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IS IT WRONG TO ASSUME FULL COMPLIANCE IN IDEAL THEORY? :

A RESPONSE TO SCHMIDTZ

by

CHETAN CETTY

Under the Direction of Andrew Altman and Andrew Jason Cohen

ABSTRACT

In his liberal theory of justice, John Rawls stipulates that the principles of justice selected will be generally complied with. This assumption of full compliance is characteristic of what Rawls calls “ideal theory,” i.e., a theory that seeks to formulate and justify ideal principles of justice. David Schmidtz contends that the full compliance assumption undermines the practical relevance of ideal theory. I argue that Schmidtz’s criticisms of full compliance do not succeed. Understanding why his arguments fail requires an examination of both Schmidtz’s and Rawls’s views of the nature of justice and the function of political philosophy. I explain why full compliance can plausibly be assumed in Rawls’s ideal theory given the conception of justice he employs, and articulate the problem Schmidtz’s argument faces if it relies on his view of the role of political philosophy.

INDEX WORDS: Political philosophy, John Rawls, David Schmidtz, Ideal theory, Full compliance

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by

CHETAN CETTY

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1 INTRODUCTION

John Rawls stipulates that “principles of justice are chosen on the supposition that they will be generally complied with.”¹ This assumption of full compliance is characteristic of what Rawls calls “ideal theory,” i.e., theoretical work that seeks to formulate and justify ideal principles of justice, setting aside problems that arise from injustices that invariably exist under real world conditions. It is the province of “non-ideal theory,” according to Rawls, to address injustices and thus deal with topics such as “the theory of punishment, the doctrine of just war, and the justification of the various ways of opposing unjust regimes, ranging from civil disobedience and conscientious objection to militant resistance and revolution.”² By contrast, ideal theory, in Rawls’s view, presents the principles that would be followed in a world free of injustice.

A recent criticism of ideal theory, developed by David Schmitz, focuses on the supposed distorting effect that the full compliance assumption has on the practical relevance of ideal theories.³ Schmitz argues that by assuming full compliance, ideal theory identifies a standard of justice that might apply to an imaginary world but is inapplicable to the actual world. As Schmitz puts it, “the trouble with ideas about what is fair in worlds without compliance problems is...they are ideas about an ideal problem, not a real one.”⁴

In this paper, I evaluate and respond to Schmitz criticism. Briefly, I argue that the two criticisms Schmitz advances against full compliance do not succeed. Understanding why his arguments fail requires an examination of both Schmitz’s and Rawls’s views of the nature of justice and the function of political philosophy. In what follows, I first provide a brief summary of ideal and nonideal theory. Then, I explicate the function and justification of the full compli-

¹ Rawls, *A Theory of Justice*, 215.

² *Ibid.*, 8.

³ Schmitz bases his criticism on Amartya Sen’s comments on ideal theory. See Sen, *The Idea of Justice*, 90.

⁴ Schmitz, “Nonideal Theory,” 778.

ance assumption in Rawls's theory. Next, I present and critically examine Schmidtz's arguments to show how the full compliance assumption can plausibly be made in light of certain intricacies in Rawls's account of justice and his contractualist approach. I then assess Schmidtz's view about the role of political philosophy and explain the problem his argument faces if it is based on that view. I then provide two considerations in favor of the full compliance assumption before concluding with two general remarks about my critique of Schmidtz's argument.

1.1 Ideal and Nonideal Theory Defined

A definitive explanation of the distinction between ideal and nonideal theory is hard to come by. Various theorists engaged in the debate have themselves noted the lack of a single agreed-upon demarcation of the division between the two forms of theory.⁵ That said, there is a cluster of ideas that many if not all philosophers writing on the topic understand as being constituent elements of ideal and nonideal theory.⁶ In essence, ideal theory specifies the ultimate standard or goal for all societies to strive for. And a society that met the standard would be one where everyone complies with the principles advanced by the theory. By contrast, nonideal theory, as Rawls conceives of it, "asks how this long-term goal [specified by ideal theory] might be achieved, or worked toward, usually in gradual steps. It looks for policies and courses of action that are morally permissible and politically possible as well as likely to be effective."⁷ In the rest of this section I will explicate these elements of ideal and nonideal theory. Following Rawls, I take justice to be the central political value that makes up the content of ideal theory.

⁵ See Mills, "'Ideal Theory' as Ideology.", Robeyns, "Ideal Theory in Theory and Practice.", Schmidtz, "Nonideal Theory.", Hamlin and Stemplowska, "Theory, Ideal Theory and the Theory of Ideals."

⁶ See Valentini, "Ideal vs. Non-Ideal Theory."

⁷ Rawls, *The Law of Peoples*, 89.

Ideal theory offers us an account of what a perfectly just society would look like.⁸ It comprises a set of fundamental political principles, and then offers a description of the basic elements of a society in which these principles are fully instantiated. A perfectly just society is perfect *because* it fully instantiates the principles of justice.⁹ Ideal theory identifies the ultimate standard of justice for all societies to strive for.

This standard of perfect justice may also be – to some degree – a utopian one. Ideal theories, ranging from those of Plato and Aristotle to those of Rawls and Nozick, identify ideal societies that are utopian to the extent that they fulfill the fundamental political requirements, which are usually the principles of justice. It appears that the institutional and social arrangements identified by ideal theory are, first, not realized by any present or past societies; and second, realizable only if human beings individually and/or collectively substantially alter their behavior in some very important respects. Insofar as perfect societies give us the ultimate goal to work toward, ideal theories are likely to be utopian.

