PROBING THE LIMITS OF RAWLS'S REALISTIC UTOPIA*

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Abstract: *In* The Law of Peoples, *John Rawls introduces a framework for realistic utopia, within which the limits of practicable political possibility are probed through the further development of his international theory. This essay addresses the apparent paradox of realistic utopianism within the context of, and in relation to, ideal theory, in an attempt to explore the scope and limits of Rawls's theory. The ideas behind Rawls's realistic utopia are discussed in detail, the concept is contrasted with ideal theory in order to assess to what extent Rawls's framework for realistic utopia introduced in* The Law of Peoples *differs from other forms of ideal theory, and the limits of realistic utopianism are identified.*

I argue first, that, in an attempt to address the potential feasibility constraint, Rawls tries to distinguish his framework of realistic utopia from that of more traditional ideal theory. I then proceed to examine the differences between realistic utopianism in The Law of Peoples *and ideal theory in* A Theory of Justice. *I then conclude that Rawls only partially meets the challenge of establishing practicable political possibility. In actuality, Rawls's focus on ideal agents in ideal as well as nonideal theory, together with his emphasis on societies as closed and self-sufficient, ignores the potential for noncompliance by liberal and decent societies, as well as interdependencies between societies that can cause or lead to injustice, conflict, and instability. I argue that despite these flaws, Rawls's approach nevertheless provokes new insights into the function of the principles of the ideal theory framework as guidelines for real-world policies striving toward peace, stability, and justice.*

KEY WORDS: John Rawls, ideal theory, realistic utopia, *The Law of Peoples*, international justice

> "We view political philosophy as realistically utopian: that is, as probing the limits of practicable political possibility."[1]

I. Introduction

John Rawls ascribes four roles to political philosophy, and realistic utopianism, which aims to "probe the limits of practicable political possibility," is one of them. In *The Law of Peoples* (LP), Rawls's objective is indeed ambitious; he aims "to say how a world Society of liberal and decent Peoples might be possible" so that "the great evils of human history — unjust war and oppression, religious persecution and the denial of liberty of conscience, starvation and poverty, not to mention genocide

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[1] John Rawls, *Justice as Fairness* (Cambridge, MA and London: Harvard University Press, 2003), 4.

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and mass murder — [. . .] will eventually disappear."[2] In order to pursue this goal, Rawls has developed the framework for realistic utopianism.

The concept of realistic utopianism can be defined as "an account of the world which is *utopian* in so far as it does not reflect existing social arrangements, but *realistic* in so far as it does not contravene anything we know about human nature."[3] Paradoxical and difficult to grasp at first glance, the concept — a *real*istically idealized "no place" — runs the danger of placing too much focus on one element at the expense of the other. Due to the central role Rawls ascribes to realistic utopianism within his ideal theory, an exploration of the scope and limits of the framework is a worthwhile contribution to the discourse on ideal theory.

This essay explores Rawlsian realistic utopianism, links it to ideal theory, and investigates its scope and limits. I place the focus on Rawls's international theory as presented in LP, where the concept of realistic utopia is introduced, and where, in contrast to earlier writings, Rawls allows real-world conditions to play a more significant role. In the process, the following theses are presented: I argue, first, that in an attempt to discredit claims of infeasibility, Rawls tries to distinguish his realistic utopian framework from various interpretations of the more traditional ideal theory, his own included. Second, I argue that the idea of realistic utopianism as outlined in LP differs from the idea of ideal theory presented in *A Theory of Justice* (TJ). Rawls in LP does not represent fixed ideal principles of justice so much as an evolving framework for peaceful, stable, and fair cooperation between reasonably just, well-ordered liberal *and* unjust decent societies.[4] Third, I claim that Rawls only partially meets the challenge of establishing practicable political possibility. In point of fact, Rawls's focus on idealized agents in both ideal and nonideal theory, as well as on societies as closed and self-sufficient units, can lead to injustice, conflict, and instability rather than the peaceful, stable, and just international order he seeks. Based on these claims, my question is: Does Rawls succeed in presenting realistically utopian guidelines for shaping the foreign policies of liberal democracies?

Accordingly, my first step is to map out in detail the ideal theory framework of realistic utopianism based on Rawls's ideas in LP. The concept of realistic utopia is then linked and contrasted with a more general version of ideal theory in order to explore the extent to which Rawls's framework differs from other forms of ideal theory, and to establish whether he manages to escape the feasibility constraints detailed by his detractors. To this end, claims regarding the limitations of ideal theory are presented, and

[2] John Rawls, *The Law of Peoples* (Cambridge, MA and London: Harvard University Press, 1999), 6, 7.

[3] Chris Brown, "The Construction of a 'Realistic Utopia': John Rawls and International Political Theory," *Review of International Studies* 28, no. 1 (2002): 7 [emphasis in the original].

[4] I am thankful to David Estlund for his insightful comment on the concept of decent peoples.

include critiques by Amartya Sen and Raymond Geuss. Conceptual flaws discussed by Charles Beitz and Andrew Kuper are presented here as well. In this essay, I analyze to what extent this criticism is applicable to realistic utopianism as presented in LP. In conclusion, I discuss whether the attribution of rights and duties to ideal agents in ideal as well as nonideal theory may lead to conflict, instability, and injustice, as nonideal agents may well misuse their rights and/or may not attend to their duties.

II. Ideal Theory and Realistic Utopianism

In ideal theory, an arguably oversimplified picture of the world is created. Using this blueprint, one can focus on the essential aspects of a question without being distracted by details.[5] "Ideal theory functions as a mythical Paradise Island. We have heard wonderful stories about Paradise Island, but no one has ever visited it, and some doubt that it truly exists. [. . .] [R]eaching Paradise Island is our ultimate goal. It gives us the direction in which we should be moving to reach a (minimally) just society."[6] By offering this peaceful, stable, and just system of international cooperation as incentive in guiding action, this sketch of Paradise Island can assist in passing judgment in reality and assessing possible improvements that could be made. Hence, this ideal can indeed serve as a compass to ensure that actors remain on track when moving toward the ideal goal. This ideal picture does not, however, provide assistance or guidance, either in how to arrange the journey, or in how to cope with nonideal circumstances that pose challenges along the way, and this is precisely the purpose of nonideal theory. How to face political (and moral) decisions form the core of nonideal theory, which "looks for policies and courses of action that are morally permissible and politically possibly as well as likely to be effective."[7] Nonideal theory attempts to provide guidance in times of transition; to segue from the world as it is to a world that approaches the ideal. Thus, it all comes back to ideal theory: moving toward the ideal is the objective of nonideal theory; the latter theory necessarily presupposes the former.

