

# Two Conceptions of Ideal and Nonideal Theory

## Duas Concepções de Teoria Ideal e Não Ideal

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#### ABSTRACT

The paper clarifies the basic conceptual framework of the ideal/nonideal theory of justice distinction. It juxtaposes two alternative conceptions of a complementary understanding of the relation between ideal and nonideal theory. The first is John Rawls’s “double-level” conception that employs two distinct normative yardsticks. The second type is a “single-level” conception that operates with only one evaluative standard that is grounded on the level of ideal theory and translates into distinct action-guiding norms on the level of both ideal and nonideal theory. The paper points out that while – as G.A. Cohen puts it – “fact-sensitive” theorists will not necessarily be disinclined to endorse a double-level conception of a complementary relation between ideal and nonideal theory, “fact-insensitive” theorists will. Hence the endorsement of either a single-level or double-level conception hinges upon one’s view on the significance of facts in grounding principles of justice.

#### KEY WORDS

Justice – Ideal and Nonideal Theory – Fact-sensitive and Fact-insensitive Theories of Justice

#### RESUMO

O artigo esclarece o quadro conceitual básico da teoria ideal/não ideal de justiça. Justapõe duas concepções alternativas de um entendimento complementar da relação entre teoria ideal e não ideal. A primeira é a concepção de duplo nível de John Rawls, que emprega dois critérios normativos distintos. O segundo tipo é uma concepção de “nível único”, que opera com um só padrão avaliativo que se funda na teoria ideal e se traduz em diferentes normas orientadoras da ação no nível tanto da teoria ideal como da não ideal. O artigo aponta que – como G.A. Cohen afirma –, enquanto teóricos “sensíveis aos fatos” não necessariamente são contrários a endossar uma concepção de duplo nível da relação complementar entre teoria ideal e não ideal, os teóricos “insensíveis aos fatos” o serão. Logo, o endosso de uma concepção de nível único ou nível duplo dependerá da visão que se tem sobre a importância dos fatos nos princípios em que se funda a justiça.

#### PALAVRAS-CHAVE

Justiça – Teoria Ideal e Não Ideal – Teorias de Justiça Sensíveis aos Fatos e Insensíveis aos Fatos



The aim of this paper\* is to clarify the basic conceptual framework of the ideal/nonideal theory of justice distinction. It juxtaposes two alternative conceptions of a *complementary* understanding of the relation between ideal and nonideal theory, where the adjective “complementary” is meant to signal that ideal and nonideal theory form two parts of one theory of justice. By contrast, an exclusive understanding of the relation between ideal and nonideal denies the very existence of an inter-relation between ideal and nonideal theory. The exclusive understanding subscribes to the idea that ideal and nonideal theories are alternative, and thus competing, methodologies for theorizing justice.<sup>1</sup> A large number of theorists, however, do not follow the exclusive understanding of the relation between ideal and nonideal theory, but provide insightful conceptions of a complementary relation between ideal and nonideal theory.<sup>2</sup>

This paper does not argue that ideal and nonideal theory are complementary to each other – it rather assumes this – but seeks to advance the debate as to how to conceptualize the *kind* of complementary relation that holds between ideal and nonideal theory. To do so, it distinguishes two types of complementary relations between ideal and nonideal theory. The first type is John Rawls’s conception of a complementary relation between ideal and nonideal theory.<sup>3</sup>

The analysis of his conception will allow us to appreciate the specificity of Rawls’s – to use Christine Korsgaard’s terminology – “double-level” type of conception of a complementary relation between ideal and nonideal theory that employs two distinct normative yardsticks on the level of ideal and



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\* I owe thanks to Lukas Meyer, Allen Buchanan, Nicole Hassoun, Sarah Kenehan and Pranay Sanklecha for their instructive comments on a previous version of this paper. Earlier versions of this paper have been presented at work in progress colloquia at the University of Bern and the University of Zurich in 2007, the Workshops in Political Theory at the Manchester Metropolitan University in 2009, and the Graduate Conference in Political Theory at LUISS University Rome in 2010. The questions and suggestions of the audiences were very helpful.

1. Theorists that endorse an exclusive understanding are Colin Farrelly, “Justice in Ideal Theory: A Refutation”, *Political Studies*, 55 (2007), 844-64; Charles Mills, “Ideal Theory as Ideology”, *Hypatia*, 20 (2005), 165-84; Geoffrey Brennan and Philip Pettit, “The Feasibility Issue”, *The Oxford Handbook of Contemporary Philosophy*, eds. Frank Jackson and Michael Smith (New York: Oxford University Press, 2005), 258-79; and Amartya Sen, “What Do We Want From A Theory of Justice?”, *Journal of Philosophy*, 103 (2006), 215-238.

2. The complementary relation is articulated by Joel Feinberg, “Duty and Obligation in the Non-Ideal World”, *The Journal of Philosophy*, 70 (1973), 263-275; W.E. Cooper, “The Perfectly Just Society”, *Philosophy and Phenomenological Research*, 38 (1977), 46-55; Michael Philips, “Reflections on the Transition from Ideal to Non-Ideal Theory”, *Noûs*, 19 (1985), 551-70; Christine Korsgaard, “The Right to Lie: Kant on Dealing with Evil”, *Philosophy & Public Affairs*, 15 (1986), 325-49; Allen Buchanan, *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (New York: Oxford University Press, 2004), 64-8; Zofia Stemplowska, “What’s Ideal about Ideal Theory?”, *Social Theory and Practice*, 34 (2008), 319-40; Ingrid Robeyns, “Ideal Theory in Theory and Practice”, *Social Theory and Practice*, 34 (2008), 341-62; Adam Swift, “The Value of Philosophy in Nonideal Circumstances”, *Social Theory and Practice*, 34 (2008), 363-87.

3. See John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), henceforth TJ, 7-11, 142-50, 243-51, 300-3, 350-5, and 541-4.

nonideal theory. The second type, on the other hand, is a “single-level”<sup>4</sup> type of conception of a complementary relation between ideal and nonideal theory. The single-level conception operates with only one evaluative standard that is grounded on the level of ideal theory and translates into distinct action-guiding norms on the level of both ideal and nonideal theory. In further explication of this categorization, the paper points out that while – as G.A. Cohen puts it – “fact-sensitive” theorists will not necessarily be disinclined to endorse a double-level conception of a complementary relation between ideal and nonideal theory, “fact-insensitive” theorists will.<sup>5</sup> Thus the endorsement of either a single-level or double-level conception hinges upon one’s view on the significance of facts in grounding principles of justice. To justify one particular view on this issue, however, is out of the reach of this paper.

