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## Ideal and Nonideal Theory: A Conceptual Overview

**Abstract** *The article gives conceptual clarification on a distinction between ideal and nonideal theory by analyzing John Rawls' theory as presented in his books "A Theory of Justice" and "The Law of Peoples." The article tries to show the importance of ideal theory, while at the same time pointing out that the distinction, ideal and nonideal, needs further qualification. Further, the article also introduces the distinction of normative and descriptive into ideal and consequently nonideal theory. Through this four-fold distinction it is easier to establish the function of each theory and the separation of work-fields between philosophers, politicians and lawyers.*

**Key words** *ideal, nonideal, Rawls, principles, rules, normative, descriptive, society, interntional relations*

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Rawls is probably the most influential political philosopher of the 20th century. However, he is not an alluring writer. His writing is extensive and explanatory but not necessarily easy to read. His last book, however, *The Law of Peoples* (LP), seems to be different—an easier read but, unfortunately, also the least precise, least extensive and least explanatory of all of his works. Although the ideas presented in LP have undergone four different text versions, and have therefore been carefully considered, their value is still a matter of debate.

Rawls calls his theory presented in LP “realistically utopian” and he opens the book with the notion that he is trying to account for realistic utopia. This notion has been criticized. Being the servant of two masters, the idealistic and realistic one, Rawls' theory is either taken to be too idealistic or too realistic. As too idealistic, it does not deal with current controversial political issues, like those of severe poverty and the considerable differences in wealth and welfare among different societies; it uses the dubious word “peoples” to refer to politically organized societies and it suggests an international society without coercive measures. On the other hand, it is realistic because it accommodates non-liberal societies, and it narrows down the list of universal human rights. All of these aspects need careful examination.

The analysis undertaken here will first explain the structure of Rawls' theory and subsequently its content. Rawls divides his work in LP into

two explicit parts: the ideal and the nonideal. This division was previously seen in *A Theory of Justice* (TJ). However, since TJ is for the most part an elaboration of an ideal conception, the distinction ideal/nonideal is not given much space (TJ: §39 §58). Hence, I will first explain the difference and the need for the differentiation between the ideal and the nonideal theory before moving on to explain what these theories mean in substance.

## 1. Conceptual Clarifications

The first step in dealing with the issue of ideal and nonideal theories will be some conceptual clarification. I will start with a basic discussion of the concepts of the theory, principles and rules and the question of what makes a theory ideal or nonideal. I will then turn to Rawls' explanation of these theories.

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### 1.1. Notes on Theory, Principles and Rules

Given that my field of research is political philosophy, the questions I ask and the answers I seek are about how best to organize social life through public institutions. Arranging social life through institutions is a practical endeavor; I am interested in the theory of such an endeavor [such an arrangement]. Political theory, however, is practice oriented *per se*. This gives us two ways of thinking about political theory. First, it is a method of summarizing praxis, subsuming past events under practical rules and further under general principles. This is descriptive theory. This theory tells us about what habitually used to happen in the past. Taking this into account we can then make predictions about the future, i.e. we assume that the actions will continue to happen uniformly. The other kind of theory aims at orienting the praxis. It specifies the kind of conduct that would be appropriate within a specific practice. The rules of games such as football are akin to this kind of theory. This second type of theory is normative for practice. Descriptive theory states some state of affairs. Normative theory points to states of affairs that have not yet been obtained but are desirable. Both theories make use of principles and rules. Principles and rules of a descriptive theory are general statements, though it is important to note that they are not action-guiding but action-explicating. Normative theory makes use of action-guiding principles and rules.

Principles and rules are often taken to refer to the same actions. However, a distinction is important in political philosophy as well as in law

and politics. The word “principle” has its etymological roots in the Latin word *principium* meaning beginning, initiation, origin. It is a compound of the Latin adjective *primus* and the verb *capere*, and means “the first thing it takes to realize the project”; it points to the necessary conditions for the realization of the project (Domingo, 2010: 11). “Rule” has its etymological origin first in the thirteenth century and connects to concrete actions (Latin: *regare*) of a specific ruler (Latin: *rēx*).

Rawls lists five formal conditions for recognizing that something is a principle for a political order (TJ: §23). First, principles should be general. This means that it must be possible to formulate them without the use of any proper names or definite descriptions (TJ: 131-132). The second condition is that principles are to be universal in application. This means that principles should hold for everyone by virtue of everyone being moral. This means that all parties involved must be able to understand and use the principles in their deliberation. A third condition is that of publicity: parties will all know and accept the principles of justice and “their awareness of the general acceptance should have desirable effects and support stability of social cooperation” (TJ: 133). The fourth condition is that principles should address the correct ordering of conflicting claims, meaning that principles must serve to adjust competing demands. Finally, there is the condition of finality: “The parties are to assess the system of principles as the final court of appeal in practical reasoning.” (TJ: 135)

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In TJ, Rawls states that the rules are to satisfy a certain conception of justice and the conception of justice is formally defined through principles. Rules are adherent to principles, they are interpretations of the principles. An institution is just if its rules correspond to the principles of justice. A principle marks the beginning of the road; a rule indicates which direction we should take (Domingo 2010: 15). Regarding the distinction between principles and rules, I follow Ronald Dworkin’s discussion in his book, *Taking Rights Seriously* (1977). Hence, I assume that generally speaking, practice is directly guided by rules since they are more specific, and as such can be accounted for through principles (whether those that are action-guiding or those that are merely general descriptions). Dworkin differentiates principles from rules in three main aspects. As a matter of a degree: compared to rules, principles are broad, general, unspecific. This means that what would often be regarded as a number of different rules can be a manifestation of a single principle.