Rawls, in his constructivist approach, uses the thought experiment of the "original position" that we know from TJ.[8] In LP, he develops a special ideal theory framework, which he terms "realistic utopianism," a concept that differs from his earlier claims and one that he later applies to his

[5] David Schmidtz, "Nonideal Theory: What It Is and What It Needs to Be," *Ethics* 121, no. 4 (2011): 776; Ingrid Robeyns, "Ideal Theory in Theory and Practice," *Social Theory and Practice* 34, no. 3 (2008): 353.

[6] Robeyns, "Ideal Theory in Theory and Practice," 344–45.

[7] Rawls, *Law of Peoples*, 89.

[8] John Rawls, *A Theory of Justice* (Cambridge, MA and London: Harvard University Press, 2005 [1971]), 17–21, chap. 3.

domestic theory in *Justice as Fairness* (JF).[9] The concept of realistic utopianism goes beyond the limits of what is ordinarily understood as possible, but without losing touch with what could realistically be achieved under favorable conditions. To come to terms with the "realistic," Rawls builds less-than-ideal elements into his theory: he depicts liberal *and* decent peoples as idealized agents (although liberal democracy remains the ideal political situation).[10] "Peoples" are realistically utopian: societies as they should ideally be (utopian), and in fact, actually could be (realistic). In LP and JF, Rawls's contemplation of realistic utopia elaborates upon familiar principles of international cooperation and justice. Rawls then proceeds to develop a conception of what, from a normative perspective, should and realistically could, under favorable conditions, be realized. The "limits of the possible are not given by the actual."[11] In this way, Rawls establishes direct and relevant links between theory and reality.

In the two original positions Rawls outlines in LP, (1) representatives of liberal societies and (2) representatives of decent regimes are symmetrically positioned as rational and reasonable agents. Independently, these agents pursue rational interests; they are, however, at the same time prepared to agree on reasonable principles and to abide by these principles (principle of reciprocity). Rawls refers to liberal and decent societies as "well-ordered peoples." This term, coined by Rawls, refers to a system of cooperation between free and equal citizens on the basis of universally known and acknowledged principles of justice. "The idea of a well-ordered society is plainly a very considerable idealization."[12] In this model, each and every citizen accepts and recognizes the same political conception and has a sense of justice; this is necessarily in order to apply the principles of justice. The main political and social institutions are built upon these principles and, thus, together form one system of cooperation. Furthermore, Rawls views societies as self-sufficient units.

To ensure that the agreed-upon principles in the original position are fair, Rawls introduces what he calls the "veil of ignorance." This veil hides the knowledge that would enable agents to select principles that are advantageous for the society represented by said agents, but not

[9] In JF, Rawls describes his concept of justice as fairness as "realistically utopian: it probes the limits of the realistically practicable, that is, how far in our world (given its laws and tendencies) a democratic regime can attain complete realization of its appropriate political values — democratic perfection, if you like" (13).

[10] "Liberal societies" are societies based on the two principles of justice identified in TJ, constituted by free and equal, reasonable and rational, as well as fully cooperating citizens. Rawls in LP introduces "decent peoples" as "societies whose basic institutions meet certain specified conditions of political right and justice (including the right of citizens to play a substantial role, say through associations and groups, in making political decisions) and lead their citizens to honor a reasonably just law for the Society of Peoples" (Rawls, *The Law of Peoples*, 3).

[11] Rawls, *Justice as Fairness*, 5.

[12] Ibid., 9.

necessarily just; such knowledge may include, for example, the size, economic strength, or military power of its regime. For Rawls, the principles upon which representatives agree within the original position — the principles of the Law of Peoples — constitute the normative basis for the establishment and maintenance of a fair system of international cooperation.

Rawls's LP is not concerned with the normative foundation of an ideally just world order, at least not primarily. LP is intended to provide liberal regimes with guidelines according to which the regimes can shape their foreign relations in order to enhance peace, stability, and justice in the international realm. The primary question here is how liberal democracies should, in a normative sense, relate to other societies. These guidelines are designed to be applicable in the present day, and to provide a feasible realistic utopian framework for existing as well as future liberal societies.[13] The detailed discussions in LP illustrate that the "limits of practicable political possibility" are neither ideal nor fully just. Rawls pursues a concept for a realistic utopia that can have "legitimate purchase on international politics in the here and now"[14] rather than an ideal "no place."

This difference distinguishes Rawls from "ideal utopianism," such as Plato's ideal city-state, and may also distinguish LP from Rawls's earlier writings. Whereas Plato argues that the sketch of an ideal city-state does not become any less valuable if one is not able to prove that it could exist,[15] Rawls might argue that Plato's sketch cannot meet Rawls's objective: to function as a guideline in the here and now.

Furthermore, a realistic utopia must be able to adjust to different social and historical circumstances. Rather than drawing "sharp boundaries," the aim is to "set out a framework of thought" as one would otherwise risk wrongly prejudging what more specific or future conditions may call for."[16] In LP, this aim is illuminated in the discussion of the principle of reasonable pluralism. Whereas in TJ, the two principles of justice serve as fixed goals, in *Political Liberalism* (PL), Rawls is more concerned with the real, pluralistic world, a concern that becomes apparent in the introduction of the concept of reasonable pluralism as a "pluralism of comprehensive doctrines," which is a "natural outcome of the activities of human reason under enduring free institutions."[17] In LP, this same concept refers to the "diversity among reasonable peoples with their different cultures and traditions of thought."[18] Rawls's realistic utopian framework could therefore provide orientation in a world of diverse reasonable doctrines and political conceptions.