Rawls himself argues for a “realistic utopia” that falls within the bounds of “practical political possibility.”¹⁰ What makes his utopian society realistic is, first, that “it takes people as they are (by the laws of nature), and constitutional and civil laws as they might be, that is, as they would be in a reasonably just and well-ordered democratic society,” and second, “its first principles and precepts [are] workable and applicable to ongoing political and social arrangements.”¹¹ Rawls argues that “our objective should be to make only realistic assumptions in our ideal theo-

⁸ Since in any society there are elements that do not pertain to justice, it is possible that two different societies can be perfectly just without being identical in every respect. Thus, the description of a perfect society offered by ideal theory need not be the only correct description. Thanks to A.J. Cohen for highlighting this.

⁹ It is possible for a society to fully instantiate, say, the principles of justice and still fail to be perfect. Perfection might require more than the full realization of the requirements of justice. I thank A. J. Cohen for raising this point.

¹⁰ Rawls, *The Law of Peoples*, 6.

¹¹ *Ibid.*, 13.

ry, in order to avoid idle utopianism.”¹² That said, the perfectly just society that Rawls envisions, being utopian, is still one that can be realized only through at least some substantial changes in institutional structures and social arrangements.

Nonideal theory is defined by Rawls largely in terms of its relation to ideal theory. Once we determine what the ideal of justice is, we can then determine how to achieve that ideal in a nonideal world where societies fall short. Nonideal theory is supposed to deal with both “deliberate or avoidable institutional injustice (including unjust conduct by public officials in their application of institutional rules) and with unfortunate noncompliance (due to societal poverty or cultural obstacles to justice).”¹³ John Simmons, in his examination of Rawls’s nonideal theory, notes that it is comprised of both a *transitional* and a *comparative* element. Nonideal theory’s transitional element consists in its articulation of means for pushing society closer to ideal justice that are morally permissible and also “politically possible and likely to be effective.”¹⁴ While ideal theory offers us a way to judge the relative justness of societies, based upon their proximity to the ideally just society, nonideal theory is supposed to supplement this aspect by offering us a more fine-grained account of how societies can depart from ideal justice for differing reasons and how to rank them in such cases. This is the comparative element.

1.2 The Full Compliance Assumption

The full compliance assumption plays a major role in Rawls’s ideal theory. The theory is a contractualist one.¹⁵ Rawls stipulates that the rationally motivated members of society who are

¹² Simmons, “Ideal and Nonideal Theory,” 8.

¹³ *Ibid.*, 16.

¹⁴ *Ibid.*, 21.

¹⁵ The distinction between contractualism and contractarianism, as Stephen Darwall explains, is that “whereas contractarianism takes moral principles to result from rationally self-interested bargaining, contractualism sees the relevant agreement as governed by a moral ideal of equal respect, one that would be inconsistent, indeed, with bargaining over fundamental terms of association in the way contractarianism proposes.” Darwall explains that “since the

supposed to select from a range of candidate principles of justice “can rely on each other to understand and to act in accordance with whatever principles are finally agreed to.”¹⁶ In other words, the contracting parties assume that, in the real world outside of their “original position,” there will be full compliance with the principles they choose. This is one of several assumptions that Rawls makes about the parties who deliberate in the original position from behind a “veil of ignorance,” which deprives them of knowledge of various contingent facts about society and themselves, including their “place in society, [their] class position or social status; ... [their] fortune in the distribution of natural assets and abilities, [and their] intelligence and strength.”¹⁷

Given that full compliance clearly does not obtain in our world, why does Rawls make this assumption? He argues that the assumption helps to “insure the integrity of the agreement made in the original position.”¹⁸ The contractualist agreement would be undermined if the parties were uncertain about whether other members of society would comply with the principles they agree to. Thus, full compliance is assumed so that “once principles are acknowledged the parties can depend on one another to conform to them. In reaching an agreement, then, they know that their undertaking is not in vain: their capacity for a sense of justice insures that the principles chosen will be respected.”¹⁹

If Rawls’s defense here seems inadequate, we can look to additional support from important observations that Simmons makes about the function of the full compliance assumption. Simmons notes that “if we compare the operation of societies ordered by competing principles of justice while assuming strict compliance with those principles, the different effects we observe

veil of ignorance deprives [parties] of any information that would let them tailor principles to any *particular* person's interest, there is no functional difference between assuming the parties to be self-interested and assuming them to be trustees for another individual.” Darwall, *Contractarianism, Contractualism*, 5–6.

¹⁶ Rawls, *A Theory of Justice*, 125.

¹⁷ *Ibid.*, 118.

¹⁸ *Ibid.*, 125.

¹⁹ *Ibid.*

can reasonably be taken to be wholly the responsibility of the different ordering principles themselves.”²⁰ By contrast:

if we try to evaluate principles in terms of how societies governed by them would operate with a “normal” amount (or a certain percentage) of noncompliance with them (supposing we can even make sense of that hypothesis), we will likely find both that our evaluations yield quite indeterminate results and that the results depend on more than simply the different ordering effects of the principles being compared.²¹

Simmons also points to difficult questions that must be confronted by any comparison of different theories under conditions of noncompliance, asking “exactly what form...the assumed non-compliance take[s], for instance, and how ... that form of noncompliance itself influence[s] the behavior and the expectations (etcetera) of others.”²² In summary, by assuming full compliance, we do away with (a) uncertainty about which effects of the principles implemented are the result of some feature of the distributive principles themselves and not of the partial compliance levels; and (b) worries about how to determine what level of compliance is to be assumed and what form the lack of compliance should take.