The paper is structured as follows. Section I illustrates how theorists are prone to misunderstand certain theories of justice if they fail to acknowledge the complementary relation between ideal and nonideal theory that these endorse. Such a misunderstanding is exemplified by reconstructing Colin Farrelly’s alleged “refutation” of Rawls’s theory of justice. The core of Farrelly’s “guidance critique” is that Rawls’s two ideal principles of justice are either misguided for “real non-ideal societies” or “impotent” if ideal principles do not apply to these societies.<sup>6</sup> I will argue that Rawls’s ideal principles of justice are not misguided because they are not meant to apply to societies that are characterized by these nonideal conditions. Indeed, Rawls is explicit about the specific nonideal principles of justice that should be employed in these circumstances. Thus it is too short-sighted to evaluate his theory as practically ‘impotent’. Farrelly’s false criticism is easily explained by his failure to properly take into consideration Rawls’s – admittedly limited – account of nonideal theory, and the complementary relation in which it stands to his account of ideal theory.

Section II, then, presents Rawls’s seldom appreciated conception of a complementary relation between ideal and nonideal theory. This “Rawls-exe-

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4. Korsgaard, “The Right to Lie: Kant on Dealing with Evil”, 344.

5. For G.A. Cohen’s distinction between “fact-sensitive” and “fact-insensitive” principles, see his “Facts and Principles”, *Philosophy & Public Affairs*, 31 (2003), 211-45, and *Rescuing Justice and Equality* (Cambridge, MA, and London: Harvard University Press, 2008), ch. 6.

6. Farrelly, “Justice in Ideal Theory: A Refutation”, 845 and 852.



genesis” is not only crucial for understanding where Farrelly goes wrong, but also, and more importantly, to classify Rawls’s conception as a specific type of the complementary relation between ideal and nonideal theory, namely a *double-level* conception of it. This conception employs two distinct sets of evaluative principles of justice, depending on whether ideal or nonideal conditions are in place. By contrast, as section III outlines, a single-level conception of the complementary relation between ideal and nonideal theory operates with one set of evaluative principles of justice only. More specifically, a single-level conception contains evaluative *noninstitutional* principles of justice on the level of ideal theory only, but allows for action-guiding *institutional* principles of justice on both levels, i.e. in ideal and nonideal theory.

Thus it follows Rawls’s basic insight of the double-level conception that principles of justice have to be adapted in accordance to the ideal or nonideal conditions in place. It rejects, however, the view that what is changed in light of the factual ideal or nonideal circumstances are evaluative principles of justice and argues that what is changed are “merely” institutional principles of justice that guide action under ideal or nonideal circumstances. Finally, section IV contends that whether one subscribes to the single-level or double-level conception depends upon whether one endorses a fact-sensitive or fact-insensitive approach to theorizing justice.



## I. Colin Farrelly’s Guidance Critique of John Rawls’s Ideal Theory of Justice

A frequently voiced claim against ideal theory is that it is practically useless: the political recommendations it yields are either *irrelevant* (I.1) or *implausible* (I.2). This criticism against ideal theory is brought up by thinkers who hold that the primary aim of a theory of justice is to ground explicit guidelines for action; for them, to be action-guiding is a necessary condition for the plausibility of any theory of justice. In this vein, Farrelly argues as follows:

[A] theory of social justice, and the principles of justice it endorses, must function as an adequate guide for our collective action. A theory of so-

cial justice that yields impotent or misguided practical prescriptions is a deficient theory of justice. If the collective aspiration to implement the conclusions of a theory would not result in any noticeable increase in the justness of one's society, then it fails as a *normative* theory.<sup>7</sup>

To substantiate the view that ideal theory fails to guide action, the critics argue that because ideal theory's methodology is to *bracket* and/or *change* empirical facts of the current socio-economic, historical and political environment when justifying principles of justice, these principles are rendered useless to an application in practice.

Before analyzing this claim more carefully by decomposing it into two separate sub-claims, a glance at how this understanding of ideal theory is explained in the literature proves useful. Onora O'Neill<sup>8</sup> distinguishes two methodological momenta that are employed by ideal theory, namely, *abstraction* and *idealization*. For her, abstraction is the act of not considering certain facts in one's theorizing. It is prominently used in Rawls's original position: this "device of representation"<sup>9</sup> asks us to imagine ourselves in a situation where we are ignorant of a number of factual circumstances that are viewed as morally arbitrary in order to appropriately choose the principles which should evaluate the institutions of the basic structure of society. By contrast, idealization falsely assumes certain facts to be true. Rawls's philosophy also uses this method: justifying ideal principles of justice for a closed society idealizes the fact that societies today are partially open – for example, with respect to the trade of goods, services, and, even if more limited, persons – for the grounding of principles of justice.

Robert Goodin simplifies, but maintains, O'Neill's notion by regarding abstraction as the act of "mentally *taking away* something from existing experience" and clarifying that idealization "requires one to *add* something to the familiar experiential landscape".<sup>10</sup> Why should this methodology make a theory of justice useless for political practice?



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7. Farrelly, "Justice in Ideal Theory: A Refutation", 845.

8. Onora O'Neill, "Abstraction, idealization and ideology in ethics", *Moral philosophy and contemporary problems*, ed. J.D.G. Evans (Cambridge: Cambridge University Press, 1987), 55-69, and *Towards Justice and Virtue* (Cambridge: Cambridge University Press, 1996), ch. 2 at 39-44.

9. Rawls, edited by Erin Kelly, *Justice as Fairness – A Restatement* (Cambridge, MA: Harvard University Press, 2001), henceforth JF, 17.