[13] Annette Förster, *Peace, Justice and International Order. Decent Peace in John Rawls' The Law of Peoples* (Basingstoke: Palgrave Macmillan, 2014), 1–2.
[14] Peter Sutch, *Ethics, Justice and International Relations. Constructing an International Community* (London and New York: Routledge, 2001), 177.
[15] Plato, *The Republic*, trans. Allan Bloom (New York: Basic Books, 1991), 472d–e.
[16] Rawls, *Justice as Fairness*, 12.
[17] John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005/1993), XXiV.
[18] Rawls, *The Law of Peoples*, 11.

As a consequence, decent regimes can be considered equal partners in cooperation, although the ideal of a world of just liberal societies remains. Reasonable pluralism leads to the development of different reasonable ideas and conceptions, and the framework of realistic utopia must be able to adjust and react accordingly in a flexible manner. Room for developments and opportunities must be preserved. Rawls's framework of thought is intended to offer a backdrop against which nonideal theory is considered, to provide guidance about how to cope with injustice, to clarify goals for reform, and to identify the most grievous and most urgent injustices that demand correction.[19] "By showing how the social world may realize the features of a realistic utopia, political philosophy provides a long-term goal of political endeavor, and in working toward it gives meaning to what we can do today."[20]

Here, the contrast between ideal theory in TJ and realistic utopianism in LP is striking: In TJ, Rawls searches for a fixed set of principles for use by a perfectly just society — ideal principles for ideal societies. In LP, he presents a set of variable principles for peaceful, stable, and just cooperation. That which is tolerable marks the threshold of cooperation with unjust decent societies; human rights are limited to a minimal set of principles, which in turn serve as a threshold for (non)intervention. The list of principles for international cooperation is open for change.[21]

For Rawls, it is an essential aspect of his theory that the international society he outlines — the Society of Peoples — *could* come into existence, and the mere fact that this possibility exists leads to a shift in attitude toward the world we live in.[22] To serve this end, Rawls develops theories and suggests principles that, if implemented, could help shape not only a peaceful, stable, and just international order, but also a just liberal democracy on the domestic level. In JF, Rawls, under the assumption that a perfect regime will never be realized, expresses his hope for the realization of a "reasonably just, though not perfect"[23] political regime. He writes: "Our hope for the future of our society rests on the belief that the social world allows *at least a decent* political order, so that a *reasonably just, though not perfect*, democratic regime is possible."[24] An awareness of how the (realistic) ideal could be structured and achieved under favorable conditions can help guide the world toward that ideal. This awareness of the possible illustrates the potential for realistic utopianism: the ability to identify guidelines for orientation and reform. "For so long as we believe for good reasons that a self-sustaining and reasonably just political and social order

[19] Ibid., 13.
[20] Ibid., 128.
[21] Ibid., 36–37.
[22] Chris Brown, *Sovereignty, Rights and Justice: International Political Theory Today* (Cambridge: Polity Press, 2002), 185.
[23] Rawls, *Justice as Fairness*, 4.
[24] Ibid., 4 [emphasis added].

both at home and abroad is possible, we can reasonably hope that we or others will someday, somewhere, achieve it; and we can then do something toward this achievement."[25]

To that end, a realistic utopia enables us to evaluate real-world conditions and to compare the options for, as well as the outcomes of, various (political) actions. If we return to the image of Paradise Island, the compass needed to guide us there would be comprised of the principles identified in the original position. The realistic utopian framework of thought differs from traditional ideal theory as it includes nonideal agents as well as a plurality of more and less reasonable political conceptions. The principles of the Law of Peoples build on existing international norms and are open for adjustments. Through his construction of a "realistic utopia," Rawls takes into account accusations of non-applicability and infeasibility. The implications of this strategy are explored below.

III. Exploring Realistic Utopianism

Rawls's framework and the corresponding insights he draws from this framework have attracted criticism from various opposing camps of thought. Not only those generally critical of ideal theory, such as Raymond Geuss or Amartya Sen, have weighed in with their critique of Rawls's theory; philosophers supportive of ideal theory approaches, among them Charles Beitz and Andrew Kuper, have been quick to voice their dissent. The evolution of Rawls's realistic utopian framework might well be in response to the first group, and has amply fueled the criticism of the second. In the following, the central arguments of these two camps are introduced, followed by a discussion of their applicability to Rawls's realistic utopianism in LP.

According to representatives of the first group of critics, the norms developed under idealized and simplified conditions cannot effectively function as guidelines for a nonideal world; these norms cannot be applied to nonideal conditions, and agents and can therefore provide very limited or no guidance. To be meaningful — and relevant — these norms must be developed, reinterpreted, and adapted to the challenges they have to meet in the real world.[26]

Human beings, as Geuss notes, are not ideal agents. While they may have a conception of the good as well as a sense of justice, there is no guarantee that they will act upon these principles accordingly. In fact, the set of diverse convictions, values, or preferences held by human beings

[25] Rawls, *The Law of Peoples*, 128.

[26] For this strand of criticism see: Robeyns, "Ideal Theory in Theory and Practice," 355; Henry Shue, "Rawls on Outlaws," *Politics, Philosophy and Economics* 1, no. 3 (2002): 307f.; Laura Valentini, "On the Apparent Paradox of Ideal Theory," *The Journal of Political Philosophy* 17, no. 3 (2009): 333.

are not consistent in any sense. Moral judgments and desires are often ambiguous, contradictory, and in flux. Human beings are frequently not fully cognizant of their impulses and the motivations for their actions — whether these actions are driven by the pursuit of a rational interest, or in accordance with the principles they consider fair.[27] One could thus argue that Rawls, by assuming full compliance in ideal theory, consciously or unconsciously excludes elements of human nature, or, as he claims, the special psychology of human beings. Although Rawls is more concerned with a plurality of convictions in LP, Geuss's argument applies equally to Rawls's claims in both TJ and LP; in contrast to real people, the parties in these original positions are rational, reasonable, and fully compliant.[28] Rawlsian theory, according to Geuss, is not applicable in reality because it focuses on unrealistic agents.