As a matter of desirability: principles refer more or less explicitly to some purpose, goal, entitlement, or value, are regarded from some point of view as desirable to preserve or to strive for. A principle like: “No man should profit from his own wrongdoing” states a reason that argues in one direction. It makes us decide what rule to apply in a specific situation (Dworkin 1977: 25).

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As a matter of exclusiveness: according to Dworkin, rules function in the reasoning of those who use them in an “all-or-nothing manner”. This means that if a rule is valid, it conclusively determines the result or outcome, e.g. “A maximum speed on the turnpike road is 60 m.p.h.” – any rule which asserts otherwise would be invalid. Principles differ from rules in that they have a dimension of significance but not validity. Therefore a principle may come into conflict with another principle of greater weight; one principle may be overridden and fail to determine a decision, but will nonetheless survive intact to be used in other cases where it may win in competition with some other principles of lesser weight. One who must resolve the conflict has to take into account the relative weight of each. This judgment will often be a controversial one. Nevertheless, it is an integral part of the concept of principle to ask how valuable it is (Dworkin 1977: 25). Rules, on the other hand are either valid, in which case the answer they supply must be accepted, or they are not, in which case they contribute nothing to the decision (Dworkin 1977: 22). If once formulated rules conflict, only one of them “survives”. Principles can account for more than one rule, depending on the concrete situation, as long as the principle stays as a final court of appeal and as long as it shows us in what way the system of rules is to be ordered.

## 1.2. Idealization

The distinction between ideal and nonideal has to do with the conditions in which a theory evolves. There are two ways a theory can be said to be “ideal”. It can ignore certain existing aspects, which are deemed inessential, or it can add certain non-existing aspects which are deemed desirable (cf. O’Neill 1989). The first is usually referred to as an abstraction, while the latter is a genuine idealization. Abstractions are often used in the natural sciences. The method is also known as Galilean because it builds on the method Galileo used for establishing gravitational acceleration. Galileo investigated how bodies that differ in mass move in a medium of no resistance. The differences in their [velocities] had to depend solely on their mass since that was the only distinctive

characteristic in the experiment. Hence, Galileo abstracted all unnecessary, possibly unfavorable conditions in order to find an answer for his research problem. This method is often referred to as idealization although it is clearly an abstraction.

Genuine idealization, however, is usually used in the social sciences where still non-existent but desirable states of affairs are contemplated, e.g. political or social systems. Here scientists usually do not abstract from the given conditions but rather embellish the present conditions: they imagine favorable natural conditions and/ or full compliance of the agents. Hence an ideal theory emerges under embellished, not real, conditions. The reason for doing this is the simplicity of the research and impossibility to account for all unfavorable factors. The logic behind the endeavor is to see what the best possible case looks like and then to use it as a standard for all worst-case scenarios. Consequently, ideal theory deals with best possible cases and emerges as a product of genuine idealization.

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Nonideal theory is its counterpart; it takes reality at face value with all of its unfavorable conditions. It either summarizes, i.e. describes these conditions and the actions of the agents under it, or it points to how the agents should act if these unfavorable conditions were to be obtained.

Both ideal and nonideal theories can be either descriptive or normative. We can imagine that an ideal theory, a theory about some embellished state of affairs, could be descriptive of that state of affairs; or it could prescribe actions for the elements of the embellished state of affairs. The same goes for a nonideal theory. It can simply describe, or it can offer concrete action-guiding principles for the current nonideal state of affairs.

Thus, the function of nonideal theory, both in its descriptive and normative versions, seems clear: it deals with reality. It either describes reality or prescribes the ways it ought to be changed. The function of ideal theory, however, is not immediately clear. It is usually said that ideal theory is a kind of guideline or a goal for the real world. The question is how it guides. There are, in my view, two primary ways. Ideal theory may be seen as:

1. giving a final desirable state of affairs (teleological function);
- or
2. giving the kinds of practice-guiding principles that would be appropriate for societies in which the ideal state already obtains (deontological function).

In the first case, descriptive ideal theory is a guideline, a goal for real-world affairs. In this case, normative nonideal theory does the concrete work, i.e. specifies the steps, the concrete actions, the rules to be undertaken in order for an ideal state of affairs to come into being. The action-guiding principles, or rather specific rules, pertain to the normative nonideal theory. The descriptive ideal theory formulates goals. These, in turn, guide the principles of normative nonideal theory.

In the second case, ideal theory coincides with the normative nonideal theory in specifying the concrete steps. Agents of a real world act in the way that agents of an ideal world would act. The idea is to condition current affairs for the world to come. This second path is more demanding because it puts enormous pressure on reality and does not allow for gradual change to take place. In TJ, Rawls uses the ideal theory in the first sense.<sup>1</sup> TJ gives us principles for an individual just society; these principles account for our reasonable, rational and impartial thinking about justice. They describe how institutions would be organized under ideal, i.e. favorable, conditions. TJ gives us a descriptive ideal theory about justice. In TJ, Rawls even goes one step further and speaks of institutional arrangements that would accommodate these principles of justice. He is addressing the question of what a political system that respects his two principles of justice should look like. His answer is that it should be a democracy in which private property is recognized. Thus, in TJ, Rawls gives a normative ideal theory as well.

