needs’ in the need principle should not be assumed as merely instrumental, but as what Mill also recognizes under the terms ‘fundamental’ and ‘categorical’ (1999: 206). Later on Miller says that “[...] needs could be identified as those conditions that allowed people to lead a minimally decent life in their societies” (*Ibid*: 210).

large extent, it is the expression of the *interconnectedness* of social existence. It is in this nexus of social interconnectedness that social justice and a conception of basic goods arises.

Consider another more specific aspect of Rawls's theory of justice such as the lexical order of principles of justice.¹⁰ In a very instructive passage of the first chapter of *Political Liberalism* ("Fundamental Ideas") John Rawls ([1993] 2005) succinctly refers to the likelihood of a lexically prior principle "requiring that citizen's basic needs be met" (2005, 7). This is not a minor concession Rawls makes to Rodney Peffer's insights (developed in *Marxism, Morality and Social Justice* (1990)). It indeed gives room to some relevant qualifications of his general theory of justice, supporting the claim that the core of social justice lies in ST.

The thrust of Peffer's conception of morality and justice, sympathetic both to Marx and Rawls, is precisely the claim that the provision of basic goods is a matter of justice. Peffer proposes a "[...] minimum floor principle explicitly stipulating that no one will be allowed to fall below a certain level of well-being" (1990: 14). Such a principle modifying Rawls's theory of justice reads, in the simplest form, that "everyone's security rights and subsistence rights shall be respected" (1990: 418), and in the more elaborated form, it reads as follows: "Everyone's basic security and subsistence rights are to be met: that is, everyone's physical integrity is to be respected and everyone is to be guaranteed a minimum level of material well-being including basic needs, i.e., those needs that must be met in order to remain a normally functioning human being (*Ibid.*)"

In acknowledging Peffer's "basic rights principle" (as he calls it), Rawls takes on board this truth: basic goods are at the core of the theory of social justice. The question still remains, however, as to which arguments can be offered to this effect. Peffer's own defence is somehow wanting. Peffer acknowledges one objection and gives two reasons for including his basic rights principle in a theory of justice. Succinctly put, the objection is that this principle goes beyond the institutional context of social cooperation (its scope is broader than the theory of justice (1990: 421)). He counters this by pointing to the economic interdependency of today's world. This is also his first reason for his basic rights principle. He adds a second reason, namely people's "tendency to overlook or downgrade its importance" (*Ibid.*). Although I agree with Peffer's rationale, I think these two justifications are not enough to support it. Economic international interdependency, a factual premise, does not trigger the normative premise of the basic rights principle. What people tend to recognize or not does not take us far towards the justification of such principle or any other principle for that matter.

As for Rawls's arguments for incorporating the satisfaction of basic needs as a lexically prior principle, it is necessary to look further in his general theory of justice since he does offer direct arguments to this effect. In *Political Liberalism* (*PL* hereafter), Rawls addresses the theoretical challenge of finding a shared basis (or of a narrower scope of disagreement)

¹⁰ Recall that even though I am alluding here to principles of justice, the point is not about establishing a formal, perfectly distributive principle of global justice (my approach to global justice is meant to delineate a rather concrete and substantive stance as opposed to abstract and formalistic). The idea is to show how the concrete condition *-having enough-*counts as a matter of justice. It is my contention that rather than searching for a unifying principle of global justice we better look at a unifying *object* of global justice.

regarding the “most appropriate family of institutions to secure democratic liberty and equality” (PL: 8). It is not an onto-sociological work but a political-philosophical one, and it is therefore not surprising that Rawls pays less attention to the socio-political basics of those , as his aim is to examine the political-institutional guidelines of liberal democracies. And yet Rawls still makes this statement about basic goods (more closely related to the socio-political) that sheds light on the claim that basic goods are a matter of justice. Rawls says: “Finally, as one might expect, important aspects of the principles are left out in the brief statement as given. In particular, the first principle covering the equal basic rights and liberties may easily be preceded by a lexically prior principle requiring that citizens’ basic need be met, at least insofar as their being met is necessary for citizens to understand and to be able fruitfully to exercise those rights and liberties” (PL: 7).