The intrinsic problem of a transcendental approach, as Sen understands ideal theory, lies in the fact that the corresponding principles cannot be applied to institutions in actual societies, as perfectly just social arrangements do not exist. Due to a plurality of reasons for justice, an agreement on the features of an ideal regime is unlikely to be reached. For Sen, concordance on how to reduce injustice is much more likely.[29] As an example, while it may be difficult to reach wide agreement on a definition of a perfectly just society, it may be easier to achieve a consensus regarding the egregious injustice of enslavement and torture.[30] For these reasons, the picture of a perfectly just (international) society is unrewarding when it comes to making the world a better place. Instead, measures designed to eliminate injustice are required. Rather than an ideal that supposedly leads us toward a place that by definition does not exist, and thus cannot assist with the choices faced in reality, "an agreement, based on public reasoning, on rankings of alternatives that can be realized"[31] is most urgently needed.

Potential actions and their consequences should be compared to one another, not to an ideal. Sen's comparative approach advocates balancing societies that either exist or could feasibly come into existence against each other: If "we are trying to choose between a Picasso and a Dali, it is of no help to invoke a diagnosis [. . .] that the ideal picture in the world is the Mona Lisa. [. . .] Indeed, it is not at all necessary to talk about what may be the greatest or most perfect picture in the world, to choose between the two alternatives that we are facing."[32] As the analogy between aesthetics and justice might not be clear, Sen later introduces a second analogy:

[27] Raymond Geuss, *Kritik der Politischen Philosophie. Eine Streitschrift*, [trans.] Karin Wördemann (Hamburg: HIS, 2011), 12–14.
[28] Rawls, *Justice as Fairness*, 87; Rawls, *The Law of Peoples*, 32–35.
[29] Amartya Sen, *The Idea of Justice* (London: Penguin Books, 2009), 11–12.
[30] Ibid., 104.
[31] Ibid., 17.
[32] Ibid., 16.

Knowing that Mount Everest is the tallest mountain is not helpful when comparing the heights of Kilimanjaro and Mount McKinley. In both cases, we do not need the ideal to choose between realistic alternatives.[33] When justice is demanded in the world at large, the goal is usually not an ideally just society but rather the elimination of specific injustices, as well as the enhancement of justice.[34] Sen argues that "pursuing justice is actually about making comparisons; we ask ourselves whether this policy will make the world a somewhat better place as opposed to that policy, and an ideal world contributes very little, if anything, to this process of comparison."[35]

Representatives of the second group of detractors of realistic utopia find it, first, difficult to comprehend why liberal and decent peoples are represented in the original position, and second, why liberal regimes should *ideally* opt for a lowest-common-denominator set of not only human rights but also of principles of tolerance and respect for decent regimes. Cosmopolitans tend to favor a framework in which every individual is equally represented; where individual, and not societal, growth and potential are emphasized and encouraged. The interests of peoples do not necessarily coincide with the interests of persons.[36] Logically, the selection of fair principles of cooperation by and for individuals would have a different outcome. The prospect of being a dissident in a decent regime after the veil of ignorance is lifted provides a significant incentive to support the selection of a broad set of human rights. How this selection relates to and impacts decent peoples then becomes a matter of nonideal theory.[37]

Even if the perspective of liberal societies were to be accepted, it is unclear why the representatives of these societies would not opt for a broad set of human rights and equal political representation as a basis and precondition for cooperation in the international realm. The minimal overlapping consensus that liberal and decent regimes in separate original positions agree upon is less than ideal from a liberal viewpoint. Liberal democracy, based on the two principles of justice, remains the best concept. An ideal law of peoples would thus include the full set of rights and freedoms that can be applied on a domestic level and would be less tolerant towards the injustices in decent regimes.

The applicability constraint can be answered by realistic utopianism and nonideal theory; the framework for realistic utopianism shall ensure that those principles selected in the original position, regardless if they are domestic or international, are applicable to liberal (and decent) societies

[33] Ibid, 101–2.
[34] Ibid., 26.
[35] Chris Brown, "On Amartya Sen and The Idea of Justice," *Ethics and International Affairs* 24, no. 3 (2010): 313–14.
[36] Charles R. Beitz, "Social and Cosmopolitan Liberalism," *International Affairs* 75, no. 3 (1999): 519.
[37] Andrew Kuper, "Rawlsian Global Justice: Beyond the Law of Peoples to a Cosmopolitan Law," *Political Theory* 28, no. 5 (2000): 651.

and their foreign relations. Nonideal theory then serves as a guideline for how these principles can or could be applied in real-world conditions. Rawls therefore considers the feasibility requirement in both ideal and nonideal theory.[38] LP does not present a "view from the veiled peaks of philosophy";[39] these principles, Rawls argues, do not come out of the ivory tower of the political philosopher far removed from the real world. These principles are, to the contrary, reconstructions of what is found in the world and extend within a realistic utopian framework to the limits of practicable possibility. All but one of the principles of the Law of Peoples (the duty of assistance to burdened societies) are established standards of international cooperation.[40] Chris Brown argues that "the law of nations is a *shadow* of the law of peoples," as the former is notably "vulnerable to contingency."[41] Rawls seizes upon existing values and practices and proceeds to extrapolate accordingly. Furthermore, in the real world, we are confronted with a broad diversity of political regimes and systems of social cooperation; for this reason, Rawls does not want to limit his Society of Peoples to only include liberal democracies. To mandate that liberal democracy be a precondition for fair international cooperation violates the principle of reasonable pluralism and can be viewed as imperialistic.

Nevertheless, the question of whether ideal principles are applicable to real-world agents is real and relevant. During the process of idealization, Rawls's representatives know neither envy nor the will to exercise power over others. Envy is "generally regarded as something to be avoided and feared;" accordingly, it seems "desirable that, if possible, the choice of principles should not be influenced by this."[42] As a result, representatives are deprived by the veil of ignorance of both knowledge, and traits inherent to human nature. In nonideal theory, however, Rawls acknowledges that people might not always act according to these principles, but argues that it is sufficient to assume that they generally do. Peaceful, stable, and fair cooperation can be maintained as long as an overlapping consensus on central principles can be upheld. A stable system of fair cooperation does not require full compliance, although norm-compliance will, over time, improve through a process Rawls calls "moral learning." During this process, people gradually come to regard as mutually advantageous the

[38] A. John Simmons, "Ideal Theory and Non-Ideal Theory," *Philosophy and Public Affairs* 38, no. 1 (2010), 29.