10. Robert Goodin, "Political Ideals and Political Practice", 41.

## I.1 The Practical Irrelevance of Ideal Principles of Justice in the Status Quo<sup>11</sup>

The first aspect of Farrelly's critique of this approach to theorizing justice is that insofar as the principles of justice that ideal theory grounds are justified under the assumption of idealized conditions that currently do not exist, these specifically ideal principles are practically irrelevant to a nonideal status quo. In the absence of these idealized circumstances, the ideal principles are just not properly construed to guide action, even if they were capable of doing so under different, namely idealized or abstract factual circumstances. This is to say that its lexicographically ordered two principles of justice make sense for the regulation of a society that is (i) living under reasonably favorable conditions and (ii) well-ordered.<sup>12</sup> As these conditions in many societies presently do not exist, however, Farrelly judges Rawls's ideal principles of justice to be practically futile for immediate political action and his "liberal egalitarianism an ineffective theory of social justice."<sup>13</sup>



## I.2 The Practical Implausibility of Ideal Principles of Justice in the Status Quo

The second aspect of Farrelly's ideal theory criticism is that it would be implausible to actually employ Rawls's two principles of justice in the real world. In the absence of the two idealizing conditions (i) and (ii), Farrelly urges, Rawls's two principles could not plausibly be chosen in the original position. To appreciate why, consider a society living under unfavorable conditions, which displays only a low level of productive economic activity. The scarcity, together with the lexical priority of the equal basic liberties principle, would possibly require the government to allocate all of its available resources to this principle's realization. Farrelly critically points out:

The problem with such a strategy is that satisfying the equal basic liberties principle ... could be a never-ending aim. We could pump all our available wealth into making our streets and borders more secure,

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11. See also Juha Räikkä, "The Feasibility Condition in Political Theory", *The Journal of Political Philosophy*, 6 (1998), 27-40.

12. See TJ, 4 and 8. The two principles are stated in JF, 42-3.

13. Farrelly, "Justice in Ideal Theory: A Refutation", 845.

better monitoring our police force, ensuring food and drugs are safe for human consumption, etc.<sup>14</sup>

Such a strategy would not be chosen in the original position, as it does not “deal with the issue of making *reasonable trade-offs* between different primary goods.”<sup>15</sup> If a society is poor, people should be able to reasonably weigh the primary goods of the first principle against the primary goods included in the second principle. A restriction of the basic (political) liberties could be justifiable, for example, in order to increase the income of the least advantaged so as to ensure that they dispose over sufficient resources to satisfy their most basic needs. Since such a trade-off is not permitted, Farrelly views these ideal principles as yielding inappropriate political directives for nonideal circumstances. Rawls’s two ideal principles of justice do not adequately respond to the actual needs of people living under unfavorable conditions and are practically misleading in a nonideal status quo. To sum up, Farrelly accuses Rawls’s ideal theory to be inapt for an application to practice. While ideal principles of justice yield adequate guidelines for actions when ideal conditions are in place, for societies that are very common in our world – societies which either live under unfavorable conditions or are not well-ordered – the action-guiding implications of these principles are implausible. Thus, Rawls’s ideal principles must either be *neglected* because they do not apply to a nonideal status quo, or they must be *rejected* because of their unreasonable policy recommendations in the here and now.

The next section reveals that Farrelly’s argument rests on a misunderstanding of Rawls’s theory of justice. Farrelly clearly fails to acknowledge that Rawls’s ideal theory is not the whole of his theory of justice, but only one part of it. Nonideal theory complements ideal theory such that Farrelly’s attempt to refute ideal theorizing and to create normative pressure to theorize nonideally *instead* has no mileage. The crucial question with respect to the ideal/nonideal distinction is not whether theorizing justice should be either ideal or nonideal, but *how* the complementary relation between ideal and nonideal theory should be properly conceived of. Section II now

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14. Ibid., 852.

15. Ibid. For Rawls’s understanding of primary goods, see, for example, JF, 57.



presents Rawls's double-level conception of the complementary relation between ideal and nonideal theory, which section III juxtaposes with an alternative single-level conception of it.

## II. John Rawls's Double-Level Conception of the Complementary Understanding of the Relation between Ideal and Nonideal Theory

In a first step (II.1), this section presents the two distinctive features of the ideal and nonideal theory part of Rawls's theory of justice. In a second (II.2), it explains how the ideal theory part stands in a complementary relation to the nonideal theory part. This is followed by an explanation of the sense in which this complementary relation represents a *double-level* conception of it (II.3). It concludes by arguing that the complementary relation between ideal and nonideal theory escapes Farrelly's guidance critique (II.4).

### II.1 Two Distinctive Features of Ideal and Nonideal Theory



In *A Theory of Justice* Rawls draws following distinction between an ideal and a nonideal theory part of his theory of justice:

The first or ideal part assumes strict compliance and works out the principles that characterize a well-ordered society under favorable circumstances. It develops the conception of a perfectly just basic structure and the corresponding duties and obligations of persons under the fixed constraints of human life. My main concern is with this part of the theory. 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.<sup>16</sup>

The ideal and nonideal theory part of Rawls's theory of justice are distinguishable from each other by two features; namely, the two limitations that restrict ideal theory's subject matter to a (1) *well-ordered* society that is (2) living under *favorable conditions*. The first feature refers to whether or not all subjects of the theory of justice comply with its principles.<sup>17</sup> The second feature is the presence or absence of favorable conditions. Favorable condi-

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16. TJ, 245.

17. See especially Liam Murphy, *Moral Demands in Nonideal Theory* (Oxford: Oxford University Press, 2000).



tions refer to factual circumstances whose existence is a prerequisite for the feasibility of ideal justice.<sup>18</sup> Unfavorable conditions “derive from the natural limitations and accidents of human life, or from historical and social contingencies.”<sup>19</sup> The decisive difference between the first and the second feature is that in the first present injustices hinder the fulfillment of the ideal principles of justice, while in the second the implementation of ideal justice is hindered by something other than a present injustice. Having described the characteristics that distinguish the ideal theory part from the nonideal theory part of a theory of justice, section II.2 will now show how these two parts are related to one another.