The assumption of full compliance is tied to Rawls’s idea that principles of justice are supposed to regulate a *well-ordered society*, that is, a society in which “(1) everyone accepts and knows that the others accept the same principles of justice, and (2) the basic social institutions generally satisfy and are generally known to satisfy these principles.”²³ Those two conditions work in tandem with other assumptions Rawls makes, including his stipulations that the well-ordered society is a closed one (that is, one that allows no entry or exit other than by birth and death), and that it exists under reasonably favorable conditions (that is, one not besieged by harsh circumstances like extreme scarcity or hunger).

²⁰ Simmons, “Ideal and Nonideal Theory,” 8. Note that strict compliance is synonymous with full compliance.

²¹ *Ibid.*, 8–9.

²² *Ibid.*, 9.

²³ Rawls, *A Theory of Justice*, 4.

It should be mentioned that the full compliance assumption does not prevent Rawls's theory from weeding out some unrealistic conceptions of justice. The parties behind the veil of ignorance are presumed to be aware of "general facts of human psychology and the principles of moral learning."²⁴ In light of this, "if a conception of justice is unlikely to generate its own support, or lacks stability, this fact must not be overlooked. For then a different conception of justice might be preferred."²⁵ Put differently, *if full compliance with a set of principles would be impossible, the agents in the original position would not choose them*. This allowance comports with Rawls's aim of defending a realistic utopia. The assumption of full compliance, thus, *does not* extend to any and all conceptions of justice but only to those conceptions that are realistically feasible.

²⁴ Ibid., 125.

²⁵ Ibid., 125–126.

2 TWO CRITICISMS OF THE FULL COMPLIANCE ASSUMPTION

2.1 Schmitz's First Criticism

Schmitz develops his first criticism of ideal theory based on Amartya Sen's claim that by assuming full compliance, ideal theory risks "giving no room to the possibility that some people may not always behave 'reasonably' despite the hypothetical social contract, and this could affect the appropriateness of all social arrangements."²⁶ Schmitz attempts to show, using two analogies, that no equivalence holds between what is just in some ideal society with full compliance and what is just in our world with partial compliance.²⁷

Schmitz asks us to first consider an idealization made as part of a scientific investigation. If a certain fact or property is not relevant to a scientific problem that we are attempting to solve, then we might permissibly assume, as part of our investigation, that the property does not hold in the system we are studying.²⁸ Thus, as Schmitz notes, "a Newtonian idealization may, for some purposes, profitably ignore wind resistance."²⁹ It would be a mistake however to ignore "wind resistance when predicting the behavior of a parachute [since by doing so we] would be ignoring a main question" rather than a "distracting detail."³⁰ Since predicting the behavior of parachutes essentially involves considering the effect of wind resistance, it clearly cannot be ignored. Schmitz generalizes from this example to highlight that "there can be such a thing as an

²⁶ Sen, *The Idea of Justice*, 90.

²⁷ Schmitz, "Nonideal Theory," 777.

²⁸ Schmitz appears to be speaking of a Galilean idealization. Nancy Cartwright explains that in such idealization, "the influence of impediments, i.e. causal factors which affect the process under study in ways not at present of interest, is eliminated or lessened sufficiently that it may be ignored." See Cartwright, *Nature's Capacities and Their Measurement*, 186.

²⁹ Schmitz, "Nonideal Theory," 777.

³⁰ *Ibid.*

ideal solution, but for S to be an ideal solution to problem P, it must first be a solution to problem P. One thing we cannot set aside as a distracting detail is the actual problem.”³¹

Schmidtz’ second example focuses on Ronald Coase’s investigation of the “efficiency of clear property titles under conditions of zero transaction cost.”³² Schmidtz notes that Coase’s discovery, which involved showing “how an imperative to minimize transaction costs drives the evolution of property law,” should not be thought to show “what is even approximately efficient in a world like ours.”³³ Coase’s discovery only informs us of the efficient solution in a world without any transaction costs. What is efficient in this hypothetical world tells us nothing about what is efficient in our world. Likewise, Schmidtz contends that “it would be misleading to see Rawls’s exercise as indicating (by showing what is fair in a world without compliance problems) what is even approximately fair in a world like ours. Nothing of the kind follows.”³⁴

In both of the cases that Schmidtz introduces, observing the effect of a particular variable is central to the problem at hand. *That* variable cannot thus be abstracted away. Likewise, Schmidtz argues, partial compliance is central to the problem that political philosophy is to investigate and cannot be abstracted away. Rawls’s solution, which abstracts the fact of partial compliance away, cannot thus count as a relevant solution. To be sure, Schmidtz acknowledges that “setting aside a variable that does not affect the conclusion when reintroduced is probably legitimate,” but warns that “setting aside a variable that changes everything when reintroduced, thereby demonstrating the variable’s importance, could likewise be legitimate, so long as the variable actually is reintroduced and its centrality acknowledged.”³⁵ Setting aside the fact of partial compliance is not legitimate, he appears to be saying, precisely because it so drastically affects

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

the conclusion about what is fair and just. The conclusions that Rawls arrives at in ideal theory thus do not appear to be relevant for actual societies.