The demand that basic goods be met (we may call it the *basic goods principle*) implies that (a) insofar as it is a principle (and not a simple collateral condition) it must be seen in harmony with his other principles (the liberty principle, the difference principle); the basic goods principle becomes a principle of justice in itself. And (b), in leaving the basic goods principle aside (and yet recognizing its relevance) Rawls is showing that his political account is not exhaustive and that it might be enriched with a wider socio-political account of what the *justice* of societal interactions and institutions consists of.

To invoke this lexically prior principle might appear as a contradiction to Rawls’s recurrent claim of the priority of the liberty principle over the difference principle. I think this is not the case. I maintain that the priority of the liberty principle is not at odds with the fundamental condition of universal access to basic goods. The priority of the basic goods principle is slightly but significantly different from the priority of the liberty principle.

In accordance with the early Rawls of *TJ*, the lexical priority of liberty applies only “once the required social conditions and level of satisfaction of needs and material wants is attained” (1999: 476). The “basic goods principle” captures precisely these “earlier” moments and the priority of liberty is applicable only after ensuring that such a level of satisfaction of basic needs (ST) is reached. It is my understanding that there is no contradiction between these two ways of interpreting Rawls’s acceptance of the basic goods principle and the liberty principle. On the contrary, there is a complementary relation between these two principles that reinforces the fundamentally just character of basic goods.

In accordance with the general view I am advancing in this paper, the liberty principle should be translated as a *guiding* principle whereas the “basic goods principle” should be translated as a *grounding* principle. Correlatively, I hold the view that the latter is more “instrumentally” political-institutional whereas the former is somewhat more densely *socio-political*.

The importance of the *basic goods principle* (the satisfaction of basic needs) in terms of justice is clearly seen in relation to matters of legislation and the constitution. Rawls claims that the basic principle should be contemplated in the constitution of liberal democratic societies and enacted in legislation in virtue of its fundamental character of justice, in virtue of being what Rawls calls “the constitutional essentials”. Rawls says: “[...] there must be legislation assuring freedom of association and freedom of movement; and beyond this, measures are required to assure that the basic needs of all citizens be met so that they can take part in political and social life. [And then he adds:] About this last point, the idea is not

that of satisfying needs as opposed to mere desires and wants; nor is it that of redistribution in favour of greater equality. The constitutional essential here is rather that below certain level of material and social well-being, and of training and education, people simply cannot take part in society as citizens, much less as equal citizens” (*PL* 166). Notice that Rawls does not take the difference principle to be a constitutional essential but does with the basic goods principle. This constitutional power of the basic good principle proves its relevance as a matter of justice. The duty to ensure that everybody has enough to participate in society as a free, equal and self-respecting citizen is a constitutional essential that should always be respected in democratic legislature; this is a duty of justice.¹¹

Some Rawlsian theorists might want to take the basic goods principle as a “pre-political” element outside the radar of the theory of justice as political. I think that this interpretation is a misreading of Rawls’s general project. A “well ordered” society’s institutional system includes, as a guiding principle, the very condition of its institutional sustainability, i.e., the necessary condition for all citizens to exercise their moral powers and pursue their life plans. The two moral power (as explicitly explained by Rawls in *LP*: 81) are the powers of free and equal persons that consists in the capacity to be reasonable (the capacity for a sense of justice) and the capacity to be rational (the capacity for a conception of the good) respectively. I think that the basic goods principle is meant to ensure that citizens can develop and exercise their fundamental capacities (fundamental as a matter of justice)¹² and that the universal access to basic goods (the fulfilment of basic needs) cannot be outside of the political. What is more, this requirement of the fulfilment of basic goods is deeply socio-political insofar as it is a condition of possibility of social existence. To infringe the institutional system for the sake of a social end (such as a demanding idea of welfare) is inadmissible in terms of the theory of (political) justice, but to infringe or even to put in risk the very condition of possibility of social existence by overlooking basic goods (the satisfaction of basic needs) is an even greater injustice.