## **II.2 The Complementary Relation between Ideal and Nonideal Theory: Ideal Theory as Moral Target and Nonideal Theory as Morality of Transition**

Each of the two parts of a theory of justice fulfills a specific function. Rawls elaborates on the purpose of the ideal theory part as follows:

[T]he parties [in the original position] are choosing a conception of justice suitable for favorable conditions and assuming that a just society can in due course be achieved. Arranged in this order, the [ideal] principles define then a perfectly just scheme; they belong to ideal theory and set up an aim to guide the course of social reform. But even granting the soundness of these principles for this purpose, we must still ask how well they apply to institutions under less favorable conditions and whether they provide any guidance for instances of injustice. The [ideal] principles ... were not acknowledged with these situations in mind and so it is possible that they no longer hold.<sup>20</sup>



Ideal theory’s task is to ground a set of ideal principles of justice that can be used as normative criteria for the evaluation of the basic structure of a well-ordered society under reasonably favorable conditions. To identify the justness of the status quo, “[e]xisting institutions are to be judged in the light of this [ideal] conception and held to be unjust to the extent that they depart from it.”<sup>21</sup> Under less favorable circumstances, or when an injustice

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18. This understanding follows Korsgaard, “The Right to Lie: Kant on Dealing with Evil”, 342.

19. TJ, 244.

20. TJ, 245.

21. TJ, 246.

occurs, ideal theory provides a *moral target* at which endeavors should be directed. However, as Rawls points out in the quotation above, under nonideal conditions, ideal principles of justice are possibly inappropriate to steer the *transition* from the status quo to the moral target, because they have been grounded for different, namely ideal, circumstances. Thus in the case that the ideal principles are inadequate, proper principles for these nonideal conditions must be grounded. Nonideal theory, however, does not operate in isolation from the ideal theory part, but is substantively dependent on it, since it is oriented by the moral goal that is set by ideal theory. As (the late) Rawls stresses:

[Nonideal] theory presupposes that ideal theory is already on hand. For until the ideal is identified, at least in outline – and that is all we should expect – nonideal theory lacks an objective, an aim, by reference to which its queries can be answered.<sup>22</sup>

In this sense, nonideal theory's task is the justification of principles for the changeover from a nonideal status quo to the moral target, as it is grounded by ideal theory. Put differently by Rawls, “[n]onideal theory asks how this long-term goal [, grounded by ideal theory,] might be achieved, or worked toward, usually in gradual steps.”<sup>23</sup> As such, nonideal theory essentially is a morality of transition.

### II.3 The Double-Level Conception of the Complementary Relation between Ideal and Nonideal Theory

Importantly, the demarcation between ideal and nonideal principles of justice in Rawls's work goes along the line of his distinction between a *general* and a *special* conception of justice. Recall that the general conception holds that

[a]ll social values – liberty and opportunity, income and wealth, and the bases of self-respect – are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage. Injustice, then, is simply inequalities that are not to the benefit of all.<sup>24</sup>

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22. LP, 89-90.

23. LP, 89.

24. TJ, 62, see also sections 11, 26, 39, 46, 83.



This general conception of justice captures one basic idea of Rawls's theory of justice: deviations from equality in the distribution of social goods are only permissible if they increase everyone's share of the distribuendum. The special conception, by contrast, introduces a "serial order" of the different social goods, which distinguishes between the first principle governing the basic liberties of society's members, and the second principle regulating social and economic inequalities.<sup>25</sup>

This separation between the general and the special conception of justice is significant for the treatment of the relation between ideal and nonideal theory: while the ordering of the principles of the special conception always applies under ideal conditions, it does not always do so under nonideal conditions. As Rawls clarifies:

[W]hen we come to nonideal theory, we do not fall back straightway upon the general conception of justice. The lexical ordering of the two principles and the valuations that this ordering implies suggest priority rules which seem to be reasonable enough in many cases. ... Thus the ranking of the principles of justice in ideal theory reflects back and guides the application of these principles to nonideal situations. It identifies which limitations need to be dealt with first. The drawback of the general conception of justice is that it lacks the definite structure of the two principles in serial order. In more extreme and tangled instances of nonideal theory there may be no alternative to it. At some point the priority of rules for nonideal cases will fail; and indeed, we may be able to find no satisfactory answer at all.<sup>26</sup>

So while ideal theory's principles of the special conception are meant to orientate, at least *prima facie*, the practical prescriptions for nonideal conditions, eventually they must be replaced by proper nonideal principles. The general conception of justice, however, represents the minimum requirement of justice, which is required unconditionally. Not even the most nonideal conditions would permit a lowering of the requirement of justice, as it is encapsulated in the general conception. This is the core of Rawls's double-level conception of the complementary relation between ideal and nonideal theory. Different evaluative criteria – that are expressed by the spe-

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25. Ibid., 303 and 63.

26. Ibid., 303. See also *ibid.*, 63 and 543, for very similar remarks.



cial and general conception of justice – are to be employed, depending on whether either ideal or nonideal conditions hold. So, while Rawls's *special* conception of justice under ideal conditions establishes a lexical priority of his first principle of justice that affects the individuals' basic liberties over his second principle of justice that regulates the socio-economic affairs of the members of society, the *general* conception of justice that (eventually) is valid under nonideal conditions allows for trade-offs among primary goods, even if they belong to the different spheres that are separated by the two principles in the special conception. In this way, the political institutions of the basic structure of a society are evaluated in light of either the special or the general conception of justice, depending on whether ideal or (extremely) nonideal conditions are in place.

One example given by Rawls where the special conception's ordering of the ideal principles no longer applies, which directly responds to Farrelly's concern about ideal principles' adequacy under nonideal conditions, is the situation of an economically disadvantaged society. In a society where this unfavorable condition obtains, Rawls holds that the application of the general conception is justified because

it is possible ... that by giving up some of their fundamental liberties men are sufficiently compensated by the resulting social and economic gains. The general conception of justice imposes no restrictions on what sort of inequalities are permissible; it only requires that everyone's position be improved. Imagine ... that men forego certain political rights when the economic returns are significant and their capacity to influence the course of policy by the exercise of these rights would be marginal in any case.<sup>27</sup>

In the poor society imagined, the granting of basic liberties would not be worthwhile, if it implied forgoing the opportunity of significantly improving the economic situation. Even if it seems that in such unfortunate circumstances the general conception applies *tout court*, this is not the case, because the conditions for the applicability of the special conception, remain a long-term goal to be achieved. As Korsgaard analyzes, under nonideal

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27. TJ, 62-3.