Let me now articulate my critique of Schmitz's view about this matter. Schmitz's analogical argument does not make the point it seeks to. It is simply unclear whether partial compliance *is* a central variable that cannot be abstracted away in ideal theorizing. The two cases that Schmitz uses, involving wind resistance and economic efficiency, do not help us determine whether it is such a variable. If we are measuring how wind resistance affects a parachute, then of course we cannot assume away the very thing we are trying to measure. Likewise, if we are interested in determining what is efficient given transaction costs, then looking at scenarios with no transaction costs may not be very instructive. But what does this tell us about justice? It is unclear. Justice, after all, might be an abstract concept whose requirements in conditions under partial compliance (henceforth 'nonideal conditions') track some fundamental and general normative property that is context-insensitive—i.e., a principle of ideal theory. Even if the analogies did hold, this is what they might in fact suggest about justice.³⁶ There might be some understanding of efficiency and parachute movement (due to the effect of gravity) that we can apply to learn about efficiency and parachute movement in the non-idealized counterpart cases. For instance, the efficient solution, in all cases, might be that in which someone cannot be made better off without someone else being made worse off (Pareto optimality). Likewise, there might be some abstract, context-insensitive understanding of justice that we can apply to determine what is just in nonideal conditions.³⁷ Schmitz would need to rule out this way of reading the analogy between his two illustrative cases and that of justice.

³⁶ For a discussion of how the fundamental normative properties can be context-insensitive, see Cohen, "Facts and Principles."

³⁷ Thanks to A.J. Cohen and Andrew Altman for helpful comments on this point.

I will now explain why Rawls's account of ideal justice is not as utopian as Schmidtz suggests, and in turn, why the demands of his account of ideal justice can plausibly be thought to apply to our nonideal world. To understand why Rawls's account is not overly utopian, we need to appreciate a crucial distinction he makes between *the concept of justice* and *a conception of justice*. The concept of justice is essentially the abstract idea that "institutions are just when no arbitrary distinctions are made between persons in the assigning of basic rights and duties and when the rules determine a proper balance between competing claims to the advantages of social life."³⁸ It is true that people disagree greatly about "which principles should define the basic terms of their association. Yet we may still say, despite this disagreement, that they each have a conception of justice."³⁹ A conception of justice spells out "principles for assigning basic rights and duties and for determining what... [is] the proper distribution of the benefits and burdens of social cooperation."⁴⁰ The principles that constitute one's conception of justice express one's view of what constitutes an arbitrary distinction and a proper balance between the competing claims of individuals in social life. Our conception of justice is our interpretation and specification of the concept of justice.

Rawls's ideal theory of justice is an expression and defense of a particular *conception* of justice, to wit, a liberal democratic theory. As Rawls states, "the central ideas and aims of this conception I see as those of a philosophical conception for a constitutional democracy."⁴¹ The theory of justice that he develops from this conception is one that he hopes "will seem reasonable and useful, even if not fully convincing, to a wide range of thoughtful political opinions and

³⁸ Rawls, *A Theory of Justice*, 5.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*, xi.

thereby express an essential part of the common core of the democratic tradition.⁴² When developing the theory, Rawls focuses on determining what “a just democratic society [would] be like under reasonably favorable but still possible historical conditions, conditions allowed by the laws and tendencies of the social world ... [and] ... what ideals and principles...such a society [would] try to realize given the circumstances of justice in a democratic culture as we know them.”⁴³

Recognizing the nature of Rawls’s ideal-theoretic project can allow us to see how it is rooted in real-world political circumstances. Rawls’s search for the principles of justice is bounded by what is practically possible in liberal democratic societies. Facts about what actual democratic societies would accept and value serve as limits to the kinds of principles that can be defended by his theory. The principles in his theory are therefore principles that can plausibly be viewed as realizable in real-world democratic societies. In fact, some real-world democracies might even have partially instantiated the two principles of justice Rawls defends. The upshot of the point here is this: in response to Schmidtz’s claim that the demands spelled out by Rawls’s ideal theory do not apply to our nonideal world because of the lack of resemblance between Rawls’ ideal society and our nonideal societies, Rawls could argue that the demands of his ideal theory *cannot be judged inapplicable on Schmidtzian grounds*, because his ideal society is much closer to our nonideal ones than Schmidtz makes it out to be.

Of course, Schmidtz could argue that even though Rawls takes his ideal theory to be bounded by what is practically possible, his ideal theory is nonetheless too utopian precisely because it is founded upon an erroneous understanding of what *the limits* of the practically possible are. And this may very well be the case. As Rawls himself acknowledges, “there is a question

⁴² Ibid.

⁴³ Rawls, *Justice as Fairness*, 4.

about how the limits of the practicable are discerned and what the conditions of our social world in fact are; the problem here is that the limits of the possible are not given by the actual, for we can to a greater or lesser extent change political and social institutions, and much else.”⁴⁴ In spite of this, it does not seem entirely unreasonable to think that Rawls’s ideal theory falls within some plausible understanding of these limits. At the very least, Schmidtz would need to demonstrate that it does not.