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For my discussion, however, it is interesting to determine what concrete impact this ideal theory has on our daily political life, which is not ideal. If we take it to be a goal towards which we strive, we also need to specify the steps how to get there. This work is done by the normative aspect of nonideal theory. In Rawls' example, if people feel they have been treated unjustly they should show civil disobedience, they should refuse to comply with unjust policies, they should practice their public reason and constantly reflect on principles of a just theory and on judgments of daily moral decisions. In this way, citizens of the nonideal unjust world will come to improve their world ever more, in the hope of one day living in a society which affirms the two principles of justice.

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1 This does not mean that Rawls is making concessions in the direction of consequentialist philosophers. The content of an ideal theory is constantly in process. Its goal is not some previously defined value or standard. All the elements of the procedure and the outcome of the constructivist procedure are changeable and constantly going through the process of reflective equilibrium and public reason. His theory is not asking for sacrifices from any member or part of society. Rawls' idea is that all need to be "satisfied".

As we shall see, LP is also for the most part aimed at giving an ideal theory: ideal and perfectly complying societies under favorable conditions choose principles of a just world order. Rawls envisions a Society of Peoples which would correspond to the ideal principles of global justice. Rawls is rather scant in describing the concrete institutions in the ideal realm, and while he mentions organizations like the United Nations and the World Bank, we do not get any elaboration of these ideas. As concrete steps for getting to the ideal state of affairs, Rawls explicitly lists war, intervention and global public reason. I hope to show here that this, though not wrong, is not a sufficiently extensive elaboration on the rules for nonideal theory. These are guided by ideal theory, and hence Rawls' principles for the ideal theory of international relations are inadequate. His theory on the whole is right with respect to its structure, methodology and elements. However, the final result for the principles will need to be revised, which I hope to do here.

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The distinction between the descriptive and normative within ideal and nonideal theory is not explicit in Rawls. Rather, it is implicit, and it can, in my opinion, be understood from the four goals of political philosophy Rawls states in the opening chapter of *Justice as Fairness* (JF).

In citing the main goals of political philosophy, Rawls places the primary focus on the most disputed questions (JF: 2). We start with defining the problems (descriptive non-ideal theory). The second goal of political philosophy is, according to Rawls, that of orientation (JF: 3). The descriptive ideal theory accounts for the orientation. The third goal of political philosophy is that of reconciliation; reconciliation with our world in the sense of understanding its institutions and their rationality, and consequently their possibility for change. This goal is achieved through extensive work on normative nonideal theory. Finally, normative ideal theory deals with the principles of utopia, but it follows from my initial discussion that the premises of normative ideal theory are not entirely utopian, but actually practically possible. This means that the principles of normative ideal theory can take the form of rules that have been confirmed to be answers to concrete political problems, and can therefore be used to once more extend our thinking about the future desirable state of affairs.

The four questions that ideal and nonideal theory for political society (or the world at large) in their descriptive or normative forms answer, are the following:

What does our society/world look like? (descriptive nonideal theory)

What does a society which mitigates undeserved inequalities look like? What does a world of satisfied peoples look like? (descriptive ideal theory)

What should we do in order to become a well-ordered society? What should we do in order to become a part of a society which satisfied peoples? (normative nonideal theory)

How should the political institutions for an ideal domestic society look? How should the institutions for a world of satisfied societies be arranged? (normative ideal theory)

Table 1 shows schematically how the above questions are answered, and how the entire categorization works within Rawls' theory of domestic and global justice. Having established this, I turn to the explication of substantial elements of these theories.

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Table 1:

|             | <b>NONIDEAL</b>  | <b>IDEAL</b>   |
|-------------|--|--|
| Descriptive | State of undeserved inequalities (TJ: §2)/ War and atrocities (LP: 7)  | Well-ordered society with its two principles of justice (TJ: Ch II) /Society of well-ordered peoples with the principles they abide by (LP: 35-44) |
| Normative   | Civil disobedience; conscientious refusal (TJ: §55-56), coercive instruments of state (TJ: 241) / War; Intervention; Assistance (LP: 89-113) | Property owning democracy with its institutions (JF: 89) / Institutions similar to UN, WB, centre for public reason (LP: 44)                       |

## 2. Ideal Theory in Rawls

### 2.1. Ideal Theory for an Individual Society

Rawls explains the distinction between ideal and non-ideal theory as follows: "The intuitive idea is to split the theory of justice into two parts. The first or ideal part assumes strict compliance and works out the principles that characterize a well-ordered society under favourable circumstances." (TJ: 245)

This means that initially the circumstances in which theory evolves have been idealized: society is taken to be self-contained, the population consists of physically and mentally capable adults and it exists under favorable natural and historical conditions, i.e. no wars, natural catastrophes, and only moderate scarcities (Valentini 2009: 332). Secondly,

it means that capable adults are fully complying with the principles of justice, i.e. with just institutions. Rawls' TJ is, for the most part, an ideal theory, i.e. it explains how duties and rights are distributed within an ideal society in which everyone finds his/her legitimate expectations fulfilled, i.e. everyone is satisfied. This means that institutions take into account undeserved inequalities, e.g. differences in talent, class, race, etc. and mitigate them in a way that allows everyone to practice his/her idea of a good life. Society is a cooperative venture. Its ideal version does not demand that some sacrifice their life plans for the good of others.

### *2.1.1. Descriptive Ideal Theory for an Individual Society*

Principles of justice for an individual society are arrived at through the constructivist method, using the idea of the original position as a device for impartial decision-making. The point is that those who engage in social cooperation choose the principles, which in turn assign basic rights and duties to everyone (TJ: 11). Members of a society choose these principles from behind the veil of ignorance, not knowing their social position or any advantages or disadvantages they may have in actual society. The principles are an ex ante agreement on the charter of mutual rights and duties.