It is not hard to imagine basic goods as one element of the basic structure fostering social justice. Or to put it in broader terms, it is reasonable to take basic goods as part of what Rawls recognizes as “the background of justice” (*PL*: 265-269). Rawls says: “The role of the institutions that belong to the basic structure is to secure just background conditions against which the actions of individuals and associations take place. Unless this structure is appropriately regulated and adjusted, an initially just social process will eventually cease to be just, however free and fair particular transactions may look when viewed by themselves.” (*PL*: 266) In my view, the institutionality that should be in place for securing that everybody

¹¹ Samuel Freeman (2007) instructively makes this point: “The difference principle is not a constitutional essential, as Rawls seems to suggest it is not a requirement of ‘basic justice’, so long as an adequate social minimum is provided” And then, in connection with the judiciary enforcement of this constitutional essential, Freeman adds: “Rawls thinks it is appropriate for the judiciary to enforce an adequate social minimum in the event that the legislative branch repeals or refuses to provide measures to meet the basic needs of the worst-off. A social minimum ... is a requirement of ‘basic justice’” (2007:234-35).

¹² Rawls does not formulate these statements as a view of human nature or social theory, but as one of political philosophy that is mostly applied to citizens, within his political conception of justice as fairness. I will not discuss the difficulties of this approach at this point.

has enough to lead a decent life (some of which one may see in many European welfare states) is grounded in justice in the sense described above. Basic goods are a substantive part of the required background of justice. Any transaction made by individuals or collectives and institutions should have in place the means and mechanisms to protect them. Those means and mechanisms (principles in this context of philosophical inquiry) protect the background of justice; and this amounts to protect basic goods through the adequate institutions of justice.

Rawls takes up again the relevance of basic goods for the general theory of justice in *The Law of Peoples* (1999). Let us recall that, as opposed to *TJ* and *PL*, where the focus of the analysis was on “closed systems” (on specific liberal democratic societies), *The Law of Peoples* (*LP* hereafter) deals with the principles that regulate this wider system of the *society of peoples*. Questions arise as to whether there is continuity in Rawls’s political philosophy between his conception of domestic justice and international justice. I think there is continuity at least in relation to what one might take to be their grounds. It is not unreasonable to expect that, if basic goods are fundamental for reasons of justice in Rawls’s pre-*LP*, they also are to be observed as such in this particular conception of right and justice within what he calls “the society of peoples” (*LP*: 3). Many philosophers have argued that Rawls has philosophically betrayed his own general project of justice (allegedly already betrayed in *PL*).¹³ Others have found the unity of Rawls’s project precisely in *PL*.¹⁴ Most commentators (Rawlsian and anti-Rawlsian) have found *LP* unsatisfactory in many regards.

I do not intend to replicate all of this here. Independently of the criticism one might endorse to the overall Rawlsian strategy and the assumptions about globality or to his idea of a second original position and his social ontology (the typology of peoples), I think that we still can consistently get the blueprint of the role and place of basic goods in the *just* regulation of the interaction among “localized” socio-political communities or in wider interactional-institutional dynamics. Note that I am not discussing Rawls’s particular conception of international justice at this stage either. The idea here is to see whether basic goods belong in Rawls’s principles regulating the relations among societies and their governments (principles of international justice).

It is my contention that the qualification of basic goods as a matter of justice is confirmed in Rawls’s final work by means of two substantive aspects of his theory of (*just*) international relations, namely (1) the connection between justice, the Law of Peoples and *human rights* and (2) the duty of assistance (which might well be assumed as cosmopolitan in spirit, as discussed later in this study). In the list of principles of justice among peoples, Rawls

¹³ For an instructive summary of the criticism in this regard, see Leif Wenar’s “The Unity of Rawls’s Work” (2004: 265-67). Wenar’s reconstruction of Rawls’s work is meant to show unity in light of the notion of legitimacy. I think Rawls’s general theory of justice is best seen in light of the social minimum, rather than in this strong presumably correlative notion of legitimacy. I address this particular contention only indirectly.

¹⁴ Samuel Freeman claims that Rawls’ account of the Law of Peoples should be seen as an “essential part of *Political Liberalism*” (2007: 425). This is a possible reading of Rawls’s last project, but it may undercut the whole idea of an account of justice wider than the domestic one. If the idea is simply about what is just for a liberal democratic society to apply in its relation to other societies, this would just be partial and parochial (the undesired features of a just global order). Of course, the alternative (an account of justice wider than domestic justice) is not necessarily cosmopolitan.

explicitly states these two aspects: “Peoples are to honor human rights” and “Peoples have a duty to assist other people living under unfavourable conditions...” (LP: 37). And later on in his minimal list of human rights Rawls highlights the right to life, i.e. subsistence and security rights (LP: 65). It is in the connections and compatibilities between these elements where the case for basic goods as fundamentally a matter of justice come into sight.