Let me now turn to the merits of Rawls’s assumption of full compliance. To understand how this assumption could be justifiable, we need to focus on the kinds of principles that Rawls’s ideal theory defends. Like many other ideal theorists, Rawls sets out to identify the principles of *distributive* justice. Principles of distributive justice play the role of adjudicating between “the various social arrangements which determine this division of advantages and ... underwriting an agreement on the proper distributive shares... [and also] provide a way of assigning rights and duties in the basic institutions of society.”⁴⁵ If we were concerned with determining what justice mandated on issues such as punishment, war, or historic injustices, then partial compliance *would be a central* variable we cannot abstract away since these issues arise precisely under conditions of partial compliance. But since we are concerned with identifying the just distribution of socio-economic goods as well as rights and duties, looking at what a society where these principles are fully instantiated would look like is of central interest. It is plausible to think that we can search for the correct principles under the assumption that everyone complies with the principles in a hypothetical society where these principles are fully instantiated.

Moreover, preserving the fact of partial compliance would create a problem for our distributive theories. If we imagine a society where a set of distributive principles are instantiated

⁴⁴ Ibid., 5.

⁴⁵ Rawls, *A Theory of Justice*, 4.

but with the fact of partial compliance—and so, partial non-compliance—retained, then of course at least some persons and institutions in that society would violate the requirements imposed by these principles. Such noncompliance, as Simmons points out, would prevent us from observing what effects the principles would have had on their lives if all agents were to comply with the laws. And observing this effect is important in Rawls’s theory because it enables the hypothetical persons (parties) to adjudicate between candidate distributive principles of justice in the hypothetical social-contract situation Rawls places them. As mentioned earlier, the parties would need to be assured that whatever principles they picked in the original position will be complied with. Otherwise, uncertainty would impede their evaluation of the principles. Thus, retaining the fact of partial compliance *might* interfere with our goal of assessing the results of the distributive principles instantiated in a society. At the very least, it is unclear whether partial compliance is a fact so central to the project of determining the principles of distributive justice that it cannot be abstracted away without jeopardizing this project.

We can also look to scientific theorizing to back up this reason. As part of a scientific model, we might assume that a certain feature does not hold if it is irrelevant to the phenomena we are investigating. For example, to study inertial planes, we might ignore minor distorting effects of friction, which would give us a picture of an ideal plane.⁴⁶ Likewise, we might assume that the fact of partial non-compliance does not hold in order to investigate what justice, in its purest form, looks like. Retaining the fact of partial compliance in our theories might otherwise obscure what justice, in its essence, is about. Partial compliance, as Simmons notes, can take var-

⁴⁶ When studying inertial motion “we start with a particular plane, or a whole class of planes. Since we are using these planes to study the inertial properties of matter, we ignore the small perturbations produced by friction... we replace them by others which are easier to think about, or with which it is easier to calculate. The model may leave out some features altogether which do not matter to the motion, like the colour of the ball...in the end we arrive at a model of an ‘ideal plane’.” See Cartwright, *Nature’s Capacities and Their Measurement*, 187.

ious forms, and it may interfere with our attempts to understand what the proper application of the requirements of justice would look like.

All that I have said thus far in response to Schmitz is merely supposed to support the plausibility of assuming full compliance in Rawls's ideal theory. This is compatible with Schmitz's view being right. Justice (and fairness) in an ideal world with full compliance might indeed be so radically different from what it is in nonideal conditions as to not issue any recommendations for what is just (or fair) in our actual world. The point is only that even if this is in fact the case, Schmitz has not *shown it* to be so with the examples he draws upon. And looking at Rawls's theory suggests that justice under full compliance conditions might still bear much relation to justice in nonideal conditions.

2.2 Schmitz's Second Criticism

Schmitz provides a second criticism that is supposed to show that Rawls and other ideal theorists cannot assume full compliance. Mirroring his first criticism, Schmitz argues here that there is something methodologically mistaken about assuming full compliance. The complaint is that "if strict compliance is part of an ideally just society's essence, that *precludes* rather than mandates taking strict compliance as given."⁴⁷ Let me now explicate it before providing my response.

The basis for Schmitz's second criticism is a point Rawls makes about the feasibility of conceptions of justice. Rawls notes that it is "a consideration against a conception of justice that, in view of the laws of moral psychology, men would not acquire a desire to act upon it even when the institutions of their society satisfied it."⁴⁸ Rawls, as I noted earlier, is concerned with

⁴⁷ Schmitz, "Ideal and Nonideal Justice," 2.

⁴⁸ Rawls, *A Theory of Justice*, 119.

the feasibility of the conception of justice that he defends. It is important, according to him, that a conception of justice “generate[s] its own support ... [by which he means that] ... its principles should be such that when they are embodied in the basic structure of society men tend to acquire the corresponding sense of justice and develop a desire to act in accordance with its principles.”⁴⁹ Only then would that conception of justice be stable. The parties deliberating behind the veil of ignorance are assumed by Rawls to possess this information.

Schmidtz’s concern here is about what is entailed by this point Rawls makes. If an ideal basic structure is one that generates its own support, as Rawls suggests, then this would be a hallmark of such a basic structure that differentiates it from a nonideal basic structure, Schmidtz notes. We cannot then assume full compliance since the existence of full compliance in a basic structure is precisely what we are looking for. As Schmidtz puts it, “if we want to distinguish ideal from nonideal basic structures, we can’t *set aside* what distinguishes them.”⁵⁰ If our goal is to “identify ideal structures, then the assumption that ideal structures are those that induce compliance precludes assuming compliance.”⁵¹ Compliance, as Schmidtz stresses, is “an achievement, not a given.”⁵² Thus, this distinguishing feature of ideal basic structures invalidates Rawls assumption that the ideal society is one that is fully complied with.