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Once in place, the ideal theory accounts perfectly for the sense of justice of fully-capable adult persons. This means that they do not think of their society as being unjust. This again means that, although the principles have been chosen through impartial reasoning and are not predetermined by any specific value, authority, or notion of personal advantage (they are ex-ante), there is some capacity common to all men that accounts for them. Rawls calls this common capacity a sense of justice. Principles of justice describe its content. By introducing the notion of a sense of justice, Rawls occupies a middle position between realism and relativism: there is a capacity common to all, but its content is not predetermined by any pre-given notion; it develops and changes out of itself. This common faculty or sense of justice develops in three stages:

1. The morality of authority develops in early childhood, when the child takes the parent as authority. It is governed by the "first law: given that family institutions are just, and that the parents love the child and manifestly express their love by caring for his good, then the child, recognizing their evident love of him, comes to love them." (TJ: 490) Children obey their parents without questioning them since they do not have

sufficient knowledge and/or lack the concept of justification. What they have, though, is a feeling of security and trust and love which is a reaction to the love of their parents.

2. The morality of association encompasses the moral standards appropriate to an individual's role in the various associations to which he belongs. It is governed by the "second law: given that a person's capacity for fellow feeling has been realized by acquiring attachments in accordance with the first law, and given that a social arrangement is just and publicly known by all to be just, then this person develops ties of friendly feeling and trust toward others in the association as they with evident intention comply with their duties and obligations, and live up to the ideals of their station." (TJ: 490) Attitudes generated at this stage play a decisive part in the stability of political society. If the fellow feelings of trust and friendship persist, than there is no fear of diffraction and free-riding, and no need for coercion (CP: 105).

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3. The morality of principles is practiced by individuals who become attached to principles themselves in accordance with the "third law: given that a person's capacity for fellow feeling has been realized by his forming attachments in accordance with the first two laws, and given that a society's institutions are just and are publicly known by all to be just, then this person acquires the corresponding sense of justice as he recognizes that he and those for whom he cares are the beneficiaries of these arrangements." (TJ: 491) At this stage the person becomes attached not to the other persons, but to the principles.

Thus, we can say that Rawls' conception of justice with its two principles describes our sense of justice. Ideal theory for an individual society presented by the two principles is descriptive of an ideal state of affairs, which gives content to our sense of justice and actually summarizes our thinking about how justice should be. This descriptive ideal theory is normative for our world because it asks for changes in it until our sense of justice is fully satisfied. In a society ordered by principles of justice all three stages of moral development work together. The development from a lower to a higher stage can always be triggered by questioning authority in the context of fulfillment of one's own potentials and expectations.

### 2.1.2. *Normative Ideal Theory for an Individual Society*

In TJ, Rawls even goes a step further and explains what the institutions of this ideal society should look like. This account should add to the

stability of the whole project. Rawls elaborates on possible ideal institutions through the so-called four-stage procedure. Each stage requires a thinner veil: in the first stage, two principles are chosen; in the second, constitutional provisions are decided upon; the third decides on legislation; and the fourth establishes an impartial judicial system. At every stage, the parties know more, until finally at the stage of judicial review the veil is completely lifted. Rawls thinks that the institutional organization that would be picked under these conditions is that of a property-owning democracy. Property-owning democracy realizes all the main political values present in two principles of justice (JF: 135). It foresees widespread ownership of capital and means of production so that workers can control real capital and their own work conditions, either as private persons or as members in collective bodies such as syndicates, organizations etc. Rawls does not exclude the possibility of non-workers being owners of means of production, but excludes the possibility of them being the sole owners. By giving access to the means of production to everyone, the condition of self-respect is fulfilled. In classical welfare states, welfare of some depends on the charity and good will of others and does not give any incentive to the beneficiaries to work harder in order to improve their position. A property owning democracy assures fair and equal liberties, as well as opportunities. In addition, through an extensive taxation system it ensures that huge differences among social classes do not emerge (JF: 161; TJ: 278-79).<sup>2</sup> Thus, normative ideal theory uses principles of justice and asks which institutions express these ideas in the best way. It asks, in other words, what political reality in the ideal society should look like.

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## 2.2. Global Ideal Theory

Rawls develops an idea of justice for the world-order as an extension of the general social contract idea for an individual society. This means that he uses the same justification, i.e. the same methodology as in the individual case, in order to arrive at the principles of justice for the world at large. This also means that the theory of global or international justice is also an ideal theory.

The separation of the ideal and nonideal part is explicit in LP. Ideal theory, again, evolves under favorable natural conditions e.g. well-ordered

<sup>2</sup> Rawls writes: "I now want to survey what would seem to be the main features of a well-ordered democratic regime that realizes those principles in its basic institutions. I outline a family of policies aimed at securing background justice over time, although I make no attempt to show that they will actually do so." (JF: 135)

government structures, no unreasonable scarcity of resources, no natural catastrophes. Furthermore, it deals with fully compliant subjects: well-ordered, satisfied societies, which Rawls named “the peoples”.<sup>3</sup>

### 2.2.1. *Global Descriptive Ideal Theory*

The procedure for arriving at the principles of global, i.e. international justice is again one of the original positions. Parties are placed under the veil of ignorance and contemplate the principles for a just world order. The parties are representatives of societies. They do not have any particular knowledge about the society they belong to but are aware of the general facts of geography, sociology, politics, economics, etc. The parties here are not noumenal, but political selves, or rather, the ideal statesmen with no particular knowledge. They know, however, that their society has a particular conception of justice that is worth defending. Even at the level of methodology, the analogy with the domestic case fails since Rawls realizes that he needs two original position procedures. These are to be completed in parallel: one for well-ordered liberal societies and one for well-ordered nonliberal societies. The necessity of two original positions comes from the differences in political regimes and the need for equality of the parties in the original position. Liberal regimes defend the conception of justice that is based on principle-thinking, or the highest stadium of moral development; non-liberal societies are very much dependent on the morality of association but, as will be explained in chapter three, they do account for principles in the sense that their citizens actively question the authorities and demand an explanation when they are not satisfied. Members of these non-liberal societies, so-called decent societies, are also satisfied.