... circumstances our conduct is to be determined in the following way: the special conception becomes a goal, rather than an ideal to live up to; we are to work toward the conditions in which it is feasible.<sup>28</sup>

Thus although the ideal principles temporarily do not serve any specific function, ideal conditions are to be considered as a target at which efforts under nonideal circumstances ought to be directed so that “social conditions are eventually brought about under which a lesser than equal liberty would no longer be accepted.”<sup>29</sup> This is to say that the general conception’s usage must create “long-run benefits [which] are great enough to transform a less fortunate society into one where the equal liberties can be fully enjoyed.”<sup>30</sup> In this way ideal theory’s special conception and nonideal theory’s general conception complement each other.

## **II.4 How the Double-Level Conception of the Complementary Relation Between Ideal and Nonideal Theory Reveals That The Guidance Critique Fails**

Against the background of Rawls’s double-level conception of the complementary relation between ideal and nonideal theory, it becomes evident as to why Farrelly’s guidance critique of ideal theory is based on the failure to appreciate the division of labor that this conception embodies. First, Farrelly’s practical irrelevance charge (I.1) against Rawls’s theory is ungrounded. Recall that it says that if ideal principles are not meant to be adequate under nonideal conditions that a poor society faces then they are not relevant for many real societies. Rawls’s theory, however, is not restricted to ideal theory, but also contains a nonideal theory part that is, indeed, practically significant for the circumstances that Farrelly holds that his theory is not. And second, Farrelly’s case against the implausibility of ideal principles under nonideal circumstances (I.2) also fails to acknowledge the complementary relation between ideal and nonideal theory. Only when the transition from nonideal conditions to more ideal, in particular more economically favorable, conditions has taken place are the two ideal principles



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28. Korsgaard, “The Right to Lie: Kant on Dealing with Evil”, 343.

29. TJ, 247.

30. Ibid.

with the lexical priority of the equal basic liberties principle appropriate. Thus to adequately evaluate the capacity for guidance of Rawls's theory of justice under nonideal circumstances, Rawls's nonideal principles must be scrutinized. And given that it is the general conception of justice that applies for these nonideal conditions of an economically disadvantaged society, exactly those kind of trade-offs that Farrelly calls for – i.e. those among primary goods that belong to different spheres, namely a political one on the one hand and a socio-economic one on the other – are permitted under nonideal conditions. Thus, perplexingly, Rawls actually agrees with Farrelly on the demands of justice that exist when a society faces the “the realities of non-compliance and scarcity of resources”<sup>31</sup>

The lesson to be learnt from Farrelly's criticism is that it is indispensable for any normative theorist to be very explicit about (i) the fact that one is understanding the relation between ideal and nonideal theory as a complementary one, and (ii) the part of the theory which one is operating at. For otherwise, either one is charged for failing to provide an account of how to go about the problems of nonideal theory even if one has done so, or, one runs the risk that one's ideal principles are evaluated for nonideal conditions, or, one's nonideal principles for ideal conditions.

Since while it is appropriate to discuss whether a nonideal principle, e.g. the one that Rawls's general conception of justice endorses, is suitable as criterion during the transition to the achievement of ideal conditions, it is inadequate to evaluate the plausibility of ideal principles for nonideal conditions that clearly call for nonideal principles.

This double-level conception of the complementary relation between ideal and nonideal theory will now be juxtaposed with an alternative *single-level* conception of it in section III. The latter is distinct in that it is restricted to the usage of one normative, in the sense of evaluative, yardstick only. Thus the set of principles of justice that are employed to comparatively assess alternative societal states remains unaffected by the factual, ideal or nonideal, situation at hand.

Finally, section IV will highlight how a theorist's inclination towards either

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31. Farrelly, “Justice in Ideal Theory: A Refutation”, 853.



the single-level or double-level conception draws upon his view of the broader methodological question as to how significant, if at all, empirical facts are in grounding principles of justice.

### III. The Single-Level Conception of the Complementary Relation between Ideal and Nonideal Theory

To illustrate the single-level conception of the complementary relation between ideal and nonideal theory, this section, first, draws a distinction between ideal and nonideal *institutional* principles of justice and ideal *noninstitutional* principles of justice (III.1). Second, it outlines how this distinction is motivated and informed by what economists refer to as the “general theory of second best” (III.2). In its last part, it explains how the ideal noninstitutional principles of justice, in conjunction with factual considerations, generate specific ideal and nonideal institutional principles of justice (III.3).

#### III.1 Ideal and Nonideal Institutional and Ideal Noninstitutional Principles of Justice



The single-level conception of the complementary relation between ideal and nonideal theory begins by distinguishing *ideal institutional principles* from *ideal noninstitutional principles* of justice.<sup>32</sup> Ideal institutional principles of justice are defined as those principles that under certain factual circumstances fully realize the ideal noninstitutional principles of justice. Thus under different empirical conditions the ideal institutional principles can differ. And it is possible that different sets of ideal institutional principles of justice fully realize the noninstitutional principles of justice under the same factual circumstances. In addition, the ideal noninstitutional principles of justice provide an evaluative tool for assessing alternative *nonideal institutional principles* of justice that become necessary when there is no feasible set of ideal institutional principles of justice to fully realize

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32. See also Buchanan, see *Justice, Legitimacy, and Self-Determination*, 64-8, and Michael Blake, “Distributive Justice, State Coercion, and Autonomy”, *Philosophy & Public Affairs*, 30 (2001), 257-96 at 263, n. 7.

the ideal noninstitutional principles of justice. The attribute “single-level” applies to this type of conception of a complementary relation between ideal and nonideal theory because there is only *one* set of evaluative normative principles of justice, namely the ideal noninstitutional principles of justice, that serve the purpose of judging the justness of societal states in both ideal and nonideal theory. Their aim is to assess alternative states of the world in terms of justice. By contrast, to emphasize, Rawls’s double-level conception employs *two* sets of evaluative principles of justice – the special conception for ideal and the general conception for nonideal conditions – that fulfill this function. In the terms that this single-level conception employs, this means that Rawls’s model subscribes to certain noninstitutional principles of justice on the levels of both ideal and nonideal theory.