This criticism I think rests on a misunderstanding of Rawls’s theory. It is true that Rawls takes ideal basic structures to be the sort that would induce compliance amongst people living under them. Thus, if ever an actual society were to instantiate the Rawlsian principles of justice, then it would follow that its basic structure is the sort that engenders compliance. But notice what role this fact about ideal basic structures plays in his theory. Rawls mentions this feature in

⁴⁹ Ibid.

⁵⁰ Schmidtz, “Ideal and Nonideal Justice,” 9.

⁵¹ Ibid.

⁵² Ibid., 2.

his articulation of the information that the parties behind the veil of ignorance have access to. Along with an understanding of “political affairs and the principles of economic theory ... the basis of social organization and the laws of human psychology,” the parties are assumed to be aware of the importance of this fact.⁵³ They would then take this fact into account when they are adjudicating between principles of justice. They would reject principles of justice that cannot generate their own support. This is partly how Rawls, as mentioned earlier, ensures that the utopia he defends of is one that can be realistically achieved.⁵⁴

But what about the remaining principles that are not rejected by the parties? Rawls considers other candidate principles that might be selected by parties. When the parties deliberate on which of these remaining principles they should select, the complication with not assuming full compliance that Simmons highlights would surface. To set aside these complications, these principles are assumed to be fully complied with by members of society. Again, what would be true of all these principles is that if they were to be implemented, the basic structures that instantiate them would be capable of generating their own support. But this would be a fact about these principles *were they were to be implemented*. At the deliberative stage in the original position, it is still an open question as to which of these *ought to be selected and implemented*. To simplify the task of determining whether they ought to, full compliance is assumed. And it can be *safely* assumed since the unrealistic candidate principles have already been weeded out.

We now have a clearer understanding of how the full compliance assumption works and how it fits with Rawls’s suggestion that ideal basic structures generate their own support. Multiple principles of justice might be of the sort that engenders basic structures that generate their

⁵³ Rawls, *A Theory of Justice*, 119.

⁵⁴ The assumption Rawls makes here is of course that principles of justice that are realizable only through forceful implementation are not realistic. While they can still be realized, the resultant society would not be a stable according to the right reasons. Thus, for Rawls, a vision of a realistic utopia is a vision of a conception of justice that can be realized, and the realization of which would engender a society that is stable for the right reasons.

own support. As part of the task of adjudicating between these principles, full compliance is assumed to negotiate the complications that would otherwise arise if the fact of partial compliance is retained. Schmitz is correct in suggesting that the capacity of a basic structure to generate its own support is one way to identify whether it can count as an ideal basic structure (and the principle it instantiates a candidate principle of justice). But the capacity of a basic structure to generate its own support is merely a necessary and not a sufficient condition for it to count as an ideal basic structure. Multiple basic structures and corresponding principles might satisfy this condition. Rawls identifies other desiderata that are used to select between candidate principles of justice. Full compliance is merely a simplifying assumption that is made *after* unfeasible principles of justice are weeded out. Schmitz's criticism, it seems then, stems from a misunderstanding of the intricate way that this suggested fact about ideal structures and the full compliance assumption work together in the deliberative stage of Rawls's theory. The fact that a candidate principle of justice is one that would generate its own support *does not* preclude full compliance from being assumed in the original position.

3 THE FUNCTION OF POLITICAL PHILOSOPHY

Along with his analogical argument, Schmitz offers an account of the function of political philosophy. And this is where I think the deeper difference between his and Rawls's views lies. I will now chart the argument that Schmitz makes based on his view of the purpose of political philosophy and the nature of justice. Schmitz considers assuming full compliance to be unjustified, as I will explain, because he thinks that the very function of political philosophy is to tell us how *partially compliant individuals can agree to fair terms of cooperation for mutual advantage*. He attempts to show that the Rawlsian approach, which involves searching for an account of perfect justice, is mistaken. I explain his argument and then evaluate it.

According to Schmitz, the goal of political philosophy is to identify “a framework for mutually advantageous cooperation among real people” (777). It is understandable then when he says that “a solution to this problem specifies terms of engagement that actually help people launch mutually advantageous ventures. If a proposed solution doesn't help, there is no further question about whether we could imagine it helping under ideal circumstances.”⁵⁵ If the concern is what terms of engagement would help *real* people, then indeed, assuming that all people in a society would be fully compliant with some framework for cooperation would be useless since it would not be focused on real people. Being concerned with what is advantageous for real people means rejecting those frameworks that they are unwilling to comply with. Under full compliance conditions however, such frameworks would be retained. Thus, a theory with full compliance assumed, according to Schmitz, would erroneously retain and possibly select frameworks for social cooperation that real people would in fact reject. Such a theory cannot tell us anything about what counts as mutually beneficial terms of cooperation for people in the actual world. As he puts it, “to set aside that we live amongst agents—beings who decide for themselves whether

⁵⁵ Schmitz, “Nonideal Theory,” 777.

to comply—is to set aside the defining problem of political theory.”⁵⁶ Others have criticized ideal theory on similar grounds.⁵⁷

Looking at Schmitz’s own theory of justice helps elucidate his criticism of Rawls’s view of justice. Justice, for him, consists of four elements (equality, desert, reciprocity, and need) but “none of its four primary elements is an overarching standard to which the others reduce.”⁵⁸ Additionally, to determine what justice requires in individual cases, we must look at the specific context. For instance, he thinks “the idea that people are due (for example) equal shares in one context is compatible with people being due something else in another context.”⁵⁹ Facts about particular cases, including the kinds of people we are dealing with, and their situations will all significantly affect what justice requires. In Schmitz’s view, “the realms of justice, governed by different principles, are distinct, but sometimes clash.”⁶⁰ Given Schmitz’s contextualist understanding of the nature of justice, it may not require the same thing in ideal conditions (with full compliance) as it would in nonideal conditions.