Thus, both types of societies are able to organize themselves in such a manner to satisfy their populations, which means that the institutions of these societies are well-ordered. They share a common capacity for being well-ordered. However, a global theory will ask how these well-ordered societies conduct their foreign-policies. Analogous to the sense

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3 The political system of well-ordered peoples is such that human rights of its peoples are respected, there exists a common conception of justice which everyone is ready to defend and everyone is satisfied with the institutional implications of this conception. Furthermore, everyone has the explicit or implicit right to express their opinion: either directly, in public forums or through representatives. Well-ordered peoples may be, but are not necessarily, liberal. Liberal well-ordered peoples, however, ideally have the kind of political institutions that support Rawls' two principles of justice.

of justice of the individual, well-ordered societies have a moral nature which accounts for foreign relations being reasonable, i.e. foreign relations which take the interests of others into account. The moral nature of societies makes sure that people continue to be satisfied with their domestic arrangements. Societies act morally if foreign relations protect internal well-orderedness, support internal well-orderedness and assist in the cases when internal well-orderedness is endangered. Hence, at any time, members of these societies need to persist in their feeling that they live in just societies.

Therefore, there must be three kinds of principles: those of protection, enhancement and assistance in well-orderedness. Rawls lists eight principles, which have their basis in the history and tradition of international law, and have proven to be successful. I think Rawls' intention in the ideal theory was correct, even if I do not agree with the choice of principles – a topic I will not pursue here.

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### *2.2.2. Global Normative Ideal Theory*

Again analogous to the domestic case, we would expect that ideal theory suggests what the institutions among these well-ordered peoples should look like. Now, the analogy is incomplete in the sense that there is no unified institutional body that would delegate rights and duties and the distribution of social benefits. There is no world state.

Rawls is decidedly modest in explicating institutional arrangements that are to support the described principles. The peoples are to form a Society of Peoples, i.e. a loose union of coexistence and cooperation that cares for the same values expressed in the eight principles of the law of peoples, but which does not have a political constitution. The peoples form different agencies that are to deal with different aspects of their cooperation: an ideal version of the UN or an ideal version of the IMF, or centers for consulting and discussion. These institutional arrangements are mentioned briefly because the very element of well-ordered societies and their foreign policy attitudes have not been realized and hence their interaction would assume double idealization (one at the level of domestic policy and the second on the level of foreign policy) and would be hardly imaginable in the reflective equilibrium procedure.

The point of orientation or teleological aspect of an ideal theory is analytical inquiry into the possibilities of foreign policy of current states.

Thereby, descriptive ideal theory serves as a guideline. Normative aspects of the ideal theory are rather scarce.

### 2.3. Problems with Ideal Theory

The concern of many theorists (Cohen, Farrelly, Valentini) is that this idealization, which seems necessary in order to make it clear which state of affairs we wish to have, makes the theory too fact-insensitive (Cohen) or too far from reality that it is impotent as a concrete problem solving directive or, for that matter, as a motivational force. Hence, there are two open questions: How does ideal theory offer solutions to real-world problems? How does ideal theory offer guidance if it is too far from reality? In my view, the first question is easy to answer since the ideal theory is not supposed to offer a concrete hands-on solution to a concrete problem. It “is a way of continuing public discussion when shared understandings of lesser generality have broken down.” (PL: 46) The task of political philosophy and ideal theory is to reduce (hopefully resolve) such disagreements, offering a “public framework of thought” (PL: 110) from within which to assess questions of justice. In other words, it is supposed to make us aware of the direction in which solutions to the problem may lie. As already indicated, it will be the role of normative non-ideal theory to provide us with the actual steps for solving the problem.

The second question is harder to answer: if it can be shown that ideal theory does not motivate or is vague as a guide, then it does not seem to have any function at all. It can fail as a guideline if it is too utopian or if people simply do not use it as their shared platform for settling their disputes. The reasons for that may be many: laziness, moral conformity, selfishness etc. However, the answer to this skepticism about the ideal theory was conclusively given by Laura Valentini: “The fact that people lack the motivation to act in accordance with principles of justice is certainly regrettable. However, it does not count as a reason against the validity of a conception of justice. The point of a theory of justice is precisely to give us a conceptual framework from within which to criticize existing agents who do not conform to it. If it is reasonable to expect compliance, the fact of actual non-compliance tells us nothing about the adequacy of the theory itself.” (Valentini 2009)

The charge of utopianism also does not hold for Rawls’ theory. Rawls thinks that the ideal theory he presents is the one “that we are to achieve

if we can.” (TJ: 246) This simply means that the theory is created by men for men, within the boundaries of human possibilities. He follows Rousseau in taking “men as they are and laws as they may be.” (LP: 9) The key figure in constructing the ideal theory of justice is Rawls’ reader and his reflecting powers. All elements of construction are changeable if, for example, our considered judgments, which are the starting point of construction, change. This is however, unlikely to happen.