One might object that Rawls cannot possibly be considered to subscribe to noninstitutional principles of justice, because Rawls is the “institutionalist” thinker *par excellence*. In particular, G.A. Cohen’s criticism that Rawls’s principles of justice are mere rules of regulation seems to be based on the assumption that Rawls’s principles of justice are institutional principles.<sup>33</sup> This objection, however, misunderstands the kind of noninstitutional principles that Rawls endorses. While these noninstitutional principles’ validity, indeed, depends upon the existence of certain institutional structures – factual conditions that fall into the category of either ideal or nonideal circumstances – they are noninstitutional principles in the sense that they serve the function of assessing societal states and not in the sense of providing (immediate) action-guiding recommendations.

To grasp an understanding of the general idea underlying the significance of the distinction between ideal and nonideal institutional and ideal noninstitutional principles, a reflection upon the reasoning behind ‘the theory of second best’ in the economic literature is useful.<sup>34</sup>

### III.2 The General Theory of Second Best

The general theory of second best is commonly explained by the non-fulfillment of the conditions that are necessary to maximize efficiency in a

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33. G.A. Cohen, “Facts and Principles”, *Philosophy & Public Affairs*, 31 (2003), 211-45; *Rescuing Justice and Equality* (Cambridge, MA, and London: Harvard University Press, 2008), ch. 6.

34. On this distinction see also Swift’s section “Political Philosophy: ‘Epistemological’ or ‘Practical’”, in “The Value of Philosophy in Nonideal Circumstances”, 366-8.





market economy. Economists usually agree that maximum efficiency is achieved when *all* sectors of the economy are fully competitive. However – this is the lesson of the theory of second best – if only in one economic sector there is an irremovable barrier to full competition, as for example a monopoly, then a second best policy does not necessarily consist of making all other sectors fully competitive but in making only some of the other sectors fully competitive. Thus, if the first best policy to make all markets fully competitive is not available, then it is not the case that a second best policy is to approximate the first best policy as far as possible and make as many economic sectors as possible fully competitive. It can be better – in terms of economic efficiency – to deliberately leave other sectors, too, not fully competitive, but, say, in a monopolistic order, and not to create full competition in all sectors of the economy where it is possible.<sup>35</sup>

Thus the theory of second best reveals serious difficulties for the applicability of practical norms. More specifically, these difficulties exist for norms that have been justified under the assumption that all of them are followed, but are partially not followed in the real world. In fact, it proves that the action-guiding norms that are best for a set of certain circumstances may not be so if some of these circumstances change. While, to use a different example, it is arguably best for any country to follow a climate policy that is primarily directed at *mitigating* green house gas emissions as long as other countries adopt this policy as well, this policy can lose its normative plausibility once a certain number of countries fail to pursue it. Consider whether there would be any point of Switzerland reducing its green house gas emissions under the circumstance that the major polluting countries of the world are not reducing theirs. In investing its resources in these mitigatory goals, it forgoes the opportunity to concentrate its efforts on highly beneficial *adaptive* measures that will be much needed by those people that will suffer the consequences of the major polluting countries' failure to mitigate emissions. Thus to pursue the “idealistic strategy”<sup>36</sup>, i.e. to act as if the cons-



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35. For discussions of the “general theory of second best” with a particular focus to questions of normative political theory, see Avishai Margalit, “Ideals and Second Bests”, *Philosophy for Education*, ed. Seymour Fox (Jerusalem: Van Leer Foundation, 1983), 77-89; Brennan, “The Contribution of Economics”, *A Companion to Contemporary Political Philosophy*, eds. Goodin and Pettit (Oxford: Basil Blackwell, 1993), 123-156 at 138-30; Goodin, “Political Ideals and Political Practice”, 52-55; Bruce Coram, “Second Best Theories and the Implications for Institutional Design”, *The Theory of Institutional Design*, ed. Goodin (Cambridge: Cambridge University Press, 1996), 90-102; Rääkkä, “The Problem of the Second Best”, *Living in a Less Than Perfect World: Essays in Political Philosophy*, (Helsinki: Acta-Philosophica-Fennica 75, 2004), 29-46; Brennan and Pettit, “The Feasibility Issue”, 260-3.

36. Margalit, “Ideals and Second Bests”, 77.

straints for the realization of a goal did not exist, can turn out to be not only futile but also misguided.

Importantly, in the full-versus-partial-market-liberalization-example of the original articulation of the general theory by Richard Lipsey and Kelvin Lancaster<sup>37</sup>, the central insight, namely that in a situation where not all sectors of the economy can be made fully competitive it is possibly mandatory to abstain from making as many economic sectors as possible fully competitive, is justified by reference to the circumstance that economic efficiency is maximized by an alternative type of second best strategy. Thus the evaluation of the alternative strategies is made relative to the efficiency with which the economy produces under different circumstances, which allow or prevent perfect competition of all market sectors. This sort of justification for a particular policy can be transferred to the proposed distinction between institutional and noninstitutional principles. In the economists' example, maximizing economic efficiency is invoked as an ideal noninstitutional principle in order to justify the preference of one set of nonideal institutional principles over another when no ideal set of institutional principles can be realized. Besides, the noninstitutional principle is also used to ground the ideal institutional principles, namely to make all markets fully competitive, by showing that it maximizes economic efficiency under certain circumstances, relative to all alternative institutional principles. In analogy to the way in which the theory of second best differentiates between the noninstitutional principle of economic efficiency and the institutional principles of full and partial market liberalization that realize efficiency to different degrees, the last part of section III outlines a model of a complementary relation between ideal and nonideal theory that employs this differentiation as well.



### III.3 Indexing Institutional to Noninstitutional Principles of Justice

Normative political philosophy differs from economic theory. The former does not rank its ideal institutional principles of justice relative to the effi-

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37. Richard Lipsey and Kelvin Lancaster, "The General Theory of Second Best", *The Review of Economic Studies*, 24 (1956-7), 11-32, generated a general theory from the other economists' studies related to certain cases which represent applications of the general theory.

ciency that results from their implementation. Instead, it intends to justify and specify a normative yardstick that is articulated as a set of noninstitutional principles of justice that expresses justice. And based upon this set of noninstitutional principles of justice, together with a detailed consideration of the relevant empirical data, ideal institutional principles can be justified which would achieve full justice under ideal circumstances.

This model – at least its rudimentary structure – is also suggested by Goodin, whose first conclusion of his discussion of the theory of second best consists in demanding that political philosophers ought to engage in “identifying particular ranges of application within which particular constellations of ideals can be implemented.”<sup>38</sup> This means that both sets of ideal institutional and nonideal institutional principles of justice need to be sensitive to the factual situation to which they are to be applied.