There are three points making the case for basic goods as a matter of justice along the lines of Rawls’s LP. Firstly, liberal and decent societies (the ones forming the “reasonably just society of well order peoples” (LP: 17)) are supposed to be fair “from within” as a precondition for them to engage in a *just* international social contract. Peoples in the society of peoples have to be already guided by this very principle of respect to human rights, and particularly to the right to life. This would be, in a way, the background of international justice (a global basic structure, however minimal). The right to life is manifested as this commitment of justice within societies that also has to be observed in the regulations or principles of international relations that grants legitimacy and justice to their associative commitments. This is thus a substantive continuous element of the general theory of justice. In this “double presence” the right to life becomes a constant: a single constraint (and demand) that should be considered in the two levels of interaction (the two social contracts) as a criterion of justice.

Secondly, the constraint that the right to life (and human rights in general)¹⁵ imposes on nation-states is *just* in virtue of its being socio-political. In this regard, adding perhaps more weight to human rights, I am taking them to be more than “a standard for the decency of domestic political and social institutions” (LP: 80). The reason for this is that “the international social contract” becomes socio-political insofar as the agreements that peoples would be signing on, rather than being merely a standard, would amount to establishing legitimate laws shaping the corresponding institutions. Even though human rights are widely regarded as general moral rights (thus as a standard), it is true that their constant implementation in international law and institutions (their “operationalization”) amounts to their institutionalisation, however thin that may be.¹⁶ And this is a socio-political process in itself.¹⁷ In fact, the very observance of the Law of Peoples would inscribe them into such more institutionalized frameworks—which would be binding in virtue of Rawls’s principle number 2: “Peoples are to observe treaties and undertakings” (LP: 37).

Thirdly, Rawls’s account of the duty of assistance also makes the case for basic goods as a matter of justice. The duty of assistance (interestingly enough, an external duty, a duty

¹⁵ In putting forward human rights and its role within the Law of Peoples, Rawls endorses the assumption of a post-Westphalian world (or, putting it in Ulrich Beck’s (2000) terms, the reality of the second modernity). The function of human rights significantly touches upon the limits of internal autonomy of nation-states (it is an external constrain to traditional sovereignty) and the limits over the intervention against other peoples (LP: 79).

¹⁶ For an instructive approach to human rights, see Allen Buchanan’s *Justice, Legitimacy and Self-Determination* (2007), especially chapter 3. For a detailed discussion on the possibility of turning basic rights into constitutional rights, see Cecile Fabré’s *Social Rights under the Constitution* (2000).

¹⁷ Note that a robust conception of human rights appeals to a balance between what these rights capture as political (insofar as they could be institutionally contemplated) and what they capture as social (insofar as they invoke peoples rather than states and social cohesion – in the form of pluralistic publicized tolerant stable societies – rather than an absolute conception of the sovereignty of states).

towards third parties)¹⁸ is justified in terms of the “*justice-to-come*” for the recipient societies (not in terms of pure compassion, although such is not necessarily a negative value). Rawls clearly affirms this principle when he states: “People have a duty to assist other peoples living under unfavourable conditions *that prevent their having a just or decent political and social regime*” (LP: 73 emphases added).¹⁹ What can be more unfavourable than lacking the basic goods required for functioning as free and equal within particular polities? What might the duty of assistance so stated imply but the attribution of justice to actions and institutions that help a polity to establish a just socio-political regime?