This still does not answer the question how an ideal theory guides action in real-world circumstances that are less than ideal and where concrete injustices arise. The straightforward answer is that ideal theory does not offer concrete rules, concrete “ways out” of real world problems. It offers the best possible end scenario from which we can take how best to cope with the historical, natural and personal contingencies. Solutions to concrete problems are given by what I call normative-nonideal theory which bridges the gap between real world problems and the ideal state.

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### **3. Nonideal Theory in Rawls**

In defining nonideal theory, Rawls writes: “Nonideal theory is worked out after an ideal conception of justice has been chosen; only then do the parties ask which principles to adopt under less happy conditions (...) one part consists in governing adjustments to natural limitations and historical contingencies, and the other principles for meeting injustice.” (TJ: 245)

The real world is full of contingencies which need to be dealt with in order to draw nearer to the ideal state of affairs, and this is the work that is to be done by nonideal theory. Once the ideal theory is identified, at least in outline, “nonideal theory asks how this long-term goal might be achieved, or worked toward, usually in gradual steps. It looks for courses of action that are morally permissible and politically possible as well as likely to be effective.” (TJ: 246)

Holding to my proposal to split the ideal, as well as nonideal, theory into its descriptive and normative parts, I will conclude here that descriptive nonideal theory identifies the problems in the real world, e.g. lack of talent, significant class differences, hunger, diseases, corrupt institutions, wars etc. Ideal theory then shows how world affairs are supposed to be, and normative nonideal theory gives concrete direction about what we should do in order to get to an ideal state of affairs.

Normative nonideal theory bridges the gap between the nonideal world and an ideal state of affairs by specifying concrete actions as answers to concrete problems. It is still theoretical thinking, although more substantial, more specific than that of ideal theory. Alluding to Dworkin's distinction between principles and rules, I can claim that normative nonideal theory is "inhabited" by rules. These are the "shoulds" for the behavior of real-world agents in specific situations, whereby ideal theory is a goal. Ideal theory dictates the objective, while nonideal theory dictates the route to that objective (Simmons 2009). It "studies the principles that govern how we are to deal with injustice." (TJ: 8)

### 3.1. Normative Nonideal Theory for an Individual Case

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In defining nonideal theory, Rawls writes: "Nonideal theory, the second part, is worked out after an ideal conception of justice has been chosen; only then do the parties ask which principles to adopt under less happy conditions...one part consists in governing adjustments to natural limitations and historical contingencies, and the other principles for meeting injustice." (TJ: 245)

Hence normative nonideal theory deals with both unfavorable, natural or manmade, conditions as well as with noncompliance of the agents of justice. Ideal theory lays out what institutional arrangements, which make the best out of these contingencies, look like. Normative non-ideal theory offers rules concerning what to do when this is not the case.

Let me give a few concrete examples. Ideal theory, in Rawls' interpretation, advocates the most extensive total system of equal liberties. A particular historical and social situation may be such that there is a presence of extremist groups (this would be a highly nonideal situation). Thus, normative nonideal theory needs to provide us with a rule specifying how to react in these situations. The concrete rule may require that the liberty of conscience and freedom of thought be narrowed (cf. TJ: 248). Hence, the total system of equal liberties is still the same, the ideal is preserved, and it is only narrow rather than wide, i.e. some liberties are not practiced to their fullest extent or are temporarily suspended.

Furthermore, normative nonideal theory is said to provide rules for the cases of natural limitations. This means that ideal theory presupposes that all individuals may be treated as free and equal, with completely developed moral powers and completely capable of creating and following their own visions of a good life. However, it may be that due to

some misfortune or accident, individuals lose the capability to advance their own interests, i.e. are no longer capable of making decisions for their own good. These individuals, e.g. the seriously injured or mentally disturbed, behave similarly to children. Not only are they incapable of advancing their visions of a good life, they can even seriously damage it. Hence, others need to act on behalf of these people, and do for them what they would do if they were completely rational. Others need to act paternalistically. Paternalistic decisions are guided by the benefactors' own preferences and interests. In the event that benefactors know little about beneficiaries, they act for the beneficiaries as they would act for themselves: from the standpoint of the original position, thereby having ideal theory as a final court of appeal. The concept of paternalism is a complex one and the problems that arise from it will be discussed in chapter five, but here it is worth noting that although it may never be a principle of an ideal theory, since it means taking decisions for others, it can be used as a rule in a concrete case in order to approach an ideal state of affairs.

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Finally, normative nonideal theory deals with cases of noncompliance, or as Rawls terms it in TJ, of partial compliance. There may again be two cases of partial compliance: one in which individuals do not fully comply and one in which institutions do not fully comply. In the case of the former just institutions are in place but individuals do not fulfill their part of the social duty and free ride. The state deploys coercive measures against these cases that include legal punishment, even imprisonment. Rawls says that even under reasonably ideal conditions it would be hard to imagine a successful income tax on a voluntary basis, because owing to human psychology such an arrangement would be unstable. The goal for introducing a public system of rules with a system of sanctions is to overcome this instability.

The other case of partial compliance is when institutions do not correspond to the principles of justice and do not account for our sense of justice, i.e. we feel that injustice is being done. In those cases, individuals, or rather citizens, are allowed not to comply with the demands or orders of the institutions for the sake of re-establishing justice. Rawls elaborates on two ways for doing this: civil disobedience and conscientious refusal. Civil disobedience occurs when the narrowing down of liberties for a certain group has crossed the limit of historical or social tolerance, i.e. of what may have possibly been tolerated for the sake of preserving or arriving at just institutions. The duty an individual has

towards the law, which may have been legitimately elected by the majority, conflicts with the right to defend one's own liberties and the duty to oppose injustice. Hence, the individual decides to be disobedient, to use a concrete action for the sake of re-establishing justice.