Goodin ultimately remarks, however, that this goes beyond the claim that norms need to be congruent to the factual background within which they are put forward, because it ascribes a genuine role to ideal theorizing, namely – in the terms of our discussion here – the grounding of ideal noninstitutional principles of justice in accordance to which institutional principles can be justified. This is implied by his specification that

... indexing our political prescriptions to socio-psycho-economic circumstances in this way does not amount to the easy relativism that would have come from rejecting all talk of political ideals and idealizations altogether. ... Fundamental values here remain, and furthermore they remain at a safe critical distance from pre-existing practice. What we are indexing to socio-psycho-economic circumstance are not the fundamental values themselves ... . Timeless truths, ideally ideal ideals, remain. All that has to go are context-free political prescriptions for realizing them.<sup>39</sup>

Goodin therefore suggests that “fundamental values”, and “ideally ideal ideals”, ought to guide the institutional principles of justice that the normative theorist expounds. These values, and the “ideally ideal ideals”, on the

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38. Goodin, “Political Ideals and Political Practice”, 56.

39. Ibid.



account of the single-level conception of the complementary relation between ideal and nonideal theory represent the ideal noninstitutional principles of justice. This means that this approach entails two distinct tasks for ideal as well as for nonideal theory. First, ideal theory has to provide a justificatory account of ideal noninstitutional principles of justice. And second, ideal theory, if possible, has to determine the sets of ideal institutional principles of justice that satisfy the ideal noninstitutional principles of justice. Nonideal theory has to set out nonideal institutional principles of justice in those cases where there either are no ideal institutional principles of justice available or the ideal institutional principles of justice are violated. These nonideal institutional principles of justice are grounded by reference to the extent to which they realize the ideal noninstitutional principles of justice within the range of the alternative nonideal institutional principles of justice available. The ideal noninstitutional principles of justice thus provide the normative standard for the assessment of alternative institutional principles of justice and the ideal institutional principles of justice are those that fully satisfy this standard.



In this way the single-level conception of the complementary relation between ideal and nonideal theory follows the basic insight of Rawls that principles of justice have to be adapted in accordance to the ideal or nonideal conditions in place. It rejects, however, the view that what is changed in light of the factual ideal or nonideal circumstances are noninstitutional, evaluative principles of justice. What is changed are “merely” the institutional principles of justice that guide action under both ideal or nonideal circumstances.

Which of the two complementary conceptions of the relation between ideal and nonideal theory should the normative theorist use? A definite answer to this question must be left for another occasion. What the final section IV does want to suggest, however, is that the distinct ways in which the two different conceptions take into account the actual state of affairs of a society represent two separate understandings of the significance of facts in grounding principles of justice. Depending on whether one either subscribes to a “fact-sensitive” or “fact-insensitive” view of the role of facts in grounding noninstitutional principles of justice, will affect one’s endorsement of either the single-level or the double-level of the complementary relation between ideal and nonideal theory.

## IV. The two Complementary Understandings of the Relation between Ideal and Nonideal Theory and the Question of the Fact-Sensitivity of Principles of Justice

As has been elaborated above (II. and III.), the double-level conception changes the evaluative noninstitutional principles of justice when moving from ideal to (very) nonideal circumstances, whereas the single-level level conception “sticks” to its ideal noninstitutional set of justice principles whatever the factual circumstances are. This difference in sensitivity to empirical facts that the two conceptions display, entails that the position one endorses in the debate to what extent, if any, empirical facts are significant in the grounding of principles of justice, also affects whether one either approves of the single-level or double-level conception of the complementary relation between ideal and nonideal theory.

### IV.1 G.A. Cohen’s Case for Fact-Insensitive Principles of Justice

The currently most prominent defender of the view that principles of justice are fact-insensitive is Cohen. He aims at fundamentally undermining Rawls’s affirmation that “[c]onceptions of justice must be justified by the conditions of our life as we know it or not at all.”<sup>40</sup> In sharp contrast to Rawls, Cohen believes that “facts cast normative light only by reflecting the light that fact-free first principles shine on them”<sup>41</sup>.

To appreciate Cohen’s thesis consider that somebody may endorse the principle P that *promises ought to be kept* because of the fact F that “*only when promises are kept can promisees successfully pursue their projects.*”<sup>42</sup> For Cohen, it is not F that grounds P, but the further principle P1 that *people should be supported in carrying out their projects* that leads her to affirm P under the circumstance that F is believed to be true. P1 is the more ultimate normative principle that the person affirms whether or not F is true. Thus F grounds P only because F responds to, i.e. is grounded in, the more

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40. TJ, 454.

41. Cohen, *Rescuing Justice and Equality*, 309.

42. *Ibid.*, 271.



ultimate principle P1. If one would remark that P1 itself is justified by the additional fact F1 that people who are capable of pursuing their projects attain happiness, then Cohen would respond that, again, the fact F1 only grounds P1 in virtue of another principle P2 that *one should help others to achieve happiness* which is taken to be true independent from whether or not F1 is true. This process of progressively, although not infinitely, uncovering the more ultimate principles that are implicitly employed when facts are taken to be grounding principles, according to Cohen, is always available until the most ultimate fact-free principles come to the fore. Thus he believes that this process is *finite* and that therefore “the principles at the summit of our conviction are grounded in no facts whatsoever.”<sup>43</sup> More specifically, Cohen and his supporters argue that those who engage in grounding principles of justice on facts are mistaken because facts do not ground these kinds of principles. What is grounded on facts are mere “rules of regulation”<sup>44</sup> that must not be considered as principles of justice.

## IV.2 John Rawls’s Case for Fact-Sensitive Principles of Justice



By contrast, Rawls famously follows Jean-Jacques Rousseau’s lead in “taking men as they are and laws as they might be”. In the original position, behind the veil of ignorance, Rawls allows people to choose principles of justice in knowledge of “general facts about human society”; people behind the veil of ignorance “understand political affairs and principles of economic theory”, and know about “the basis of social organization and the laws of human psychology.”<sup>45</sup> Rawls’s understanding of political philosophy as fulfilling primarily a practical function implies this. As he elaborates:

The search for reasonable grounds for reaching agreement rooted in our conception of ourselves and in our relation to society replaces the search for moral truth interpreted as fixed by a prior and independent order of objects and relations, whether natural or divine, an order apart and distinct from how we conceive of ourselves. The task is to articulate a public conception of justice that all can live with who regard their person and their relation to society in a certain way. And although doing

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43. Ibid., 265.