Even if it is the case that Schmitz’s view of the task of political philosophy is widely shared by others, this does not yet mean that Rawls’s approach is wrong. One reason is that there may be more than one approach to doing political philosophy.⁶¹ Rawls does not argue that his version is the only legitimate one. Instead, for him, the broad goal of political philosophy is to “focus on deeply disputed questions and to see whether, despite appearances, some underlying basis of philosophical and moral agreement can be uncovered.”⁶² Schmitz himself recognises that “reasonable people disagree about what is just.” And he too attempts to do as Rawls does by

⁵⁶ Schmitz, “Ideal and Nonideal Justice,” 2.

⁵⁷ See Mills, “‘Ideal Theory’ as Ideology.” Also see Farrelly, “Justice in Ideal Theory.”

⁵⁸ Schmitz, *Elements of Justice*, 17.

⁵⁹ *Ibid.*, 19.

⁶⁰ *Ibid.*, 17.

⁶¹ Rawls, *Justice as Fairness*, 2.

⁶² *Ibid.*

developing a unified account of the “four elements [of justice] together, showing how they make room for each other and define each other’s limits.”⁶³ Since Schmitz argues against Rawls’s ideal theory, he needs to show why Rawls’s approach is unjustified.

Schmitz *does* provide an argument to show that Rawls’s search for an account of perfect justice is misguided. He notes that we do not need such an account to have objectives. As an example, take technological progress, “which is a history of problem solving, not of aiming for an ideal.”⁶⁴ Likewise, he adds, sound legal reasoning involves resolving disputes “brought before [judges’] bench by real litigants, in the process setting precedents that make similar disputes easier to resolve or avoid in the future.”⁶⁵ It does not involve judges aiming to get closer to ideal justice. The function of law is not “to be an ideal answer to all possible questions.”⁶⁶ It is supposed to identify solutions to present and not all future problems. Likewise, real solutions in political philosophy “do not track perfection but play a perpetual game of catch-up with evolving problems.”⁶⁷ The problems provide us with the objectives we need for finding solutions.

The ideal theorist like Rawls has a ready available response to Schmitz’s criticism. The two cases that Schmitz brings up here are relevantly dissimilar to the case of political theory in the following way: in the two cases there is a clear objective or end specified which is not true in the case of political theorizing. Technological progress is supposed to improve our lives. This is its objective. We know when we have built a good bridge. A medical advancement is one that would ultimately result in an improvement in people’s health. Likewise, legal decision-making is supposed to resolve disputes according to the dictates of the law. We have a clear metric to identify when such progress occurs and its efficacy. But what end that political theory supposed to

⁶³ Schmitz, *Elements of Justice*, 4.

⁶⁴ Schmitz, “Ideal and Nonideal Justice,” 3.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

aim at? Or rather, what should a society strive toward? Rawls's answer – and that of many ideal theorists – is justice. But it is unclear what justice consists in. And this is precisely what ideal theory attempts to unearth. In the case of technological progress, there is a clear way to measure improvements in standards of living, by say, looking at people's life expectancy, their access to facilities and opportunities, and the amount of leisure time they have. But unless we know what justice requires, it would simply be this indeterminate point that societies are supposed to move toward. Thus, unlike in the case of legal decision-making and technological progress, we do not have a clearly specified, readily available goal set for us. Assuming that justice *is* the goal, there are still various candidate accounts of what justice requires, and adjudicating between them would require doing theoretical work. We would need to theorize to determine what the *end* is, or what it consists in.

Schmidtz might respond by arguing that insofar as we know that justice is the end, we have determinate objective to strive toward. For example, starvation, poverty, political oppression, and disease resulting from substandard socio-political rule count as injustices that need to be corrected. We do not, as Amartya Sen stresses, need an account of perfect justice to be able to identify these as manifest cases of injustice.⁶⁸ We can then go about finding solutions to these problems.

Perhaps we can unerringly pick out cases of manifest injustice without an account of what perfect justice is. Let me grant that for argument's sake. What follows from this? Does it follow that identifying and correcting manifest injustices exhausts the function of political philosophy? Granted that extreme injustice is an important concern for political theorizing, is it the only one? There are various other issues that political philosophers concern themselves with. To see this, imagine that extreme poverty and suffering were eliminated. It is at least unclear that

⁶⁸ Sen, *The Idea of Justice*, 21.

there is nothing left for political philosophers to theorize about. In such a circumstance, we would need to determine what the correct way of apportioning resources, freedoms and opportunities is. If Rawls is correct in thinking that moderate scarcity and limited altruism give rise to the question of distributive justice, then these circumstances would remain after manifest injustice is removed. We would then need to examine what justice requires. And since we don't have a readily available answer to this question, we would not have a clear idea what our objective is. Political philosophers would still have much to theorize about.