[39] Thomas W. Pogge, "Rawls on International Justice," *The Philosophical Quarterly* 51, no. 203 (2001): 253.

[40] The eight principles of the Law of Peoples are: (1) the duty to respect a people's freedom and independence, (2) to observe treaties, (3) to consider the equality between peoples, (4) nonintervention, (5) the right to self-defense, (6) the duty to honor (core) human rights, (7) to observe restrictions in the conduct of war, and (8) the duty of assistance toward burdened societies (Rawls, *The Law of Peoples*, 37).

[41] Brown, "The Construction of a 'Realistic Utopia': John Rawls and International Political Theory," 12.

[42] Rawls, *Justice as Fairness*, 87.

norms they reasonably agree upon. These norms are internalized as ideals of conduct, and mutual trust is developed under the assumption that the partners in cooperation are equally guided by the same principles.[43] Moral learning can be observed at the domestic as well as at the international level.

This essay has thus far presented arguments that support that claim that Rawls's framework for realistic utopia adequately considers feasibility constraints. What remains to be explored is whether the principles of the Law of Peoples can function as guidelines for liberal regimes in the organization and implementation of their foreign relations, and whether these guidelines form a helpful navigation device. In response to Sen's aforementioned remarks, this essay presents arguments that support my claim that ideal theory, or realistic utopianism as a special form of ideal theory, is relevant and is in some respects a necessary tool. "To dive into nonideal theory without an ideal theory in hand is simply to dive blind."[44] Leaving aside the problems with the adequacy of an analogy between aesthetics, mountain height, and justice, Sen is correct to observe that neither the Mona Lisa nor Mount Everest is needed when faced with a choice between alternatives. What is needed are selection criteria. In the example of the mountain, the single determining criterion is height. Without knowing the criterion, it is impossible to make an informed decision between Kilimanjaro and Mount McKinley. In the case of LP, the aim is to identify principles of international conduct on the basis of which liberal regimes can establish a peaceful, stable, and just international system of cooperation. To this end, Rawls advocates the application of the principles of the Law of Peoples, and the attributes of realistic utopia form a framework that can be used to identify these principles. Without these principles in mind, it would be impossible to know which criteria should be selected in order to weigh different real-world policy options.

Without a criterion or a set of criteria by which to evaluate options, problems of transitivity or consistency may occur. If alternatives are compared in pairs, using Sen's aesthetic example as reference, Picasso may be preferred over Dali for one reason, Dali over Turner for another reason, and Turner over Picasso for yet another reason entirely. To organize the paintings, an attribute is needed, by which the beauty of the paintings can be assessed. This same attribute could then serve as a, or even the, criterion for an ideal painting.[45] A blueprint of an ideal society is not necessary in order to make comparative judgments regarding alternative courses of action, but a criterion upon which our judgments are based, is. The aim of ideal theory is not the outline of an ideal world, but rather the identification of specific principles of fair cooperation. Once there is agreement that

[43] Rawls, *The Law of Peoples*, 44–45.
[44] Simmons, "Ideal Theory and Non-Ideal Theory," 34.
[45] I am indebted to David Miller for bringing forward this argument.

a central principle of cooperation is the adherence to agreed-upon treaties and undertakings, and the acceptance of specified normative restrictions in the conduct of war is mutual (the second and seventh principles of the Law of Peoples), these principles can guide our actions when we are faced with real-world political choices between alternative courses of action.

Sharing a principle, however, does not necessarily mean that each agent weighs alternatives in the same way, especially if a larger set of criteria needs to be considered. There may well be "conflicting views on social priorities."[46] Different societies weigh specific conflicting norms in their own way. As Sen observes, Rawls is aware of this plurality when he argues that there is not one, but rather a family of political conceptions of justice; justice as fairness is only one conception among many. Although these conceptions of justice may share underlying ideas, such as the freedom and equality of persons, these shared ideas are interpreted in different ways.[47] The principles identified in ideal theory provide guidance and orientation as to what is morally permissible, politically possible, and effective in terms of enhancing peace, stability, and justice. Nevertheless, individual agents might arrive at different conclusions when considering which action best meets the task. Rawls's realistic utopia provides a structure that is sufficiently close to replicating real-world conditions as to lead to feasible principles.

History offers myriad examples of how ideas and ideals inform real world politics. The Constitution of the United States contains claims to abstract rights and principles of justice, and functions as a guideline for shaping social cooperation in U.S.-American society. The Constitution serves as a basis for the public justification of politics as well as for the public criticism of said politics. The ideas put forth in the Constitution could not have been adequately conveyed with a mere reference to practicable alternatives.[48] In a similar way, the first article of the Basic Law of the Federal Republic of Germany has its own impact on social cooperation and politics in Germany: "Human dignity shall be inviolable" is the fundamental norm by which any action of state authorities is judged. Last but not least, the international human rights regime is based upon the claim of universal, equal, and inalienable human rights; this claim "will always contain a certain utopian element, as we develop richer substantive conceptions of human dignity and more fully inclusive conceptions of 'all' human beings. But it remains a *realistic* utopia [. . .] that provides the means (human rights) for its own realization."[49] Thereby, idealizations

[46] Sen, *The Idea of Justice*, 104.

[47] Ibid., 11; Rawls, *The Law of Peoples*, 141.

[48] Samuel Freeman, "A New Theory of Justice," *The New York Review of Books* 57, no. 15, nybooks.com/articles/archives/2010/oct/14/new-theory-justice.

[49] Jack Donnelly, "Human Rights," in John S. Dryzek, Bonnie Honig, and Anne Phillips, eds., *The Oxford Handbook of Political Theory* (New York: Oxford University Press, 2008), 611 [emphasis in the original].

of real-world conditions help keep agents focused on relevant factors and fundamental principles; ideas of justice can be clarified and those moral convictions held can be systematized. Still, to meet the task (to "give meaning to what we can do today") — and this is where Geuss's and Sen's criticisms contribute to the discourse on ideal theory — ideal theorists need to consider real-world agents, conditions, and implications, at least in nonideal theory, if their ultimate aim is to present feasible ideas.