In general, to argue for the duty of assistance as a duty of justice (as Rawls seems to be consistently doing) not only reflects the thesis that there are substantive connections or links among all societies worldwide, but also nurtures the consequent demand for *post-national* institutions of justice. The demand for the sufficiency threshold observed in the case of justice within states seems to be equally demanded within the international arena. The duty of assistance and the right to life capture the lexically prior principle as explained earlier. This reveals the consistency and cogency of Rawls’s general theory of justice, which adds weight to the claim that basic goods or the satisfaction of basic needs are a *fundamental* matter of justice.²⁰

V

Let me accentuate, by way of conclusion, the meaning of the term *fundamental* alongside the preposition *of* in the sentence “*fundamental as a matter of justice*”. There are several ways in which basic goods may be thought of as fundamental. Firstly, they are fundamental in a non-controversial sense, as the *sine qua non* conditions of subsistence. Secondly, it is fundamental insofar as they are pre-conditions of justice. Here is where the debate takes place. There is a strong and a weak sense of being a pre-condition of justice. In the weak sense, deprivation of basic goods becomes *unjust* in virtue of the “neutralizing” effect it has

¹⁸ This is interesting because the non-parties in the international agreement are non-parties only within the framework of the agreement, but certainly not from the point of view of the economic and institutional links they already have in ‘the real world’. There is sufficient empirical evidence that liberal and decent societies today (those who one might deem as such, i.e., the U.K, France, Germany, the U.S.A) interact with societies that very well classify as burdened societies mainly in terms of pure economic benefits, independently of the justice of their interaction in terms of political and social well justified morally stimulus. Besides, this apparently ‘non-party’ becomes a part once the implementation of the duty of assistance reveals the economic and institutional changes that such ‘assistance’ requires within the domestic realm and the realm of legitimate international institutions.

¹⁹ Note the wide range of socio-political elements that are involved in this sentence. As Rawls mentions (106-113) unfavorable conditions and assistance touch issues such as political culture (domination and oppression included), institutional designs, social cohesion, etc.

²⁰ It is clear that the criticism of philosophers such as Thomas Pogge and Charles Beitz regarding the relevant issue of the difference principle would only support my argument of the relevance of basic goods as a matter of justice. The fundamental element of basic goods (the sufficiency threshold) is observed both in the duty of assistance and in the more demanding proposal of a global difference principle.

on principles of justice. In this regard, if basic needs are not met, then this simply renders the entire theory of justice inapplicable. On this account, basic goods are conceived as a requirement *for* justice.

In the strong sense, it is necessary as a matter of justice that everybody has access to basic goods. Such an adequate standard, a sufficiency threshold, becomes an *internal reason* to justice. It is not just a material pre-condition, but a substantive pre-condition envisaged in the very theory of justice. Simply put, basic goods are conceived as a requirement *of* justice. There is a third sense of *fundamental* that supports directly the sufficiency threshold claim. This is that basic goods might be thought of as fundamental in the sense that *they entail global justice as such*. On this account, basic goods will be understood not only as a requirement of justice, but as *the* requirement of justice: what the justice of global justice particularly consists in.

Miller's and Rawls's theories of social justice, as discussed throughout the previous sections, envisage the second account (basic goods conceived as pre-conditions *of justice*); and even if sometimes they seem to favour the weak version (a requirement *for* justice), we may confidently claim that their overall theories incorporate the stronger version (a requirement *of* justice), or at least they are open to it. The sentence "a requirement *of* justice" also evokes the idea of radical thinking. Reasons *of* justice are rooted in the fact about the absence of the security of a dignified life of "the many," and that is an epistemological stance as well as an ethical-political one.

Overall, I have examined the continuity of the essential role of *basic goods* in the still ongoing theorisation about justice. Basic goods are not only basic in the uncontroversial sense of being the starting point of individual and social existence, but they are also fundamentally a matter of justice. This is a very meaningful assertion with regard to global justice since we cannot make sense of global social justice unless it consists in ensuring that every person has enough to lead a decent life.

In other words, if global justice is to be meaningful, it must robustly account for the rationale of justice as embedded in the quest for (universal) access to basic goods (it should at least illuminate the fundamentally just demand for securing basic goods, calling upon the satisfaction of basic needs as a matter of justice). And in view of the fact of the early stages of formation of theories of global justice (and the correspondent global institutions), the least one can reasonably and rationally ask for is that basic goods (the satisfaction of basic needs) are acknowledged as the core of justice. To say that the demand for the sufficiency threshold best captures the demands of global justice is, in the first place, a thesis about the fundamentals of justice in its own right.

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