Secondly, notice that while many political philosophers might agree on what counts as manifest injustice, they would probably still radically differ on *how to go about* correcting such injustice. The key reason for this is that they have diverging accounts of what the end point is that societies should strive toward, and relatedly, the permissible ways in which societies can go about correcting such injustices. Libertarians and welfare liberals will scarcely agree that massive redistribution and minimum wage schemes are the right ways to alleviate conditions of extreme poverty. To be sure, this disagreement is about what should be done in nonideal circumstances, but it stems from a deeper disagreement between their respective ideal theories. Such disagreement is rife in political philosophy.

One might argue that my response here does not provide a defense of two other key features of ideal theory: its applicability to numerous societies and its timelessness (let's call this dual feature that 'general applicability of ideal theory'). Ideal theorists like Rawls also seek to identify principles that are supposed to apply to a range of societies both in the present and into the future. This contrasts with Schmitz's view that "a worthy ideal here and now has something to do with here and now. It is an ideal response to circumstances as they are."⁶⁹ I think at least a tentative defense can be provided. The general applicability of ideal theory's prescriptions is

⁶⁹ Schmitz, "Ideal and Nonideal Justice," 15.

grounded in the view that justice is the sort of thing that issues the same general set of requirements for various societies regardless of time or geography. Of course if justice not like this, then Schmidtz would be correct in suggesting that our theorizing must be heavily constrained by the current realities of a particular society. But given the failure of Schmidtz's analogical argument to show this, I take it that it is at least an open question as to what the nature of justice really is. Ideal theorizing can be seen as an attempt to determine first of all whether justice and its requirements have general applicability. If so, then it would still have merit.

Schmidtz takes his pragmatic problem-solution approach to political theorizing to be the right one. And on this basis, he criticizes Rawls's approach. But he does not provide a defense of his approach as the sole acceptable one. For his criticism of Rawls's ideal theoretic approach to succeed, he must defend his exclusivist view of political philosophy. Without such a defense, he would be merely assuming his own approach to political philosophy—with its need to address the actual world—and so begging the question against Rawls's approach to doing political philosophy.

4 CONCLUDING REMARKS

Let me now bring the discussion back to full compliance by advancing two general considerations in favor of it in light of what has been said in the previous section. First, the fact that ideal theorists like Rawls advance principles that they take to have general applicability makes the assumption of full compliance more plausible. Here is how. The degrees of partial compliance, and its nature, would vary between different societies and also between the same society in one period and another. Assuming that ideal theorists are correct to think that justice has general applicability, then identifying principles of justice that apply to a range of societies with differing compliance levels might mandate assuming full compliance to simplify the theoretical task. Again, this is not to say that no restriction should be placed upon the feasibility of candidate principles. A constraint like the sort Rawls places on the original position might still be able to weed out egregiously unrealistic principles of justice. The remainder can then be evaluated with full compliance assumed.

Another significant feature of ideal theory that supports the merit of assuming full compliance is the fact that the prescriptions in ideal theory are not prescriptions for direct implementation. Ideal theory merely specifies the end state that a society ought to strive toward without telling us how to get there. It might be the case that if we tried to immediately implement the Rawlsian basic structure on an existing society, we would face major compliance problems resulting in an unstable society. Thus, in line with Schmidtz's view, the partial compliance conditions in that society might preclude immediately implementing the just basic structure defended by Rawls. But this is compatible with that basic structure being one that that society ought to gradually strive toward. How that is to happen is a question for nonideal theory according to Rawls. Additionally, principles of justice are supposed to serve as the standard by which we

evaluate all present and future societies. A standard for evaluation might be more or less closely met by a society. The upshot of this point is that assuming full compliance might be permissible since by doing so we are not suggesting, *pace* Schmitz, that people in a society would comply with the ideal basic structure if it were to be implemented immediately. The assumption might be warranted if a certain society would comply with, say, the gradual implementation of that basic structure. Thus, no empirical claim about the compliance levels of the immediate implementation of a basic structure need be entailed by the assumption of full compliance.

Let me conclude by making two remarks about my critique of Schmitz's argument in this thesis. If my analysis is correct, then an assessment of the justifiability of the full compliance assumption in Rawls's ideal theory will require a deeper examination of the role of political theorising and the nature of justice in ideal and nonideal conditions. This is because the full compliance assumption in Rawls's theory is justified on the grounds that it helps simplify the parties' task of selecting principles of justice in the original position. If we discover that this assumption undermines the relevance of the prescriptions of ideal theory to real world political concerns, then it would undermine the practical value of those prescriptions.

It is also worth noticing that other ideal theories may be far more vulnerable Schmitz's criticisms. Ideal theories like G.A Cohen's are much more utopian in that the ideal societies they envision are ones that seem to lie much farther from existing social realities than does the ideal developed by Rawls.⁷⁰ Realising Cohen's theory would require a radical alteration in how humans behave and might in fact be altogether impossible given the limits of human nature.⁷¹ And it is plausible that the demands of justice made by such theories as Cohen's are very different from what any reasonable account of justice mandates in nonideal circumstances. Rawls's more

⁷⁰ Cohen, *Rescuing Justice and Equality*. Also see Carens, *Equality, Moral Incentives, and the Market*.

⁷¹ For a discussion on this, see Estlund, "Human Nature and the Limits (If Any) of Political Philosophy."

“realistic” theory is not nearly as vulnerable as Cohen’s to such a line of criticism. Additionally, insofar as we seek to understand the nature of justice, analogies drawn from natural or social scientific investigations might not be very instructive. Unearthing answers might ultimately require a deeper exploration *within* political philosophy itself.

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