From the second group of critics' viewpoint, Rawls embraces real-world conditions rather too completely and the principles he proposes do not go far enough. Instead, Rawls's second-group critics argue that individual human beings should have been represented in a global original position, where they would have opted for a wider set of liberal principles. Rawls's aim in LP is to identify principles of peaceful, stable, and just international cooperation that can serve as a guideline for the foreign policy of liberal regimes. Therefore, liberal regimes are represented in the first international original position. Considering the world as it is — a world of states — and exploring its potential under favorable, idealized conditions is central for Rawls's realistic utopian framework. History might bring us to a point at which the impact of states has faded and overlapping territorial associations and communities have become more significant.[50] In the here and now, where the intention is to present guidelines for the foreign policy of liberal regimes, the focus on states is expedient. Choosing a different perspective — an ideal theory focusing on the individual human beings — is a different project. What a realistic utopia entails, however, builds and depends on what we find in reality and can be subject to change.

But why should liberal representatives under idealized conditions opt for what seems like a less-than-ideal compromise (a human rights minimalism) with less-than-ideal agents (decent societies)? Extrapolating from the fact that there are diverse political regimes that do not embrace a full set of liberal rights, it does not follow that representatives of liberal societies behind the veil of ignorance should settle for what they deem to be the limits of the tolerable rather than an ideal set of principles. The representatives' task is to explore the limits of practicable political possibility, and not of the tolerable. In an ideal world, Rawls's critics might want him to argue that all societies should be reformed into liberal regimes.

The reason why representatives of liberal societies settle for the tolerable can be found within the realistic utopian framework, which is distinct from Rawls's ideal theory framework in TJ. Realistic utopianism and the principles of the Law of Peoples are not an ideal endpoint. This evolved framework is more of a significant interim stage on the way to a fully ideal international realm: an all-embracing, eternally peaceful, and stable international society of liberal peoples; in the end, decent societies might reform into liberal regimes once the advantages of a democratic system

[50] Pogge, "Rawls on International Justice," 248.

are apparent. Once this stage has been reached, some principles might become superfluous within a peaceful, all-embracing Society of Peoples, such as the restrictions in the conduct of war.[51] A Society of Peoples composed of liberal and decent societies marks what Rawls considers "the best we can realistically — and coherently — hope for,"[52] and not the ideal, which is a clear departure from his earlier thought. But why settle for "the best we can realistically hope" for rather than aim for the ideal?

An answer might be found in David Schmidtz's writings on ideal theory. According to Schmidtz, ideal theories must be, if not realistically attainable, at least worth a try. "Thus, if we are on the roof of a tall building and I say, 'Ideally, I would fly like Superman' and you reply, 'Well, it's worth a try,' you will be saying something false. Not being worth a try makes my vision of Superman a daydream or a throwaway remark, not an ideal. So, where X is not even worth a try, X does not imply reasons for action and thus is not an object of aspiration; it is instead normatively inert. However, defining an objective that is worth a try, even if ultimately unattainable, is not always a mistake."[53] From Rawls's perspective, a global original position in which representatives have selected a broad set of liberal principles might be comparable to Schmidtz's daydream of flying like superman. As beautiful as this image is, it is unattainable and thus unsuitable as a guideline for action; indeed, unsuitable is an understatement, as trying to fly like Superman from the top of a building could lead directly to certain death. In comparison to the futility of the Superman model, the realization of a Society of well-ordered Peoples may well be worth a try. Moreover, Rawls leaves the back door open through which further rights and principles can come in: he leaves room for further (sets of) principles and assumes that decent societies might, of their own accord, enact liberal reforms.[54]

For Rawls, further reasons for rejecting a full set of liberal norms include the principle of reasonable pluralism, the right to self-determination, as well as the danger of cultural imperialism. There is a plethora of reasonable political conceptions; Rawls's idealized democratic society, which is based on the two principles of justice, is only one among many reasonable conceptions, including decent consultation hierarchies. "The claim that liberal democracy is or will become universally appealing is characteristic of cultural imperialism, which leads to imposing that model as a norm, even if only in a 'soft' version, based on respect and persuasion, rather than on force."[55] A "hard" version includes the threat or use of force.

[51] Rawls, *The Law of Peoples*, 37–38, 61–62.

[52] Ibid., 78.

[53] Schmidtz, "Nonideal Theory: What It Is and What It Needs to Be," 776.

[54] Rawls argues that "there is no single possible Law of Peoples, but rather a family of reasonable such laws" and that the "statement of principles is, admittedly, incomplete" (Rawls, *The Law of Peoples*, 4, 37).

[55] Cathrine Audard, "Peace or Justice? Some Remarks on Rawls's Law of Peoples," *Revue International de Philosophie* 60, no. 237 (2006): 310.

The struggle to establish liberal values then runs the risk of becoming violent and imperialistic.

Rawls's realistic utopian framework is distinct from other forms of ideal theory, as it considers those feasibility constraints already in place in ideal theory and opts for a realistically utopian, nonideal set of principles of fair international cooperation. Rawls assumes real-world conditions and, in contrast to TJ, allows for plurality and change. The outcome of the original positions (the principles of the Law of Peoples) is a realistic utopian compromise between liberal and decent societies rather than strict adherence to the ideal principles of fair international cooperation. Rawls's agents, however, are idealized liberal (and decent) societies in ideal- as well as nonideal theory. In this way, Rawls's concept of realistic utopia is stretched to its limits, which are explored in the following section.

IV. The Limits and Problems of Rawls's Realistic Utopia

Recall that the principles identified in ideal theory are intended to guide liberal foreign policy toward the enhancement of international peace, stability, and justice. To succeed, those policies must be morally permissible, politically possible, and likely effective within the framework of nonideal theory. The limits of the realistic utopian framework thus become apparent, considering, first, agency and, second, the set of principles.

In the first international original position, the representatives act on behalf of the "peoples whose basic institutions satisfy the principles of justice selected at the first level."[56] Representatives of already idealized societies whose basic structures are organized in accordance with the two principles of justice are situated behind the veil of ignorance. As Laura Valentini remarks, the idealizations used during the construction of the international original positions are "treated as facts about the agents and circumstances to which his [Rawls's] 'Law of Peoples' is meant to apply."[57] In nonideal theory, idealized liberal and decent societies that comply with the principles of the Law of Peoples relate to nonideal societies (burdened societies and outlaw states).