Rawls defines civil disobedience as "a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about change in the law or policies of the government." (TJ: 364) It is a political act provoked by a quest for justice, not group or self-interest, although these may sometimes coincide. It is furthermore a public act, which means that it is done openly with fair notice; not covertly or secretly. One can compare it to public speech, and hence it is nonviolent. It corresponds to the ideal of public reason. After all, ideal theory presupposes an ongoing discussion of the members of a society and the possibility of constant improvement of the precepts of justice. Nonideal theory uses this notion of free, open, nonviolent speech and engages it where the precepts of justice have been violated. Civil disobedience therefore uses an ideal method in nonideal circumstances, and in that respect it also expresses the disobedience to law within the limits of fidelity to the law. It appeals to the sense of justice in the majority.

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Conscientious refusal is a concept very similar to that of civil disobedience; it implies noncompliance with a more or less direct legal injunction or administrative order, e.g. refusal of a convinced pacifist to serve a military service. One's action is known to the authorities. It is a covert act and not perpetrated in a public forum, nor one which appeals to the sense of justice in the majority. It is not necessarily based on political principles but rather on religious or other principles at variance with the constitutional order. However, the principles are not supposed to be incompatible with the constitutional order overall, but rather in certain aspects, and as such generally acceptable. To apply conscientious refusal is to decide in the concrete case that within the individual's framework of justice there are certain aspects that are not satisfactory to one's personal well-being, and it is acceptable to express that.

### 3.2. Normative Nonideal Theory for International Relations

In LP, Rawls also makes the distinction between ideal and nonideal theory. The descriptive part of nonideal theory will not be elaborated here, since Rawls does not pay much attention to it. Suffice to say that Rawls identifies the concrete problems of our world in the opening pages of

LP as: unjust war, oppression, religious prosecution, denial of liberty of conscience, starvation and poverty, genocide, mass murder, etc. (LP: 7). Rawls then goes on to construct an ideal state of affairs which does not have these problems and hopes the schema he offers will then provide answers even to the problems he does not mention.

Ideal theory is a description of the world of well-ordered peoples. Hence we read in part three of LP that the ideal conception should guide the way that well-ordered peoples deal with non-well-ordered peoples (LP: 89). A few lines later we read: "On the assumption that there exist in the world some relatively well-ordered peoples, we ask in nonideal theory how these peoples should act toward non-well-ordered peoples." (LP: 89) The final goal is that of a peaceful world of satisfied societies. It is then presupposed by the normative nonideal theory which explains how this world might be achieved "or worked toward, usually in gradual steps." (LP: 89) Normative nonideal theory is a transitional theory which explains how "to work from the world containing outlaw states and societies suffering from unfavorable conditions to a world in which all societies come to accept and follow the Law of Peoples." (LP: 90)

In LP, Rawls also writes that normative nonideal theory should answer the problems of unfavorable conditions as well as to those of noncompliance: "One kind deals with conditions of noncompliance, that is, with conditions in which certain regimes refuse to comply with a reasonable Law of Peoples. These we may call outlaw states, and I discuss what measures other societies — liberal peoples or decent peoples — may justifiably take to defend themselves against them. The other type of nonideal theory deals with unfavorable conditions, that is, with the conditions of societies whose historical, social, and economic circumstances make their achieving a well-ordered regime, whether liberal or decent, difficult if not impossible." (LP: 5)

Consequently, Rawls understands all the natural, historical and social circumstances that under unfavorable conditions prevent a society from having a viable government and being a respectable member of the international community. Such a society is not aggressive per se, nor expansive, but it lacks political traditions, cultural traditions, human capital and know-how and often also material and technological resources for being well-ordered. In that sense, it is "burdened" and needs help. Normative nonideal theory explains how far this help should go and what kind it should be.

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Rawls' thesis is that a well-ordered society is not necessarily rich, neither in resources nor in gross domestic product (GDP). It is well-ordered in the sense that it has an adequate political structure which enables a rational use of the available resources for the purposes of the society's conception of justice. Hence, its people are satisfied: they have the minimum or even more than the minimum means of subsistence and power to express and develop their conceptions of a good life within the political system they inhabit, i.e. they are free to determine their own fate. The assistance towards burdened societies would then try to undo the consequences of burdens. Nonideal normative theory that deals with unfavorable conditions for the world at large criticizes policies that are imposed externally and against the will of the burdened society. Policies aimed at changing or establishing political institutions in a certain country need to be accepted within the society as their own. Outsiders may suggest and educate, no more, no less. Rawls is very concrete on this. Therefore what he calls the principle of assistance is actually a concrete rule of assistance, which per se excludes other ways of assistance, e.g. simply giving monetary donations. Rawls explains that there is no easy recipe for helping burdened societies; the rules employed in a specific situation may vary from one burdened society to the next.

The noncompliance type of non-ideal theory deals with despotic or imperialist aspirations of so-called "outlaw states". These states directly violate the values of liberal and decent societies. Even more so, they infringe on basic human rights, on the domestic level and in their foreign policy, and violate the codes of international cooperation. This means that they wage wars for reasons other than self-defense and are unreliable partners for international agreements since they only pursue the interests of an elite minority. Hence they deliberately fail to comply with international rules and are not guided by the ideal theory in their internal or foreign affairs but by the interests of their corrupt elites. If such a society wages a war against a well-ordered society, the well-ordered society has a right to self-defense. A forceful intervention may also be called for if the offenses against human rights are egregious and other means of persuasion, such as diplomatic talks or economic sanctions, have been exhausted. Intervention in these cases is acceptable or even called for.