44. See *ibid.*, 323-330, for Cohen’s distinction between principles of justice and rules of regulation.

45. TJ, 137.

this may involve settling theoretical difficulties, *the practical social task is primary*.<sup>46</sup>

The priority of the “practical social task” entails Rawls’s fact-sensitivity in theorizing justice. In order to justly settle conflicts over the distribution of benefits and burdens in society people need not attempt to find an agreement as to what is morally true, but should search for principles of justice that can direct their social interaction under the given circumstance that this deep disagreement exists.<sup>47</sup>

It seems that it is this responsiveness to actual societal circumstances that Rawls incorporates in his theory of justice that is at work when Rawls thinks it necessary to move from the special to the general conception of justice in light of factual evidence of the society to which the noninstitutional principles of justice apply to (see II.3). This fact-sensitivity is also expressed by Rawls’s statement that “the correct regulative principle for anything depends on the nature of that thing”<sup>48</sup>. Thus, if principles of justice are found to be inadequate under certain circumstances, they may be adapted accordingly.



### **IV.3 Cohen, Rawls and the Two Complementary Conceptions of the Relation between Ideal and Nonideal Theory**

To draw a connection from the debate of the fact-sensitivity of principles of justice to the two complementary conceptions of the relation between ideal and nonideal theory, it is helpful to engage Thomas Pogge’s juxtaposition of these two conflicting views of Cohen and Rawls. According to Pogge, for the fact-insensitive theorist Cohen, the relation between the principles of justice “M”, rules of regulation “R” and context “C” is the following:

Using our ultimate principles M as the basis of assessment, we find that rules  $R_1$  work best in context  $C_1$  and rules  $R_2$  best in context  $C_2$ . We thought we were living in context  $C_1$  but find that our world is actually in

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46. Rawls, “Kantian Constructivism in Moral Theory”, *Collected Papers*, ed. Samuel Freeman (Cambridge, MA: Harvard University Press, 1999 [1980]), 306, emphasis added.

47. In his later work Rawls refers to it as the “fact of reasonable pluralism”, see his *Political Liberalism* (New York: Columbia University Press, 1993), at xvii.

48. TJ, 29.

condition  $C_2$ . So we revise our rules from  $R_1$  to  $R_2$ , without any revision of  $M$  and hence without any revision of our belief that  $R_1$  is appropriate for  $C_1$ .<sup>49</sup>

The fact-sensitive theorist Rawls, on the other hand, endorses an alternative understanding of the relation between principles of justice and the context to which they are applied. As Pogge explains:

The pragmatist I imagine [i.e. Rawls], by contrast, advocates that we should stand ready to revise even the very foundation (or ‘summit’) of our morality. ... Finding ourselves in context  $C^*$  rather than  $C$ , we may revise from  $M$  to  $M^*$  without retaining the commitment that  $M$  holds in  $C$ .<sup>50</sup>

Pogge’s exposition serves well to make intelligible the distinction between the single-level and the double-level conception of the complementary relation between ideal and nonideal theory. The noninstitutional principles of justice of the single-level conception are identical to the “ultimate principles” of justice  $M$  in Cohen’s sense. While these principles are unaffected by the factual circumstances  $C_1$  or  $C_2$  (or  $C_n$ ), they are significant for the justification of the rules of regulation  $R_1$  or  $R_2$  (or  $R_n$ ) that are proper for the just regulation of the societal situation at hand. In this sense the institutional principles of justice in the single-level conception fulfill the role of the rules of regulation  $R_n$  in spelling out what justice demands under the given circumstances  $C_n$ .

The two sets of noninstitutional principles that are employed in Rawls’s double-level conception, on the other hand, are in line with the modification of the noninstitutional principles of justice from  $M$  to  $M^*$  depending upon whether ideal or nonideal conditions  $C$  or  $C^*$  are in place. Instead of simply changing the institutional principles when moving from ideal to nonideal theory, Rawls – at least at some point – is willing to change the noninstitutional principles of justice from those of the special conception to those that are expressed by the general conception. Thus, depending on the factual circumstances existent, the evaluative normative yardstick is replaced.

Obviously, these two alternative conceptions of the relation between facts and principles of justice are in need of further examination. The aim here,

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49. Thomas Pogge, “Cohen to the Rescue!”, *Ratio* 21 (2008), 454-75 at 475.

50. *Ibid.*





however, was merely to sketch some of their core elements and to relate them to the exposition of the single-level and double-level conception of the complementary relation between ideal and nonideal theory. This basic characterization suffices to comprehend that the endorsement of either the single-level or double-level conception turns on how one judges the plausibility of Cohen's case for the fact-insensitivity of principles of justice and Rawls's for their fact-sensitivity.

## V. Conclusion

This paper attempted to sharpen our understanding of how to theorize justice within the ideal/nonideal theory framework in three ways: first, it is of utmost importance to be explicit as to whether one is endorsing an exclusive or a complementary relation between ideal and nonideal theory. Otherwise, as was highlighted in section I, other theorists possibly misconceive the specific role that the ideal and nonideal principles of justice play in one's normative theory. Second, if one subscribes to a complementary relation between ideal and nonideal theory, then it is necessary to identify the kind of complementary relation that one is articulating. Two conceptions – the single-level and double-level – of the complementary relation between ideal and nonideal theory were presented in sections II and III; note that the claim is not that these two conceptions exhaust all possible conceptions of the complementary relation between ideal and nonideal theory. Last and third, an assessment of the plausibility of the two elaborated alternatives of the complementary relation depends on the arguably deeper methodological question as to how significant, if at all, facts are in the grounding of principles of justice.

Admittedly, this paper leaves many questions unanswered. Among them are certainly these two: What is the point of the exclusive relation between ideal and nonideal theory? And what reasons speak in favor of the single-level and, respectively, the double-level conception, independently from their deeper methodological commitments on the role of facts in theorizing justice? A clarification of these matters would be valuable, because it would elucidate the proper conceptualization of the ideal/nonideal theory distinction.



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