These idealizations may not have an impact on the outcome of the selection process, due to the construction of the original position. In nonideal theory, however, Rawls turns a blind eye to instances of noncompliance by liberal and decent societies, a problem that should be considered within that framework.[58] One might argue that these problems should be

[56] John Rawls, "The Law of Peoples," *Critical Inquiry* 20, no. 1 (1993): 41.

[57] Valentini, "On the Apparent Paradox of Ideal Theory," 353. See also Alistair M. Macleod, "Rawls's Narrow Doctrine of Human Rights," in Rex Martin and David A. Reidy, eds., *Rawls's Law of Peoples: A Realistic Utopia?* (Oxford: Blackwell, 2007); Lea Ypi, "On the Confusion between Ideal and Non-ideal in Recent Debates on Global Justice," *Political Studies* 58, no. 4 (2010): 551.

[58] Macleod, "Rawls's Narrow Doctrine of Human Rights," 145.

addressed in domestic theory. This argument is problematic in two ways, as first, there is not a domestic theory for decent peoples and second, domestic structures and policies of peoples are relevant when considering foreign relations and must therefore be taken into account.

In Rawls's defense, he is not fully unaware of the fact that liberal and decent regimes are not ideal agents. This is apparent not only when he accepts the existence of "peoples with somewhat dirty hands," but also when he states that peoples may not meet the duty of assistance properly because sympathy for burdened societies might be too weak, and that institutions are needed to motivate governments to abide by the Law of Peoples as well as to remove the temptation of corruption.[59] Rawls mentions "great shortcomings of actual, allegedly constitutional democratic regimes"[60] in reference to the United States' role in overthrowing democratic rulers. "Though democratic peoples are not expansionist, they do defend their security interest, and a democratic government can easily invoke this interest to support covert interventions, even when actually moved by economic interests behind the scene."[61]

Nevertheless, Rawls simplifies both ideal and nonideal theory to keep the number of parameters manageable. He factors out that peoples may use their superior bargaining position to further their interests, a move that is in direct violation of the principles they consider fair. Rawls also ignores the fact that peoples might misuse their right to war against outlaw regimes, that they may have to deal with unfavorable conditions, or that internal conflicts might arise; for example, rulers in decent societies might answer popular support for democratic reform with suppressive politics.

Rawls does not discuss measures of how liberal and decent peoples might be held responsible for meeting the duty of assistance or for reasonably exercising their right to war against outlaw states that grossly violate human rights or pose a threat to international peace and security. What constitutes a threat or gross violation is a matter of perspective. Whereas ideal agents can be expected to justly wield their right to war, nonideal agents could be expected to misuse it; although initially granted on a smaller scale, this right could evolve into the right to war against a large number of real-world regimes. Here, the United States' invasion of Iraq in 2003 might serve as an example, where the U.S. government invoked international security and human rights violations to justify the military strikes. With this in mind, it is worth considering the stance of the Society of Peoples, which is not only a defensive alliance, but also aims to enlarge the number of liberal and decent regimes through intervention

[59] Rawls, *The Law of Peoples*, 24.
[60] Ibid., 53.
[61] Ibid.; Rawls mentions overturning Allende in Chile, Arbenz in Guatemala, or Mossadegh in Iran.

or assistance. As liberal states tend to be economically advanced societies,[62] forming a Society of Peoples, they are in a powerful bargaining position, which they may be tempted to use in favor of rational, rather than reasonable objectives. Assistance might turn into interference and exploitation, humanitarian interventions into wars of aggression. Rawls does not discuss any of this in nonideal theory. Moreover, considering his focus on societies as self-sufficient units in his domestic as well as his international theory, Rawls does not adequately take into account the fact that policies of one society often influence those of other societies, especially as the world becomes more and more interconnected. As a consequence, Rawls ignores injustices that in the past and/or present emerged or emerge due to the policies of liberal societies. The wealth and lifestyle of Western societies — Rawls's liberal democracies — is partially based on the historic (and present) exploitation of less developed societies. In addition, regimes that are not members of the Society of Peoples are excluded from mutually beneficial arrangements of fair cooperation between equal partners, and are therefore disadvantaged.[63]

In order to derive principles of fair international cooperation, sketching ideally just societies is a reasonable step. When applying the norms of ideal societies to the real world, "our strategies for achieving them must take account of how society actually is, its non-ideal agents and its existing political structures."[64] Instead of concentrating on external challenges, the shortcomings of liberal and decent regimes in terms of their institutions and policies need to be addressed.[65] Accordingly, the transfer of idealized actors from ideal theory to nonideal theory limits the problem-solving capacity of the approach. Importantly, Rawls does not consider applicability constraints at a decisive stage, lending substance to his critics' remark: "In short, the agents to which Rawls's [. . .] [theory is] meant to apply, namely just liberal societies, do not exist, and this is why these theories are irrelevant, if not misleading, when applied to real-world circumstances."[66]

Thomas Pogge addresses some of the problems that arise in Rawls's framework with reference to "burdened societies." Affluent societies, he argues, "enjoy a great superiority in bargaining power, information and expertise over poor societies as a group"[67] within the international economic system, especially if those powers are used jointly. Treaties and

[62] Steven Chan, "In Search of Democratic Peace: Problems and Promise," *Mershon International Studies Review* 41, no. 1 (1997): 75–76.

[63] Thomas W. Pogge, "'Assisting' the Global Poor," in: Deen K. Chatterjee, ed., *The Ethics of Assistance: Morality and the Distant Needy* (Cambridge: Cambridge University Press, 2004), 262–64.

[64] Valentini, "On the Apparent Paradox of Ideal Theory," 356.

[65] Macleod, "Rawls's Narrow Doctrine of Human Rights," 145.

[66] Valentini, "On the Apparent Paradox of Ideal Theory," 354.