Rawls develops a theory of just war. It specifies rules that may legitimately be used to counter noncompliance, i.e. rules that are morally permissible. The idea is that war is acceptable only as a transitional tool

which leads towards a peaceful and just world, that is, as a measure of normative nonideal theory that leads to the ideal state of affairs.

However, before they go as far as using violent measures, well-ordered societies may publicly criticize the policies of outlaw states, or they may deny those outlaw regimes economic assistance and refuse to admit them to mutually beneficial organizations. Here, Rawls distinguishes between primitive outlaw states that do not seek contact with the well-ordered societies and those that are more advanced and do (LP: 93). The former may be influenced only by force, i.e. war, while the latter may change their practices under the influence of economic or cultural sanctions.

Table 2 below summarizes what has been said thus far with respect to the actions nonideal theory takes to be appropriate regarding the conditions in which the theory evolves and agents that are going to be subject to the specific rules of nonideal theory.

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Table 2:

| <b>NORMATIVE<br/>NONIDEAL THEORY</b> | <b>DOMESTIC JUSTICE</b>                                 | <b>INTERNATIONAL JUSTICE</b>                  |
|--------------------------------------|---|---|
| Unfavorable conditions               | INDIVIDUAL: paternalism                                 | SOCIETY: duty of assistance                   |
|                                      | INSTITUTIONS: institutional limitation of liberties     | INSTITUTIONS: /                               |
| Noncompliance                        | INDIVIDUAL: legal punishment                            | SOCIETY: public critique; sanctions; just war |
|                                      | INSTITUTIONS: civil disobedience/ conscientious refusal | INSTITUTIONS: /                               |

### 3.3. Problems with Nonideal Theory

Normative nonideal theory mandates specific rules that are “morally permissible, politically possible and likely to be effective.” (LP: 89) However, Rawls does not explain how these three conditions are to be weighed against each other, e.g. is that which is politically possible but morally questionable (although it may be effective), going to be given a greater value than morally valuable but politically undesirable and questionably effective? Or is the goal to find the optimal policy that satisfies all the three requirements in the best possible way (Simmons 2009)?

However we decide to answer these questions, it is certain that demands for moral permissibility, political possibility and factual effectiveness

need interdisciplinary collaboration of philosophers, politicians and lawyers on the one hand and extensive and solid ideal theory on the other. Rawls' theory is capable of living up to this task.

#### 4. Conclusion

Rawls' theory of justice, in its individual as well as its global version, is aimed at defining the principles of justice. Rawls' aim is to define an ideal theory capable of serving as a goal for the world here and now. The ideal for an individual case is a well-ordered society. The ideal for the world at large is a society of satisfied peoples. The changes that need to be implemented in our world, here and now, in order for it to approach the ideal need to be undertaken in gradual steps. Ideal theory establishes the principles of justice; normative nonideal theory then provides, in outline form, the steps towards it. Hence, Rawls specifies the rules that need to be followed in order for the ideal to be reached.

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Both theories, the ideal and the nonideal, are indispensable aspects of a comprehensive theory of justice. Nonideal theory on its own lacks an objective, an aim. Nonideal theory takes its elements and the natural circumstances at their face value, without any idealization. This means that the conditions in which the theory emerges may be "unfavorable", i.e. there may be wars, natural disasters, extreme scarcity of goods, diseases, etc. It also means that the political will of the peoples may not be stable enough for everybody to comply. Nonideal theory can provide a proper answer to these "unhappy conditions" only when there is an ideal theory on hand. Responding to the concrete case, giving a concrete rule, presupposes the existence of some principles. These principles direct the order of rules and resolve their conflict.

The key component of Rawls' ideal theory is the concept of a well-ordered society with its conditions of internal well-orderedness or conditions for their foreign policies. In LP, a well-ordered society is called the peoples, and it is the world of satisfied peoples, which is the ultimate goal of Rawls' theory of global justice. This construct is a matter of philosophical research, while the concrete rules for achieving it is a matter of international legal advisors. Politicians for their part are doing the immediate work on "the field," researching the actual, immediate conditions in which the real world finds itself. Ideal aspects of a theory fall within the domain of philosophers, the normative nonideal aspect is the domain of lawyers, and the descriptive nonideal that of politicians.

If all that has been delineated thus far is conclusive, then it is clear that the distinction between ideal and nonideal needs further qualification regarding the descriptive and normative. However, that which has been shown here of Rawls' theory can be applied to many other philosophical theories of justice.

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#### Milica Trifunović

Idealna i neidealna teorija: konceptualni pregled

##### Sažetak

Članak se bavi konceptualnim razjašnjenjem razlike između idealne i neidealne teorije. Analiza je rađena na osnovu teorije koju je Rols (Rawls) prezentovao u svojim knjigama „Teorija pravde“ i „Pravo naroda“. Članak ukazuje na značaj idealne teorije, ali istovremeno i na to da je u razliku između idealne i neidealne potrebno uneti dalja određenja. Članak uvodi distinkciju na normativno i deskriptivno u idealnu, tj. neidealnu teoriju. Kroz ovu četvorostruku distinkciju lakše je utvrditi funkciju svake od teorija i razdeliti polja delovanja između filozofa, pravnika i političara

**ključne reči** idealno, neidealno, Rols, principi, pravila, normativno, deskriptivno, društvo, međunarodni odnosi