[67] Thomas W. Pogge, "Rawls on International Justice," *The Philosophical Quarterly* 51, no. 203 (2001): 251.

conventions on trade, taxation, investment, patents, labor rights, or environmental protection are negotiated against this background.[68] By shaping the international order in their favor, affluent societies in the past and present are responsible for some of the "unfavorable conditions" that burdened societies have to face. Rather than focus on benevolence and assistance toward societies that suffer from unfavorable conditions, affluent societies should cease the practice of imposing an unjust international economic order that is disadvantageous to burdened societies, and also of benefiting from the injustices that stem from this imbalance.[69] Fair international cooperation should not be limited to well-ordered regimes.

Rawls is not ignorant of this problem. In ideal theory, he writes that unjustified distributive effects of cooperation need to be corrected and that fair standards of trade must be negotiated, but he neglects to present a principle that can address either in relation to regimes that are not well-ordered.[70] These remarks are based on the assumption that "the larger nations with the wealthier economies will not attempt to monopolize the market, or to conspire to form a cartel, or to act as oligopoly."[71] This assumption applies to ideal agents, but not necessarily to real-world wealthier economies. To address these problems, Rawls would not have to introduce reflections on historic injustices, which in any case would not fit into his model, as the veil of ignorance hides that kind of knowledge; the representatives would merely have to agree on basic principles of fair cooperation and, possibly, an obligation to rectify any problems stemming from the violation of these principles. Pogge's principles of "do no harm" and "do not profit from injustices" appear to serve this purpose. Furthermore, treaties should be kept *and* negotiated under fair conditions. If Rawls is reluctant to commit to a principle of fair trade in ideal theory, he should at least discuss this problem in nonideal theory, where liberal and decent societies are not fully complying, reasonable actors, the premise of which refers back to the problem of ideal agents in nonideal theory.

In sum, Rawls's realistic utopian framework outlines principles that can be used as guidelines for reasonable, practicable, and effective political action in the here and now, working toward a more peaceful, stable, and just system of cooperation. Through taking plurality, existing norms, and the current state of the world into account, Rawls enhances the applicability of his thought. Despite these achievements, LP provides scant orientation regarding noncompliance with the principles of the Law of Peoples of liberal and decent societies, and provides neither a framework for criticism of domestic politics in well-ordered societies nor safeguards to prevent the misuse of rights and duties Rawls ascribes to his idealized agents.

[68] Ibid.
[69] Pogge, "'Assisting' the Global Poor"; Pogge, "Rawls on International Justice," 253.
[70] Ibid.; Rawls, *The Law of Peoples*, 42–43.
[71] Rawls, *The Law of Peoples*, 43.

V. Rawls's Realistic Utopia — Irrelevant or Worth a Try?

To serve as a guideline for politics intended to make the world a better place, to actually prove to be helpful in solving real-world problems, ideal theory needs to relate to the real world; these are the challenges the concept of a realistic utopia addresses. In LP, Rawls builds on what he finds in the real world and explores what he deems the limits of practicable possibility. In TJ, he suggests a fixed set of two principles of justice as a comprehensive doctrine;[72] in PL, he introduces the concept of a reasonable pluralism of reasonable comprehensive doctrines, which he consequently applies to political regimes in LP. In the process, Rawls's theory becomes more realistic, more applicable and adaptable, and thus more fruitful as a navigation device in the here and now. Rawls's realistic utopia in LP offers a framework of thought that can address changing circumstances and provide orientation in a world of diverse reasonable doctrines and political conceptions. To Rawls, the principles of the Law of Peoples constitute the overlapping consensus between the well-ordered regimes we can "realistically hope for" in terms of peaceful, stable, and just international relations, but are nevertheless open for change. The method of the original position(s) is used to probe the limits of practicable political possibility. As a consequence, TJ might be considered an ideal utopian conception whereas LP is a realistic utopia.

Both frameworks, however, are vulnerable to feasibility constraints that must be addressed. Rawls's combination of realistic and utopian elements enhances applicability of these frameworks, while it simultaneously poses special challenges. Rawls relates ideal peoples to nonideal surroundings without considering the impact of this on their domestic and foreign policies, in particular the effect of noncompliance with the principles of the Law of Peoples. "Principles ought to be ideal; agency realistically nonideal."[73] In this respect, Rawls's theory is less realistic than it is supposed to be. Here, focusing on one element comes at the expense of the other. Idealized conditions and agents are reasonable within ideal theory to identify a set of principles that can then function as a guideline. Nonideal theory, however, must be able to function with nonideal agents in order to be applicable to the existing state of the world and also in order to be able to meet real-world challenges. Rawls needs to consider noncompliance by liberal and decent regimes, as well as the injustices that might result from the implementation of his principles by nonideal agents under nonideal conditions. Pogge's principles of "do no harm" and "do not profit from injustices" could, in this case, function as safeguards.

With his realistic utopian framework, Rawls is walking a tightrope, in danger of being held too far back by reality on the one hand and of

[72] Rawls, *Political Liberalism*, 489.

[73] Ypi, "On the Confusion between Ideal and Non-ideal in Recent Debates on Global Justice," 551.

overidealization and oversimplification on the other. The question then is whether, despite the flaws discussed throughout this essay, a realistic utopia can meet the challenge of identifying the principles that may serve as guidelines for the foreign policies of a well-ordered society, whether it can serve as a compass to Paradise Island, and whether that journey is worth a try.

Despite these flaws, the results of Rawls's realistic utopia — in this case the principles of the Law of Peoples — are valuable. These principles provide assistance in the development of fair domestic structures and foreign relations of liberal societies by serving as points of orientation, by helping to weigh alternatives against each other, and by justifying or criticizing government policies. Full compliance is not necessary for the principles to serve as guidelines as long as one can assume that under ordinary circumstances, allegiance to these principles is certain. Nonideal agents can still implement the principles in their day-to-day policies.[74]

However, the effects of domestic policies on the international realm as well as the effects of noncompliance on the principles of fair cooperation need to be considered in order for the realistic utopian framework to provide guidance, to clarify goals for reform, and to identify the most grievous and most urgent injustices that need to be addressed. A realistic utopian framework can be useful in identifying those visions and concepts toward which it is worth a try to work.

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[74] Ibid., 538; Robeyns, "Ideal Theory in Theory and Practice," 347.