

**An Analysis of Political Liberalism and Conceptions of Political Justice; Toward a Kantian
Normative Method for Addressing Issues of Injustice**

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ABSTRACT

This work focuses on Rawlsian political liberalism using housing policy in post-apartheid South Africa as a case study. During the democratic transition in South Africa, the new administration's attention to housing policy was negligent. There was a failure to address and rectify the systemic discrimination in spatial arrangement serving to further worsen the situation for the disadvantaged majority. This paper will provide an ideal conceptualization of moral theory in relation to housing policy in the context of post-apartheid South Africa. Following this, the paper will examine the nonideal evolution of housing policy in the aftermath of apartheid. Through a Rawlsian lens, this research asks the question: what can be learned from a comparative analysis of ideal theory and actual circumstance in a post-apartheid South Africa? To this end, this thesis seeks to deepen the connection between democratic obligation and moral theory and to develop a normative method of addressing issues of global injustice.

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1.0 INTRODUCTION

Housing remains an obstacle facing South African democracy in the aftermath of the apartheid regime. A large and marginalized black population remains subjugated twenty years after the collapse of apartheid. The bureaucratic and social apartheid has largely been removed or has subsided yet deeply ingrained and systemic racism still exists. Housing policy is a contentious topic and remains as blatant evidence of the failure to rectify systematic segregation. It is arguable that the shifts in housing policy since the collapse of apartheid have further worsened the housing condition and the overall status of the disadvantaged majority in South Africa. I have chosen to examine this situation by examining a critical juncture in moral theory and its relation to democratic virtue, a term I will define and elucidate.

Moral theory can be broken down into two distinct approaches for the purposes of addressing issues of injustice; ideal and nonideal moral theory. For the most part, since the revival of Anglo-western political theory by John Rawls in the early 1970s and for the subsequent forty years, much of moral philosophy has been in the realm of ideal theory. From examining this critical juncture between ideal and nonideal theory, I propose that there is an unavoidable connection to a separate realm that has been left mostly untouched by moral theorists – democratic virtue.

Notions of what democratic virtue is are often obscured and lost in subjective conceptions of what democracies are obligated to guarantee and protect. However, democratic virtue can be seen outside of a consideration of particularized obligations.

After World War II, advanced western democracies can be defined as having the most powerful collective decisions being made under circumstances that are fair, honest, transparent, and by all the citizens that are of age and in good standing, and on a periodic basis.¹ In 1990 about two thirds of all countries did not have democratic governments and were illiberal states.² A country without a democratic regime entails a lack or absence of a majority of citizens participating in decision making processes, and an absence of substantial “autonomous associations” that are critical to “the unimpeded reform and criticism of social arrangements.”³

For the purposes of this paper, democratic virtue consists in a series of democratic obligations and standards that compose a liberal state.⁴ More importantly than what the democratic obligations and standards are, is how they are arrived at. If the method used to arrive at democratic obligations is sound and in line with the framework that Rawls sets forth⁵ then we can determine whether a state is liberal and therefore we can determine democratic virtue. In a contemporary context, democratic virtue has a widened scope. As a new global order becomes established where actions of one people can substantively affect the lives of distant strangers. While augmented globalization has proven fruitful for capitalistic aims and has proven itself to be productive for increased social and cultural exchange, it has proven to be detrimental

¹ Matko Mestrovic, "How Actual Are Democratic Virtues?," *Futures*, 30, no. 1 (1998): 83-90,

² *ibid.*

³ *ibid.*

⁴ An operational definition of *liberal state* in light of Rawlsian theory and the purposes of this paper is a state where a basic scheme of rights and liberties is determined and adhered to by way of the public reason.

⁵ This is a reference to the parameters and requirements that Rawls sets forth in order to determine the liberal state. The parameters of the public reason, the liberal state, and the political conception of justice. This framework is widely accepted for addressing issues of justice.

to democratic virtue if one adheres to a cosmopolitan worldview. As actions of peoples carry more global reverberations, our duty to distant strangers increases. It is at this point that traditional Kantian political philosophy and the nuances of a globalized society collide as a result of fissures between disparate people. The Kantian categorical imperative insists that all people, including the least advantaged not only be able to actively participate in decision-making, but should be able to single-handedly change the conditions of justice. As disparate people collide as a result of augmented competition for resources and power, they collide and the powerless are left subject to the mandates of the ruling class. As society becomes more global and actions carry more weight globally, it becomes more difficult to maintain a liberal state. I aim to create a normative method for addressing issues of justice that combined creates a contemporary case for Kantian justice.

From this gap is where injustice originates. However, one must ask a more critical question: what is injustice and how can identify it? Later in this paper I will discuss the latter, but for the former, one can look to the work of Iris Marion Young on injustice. Young proposes a conception of injustice that deviates from the traditional conceptions of injustice tied with distributive models.⁶ While justice should be relevant in terms of issues of distribution of material goods, natural resources, or money, its scope is wider.⁷ Therefore rather than viewing it in distributive terms, this paper utilizes a conception of injustice where justice “names not principles of distribution” but instead justice deals with the principles and procedures for “evaluating institutional norms and rules.”⁸ Therefore injustice is not just the lack of distribution of material goods or the denial of culture or the benefits of a developed society, but injustice is

⁶ Iris Marion Young, *Justice and the Politics of Difference*, (Princeton: Princeton University Press, 1990), 33.

⁷ *ibid.*

⁸ *ibid.*

also the injury caused on citizens regardless of their cognizance because of institutional flaws that render the society they regulate unjust in one aspect or more.

I propose that democratic virtue and the juncture of ideal and nonideal moral theory are interdependent in that moral theory creates the parameters of justice necessary to determine democratic virtue. This work uses a melding of both ideal and nonideal moral theory to craft a new approach to issues of injustice. An approach that describes ideal circumstance and theory, then describes the reality of a case, and then explores the gap to examine shortcomings and in order to make new theory that is more practical. This approach to issues of injustice is preferable given that strong ideal theory is the basis of much of western liberal thought, and starting from that point and examining shortcomings, rather than the reverse which would require the crafting of an entirely new discourse of ideal liberal thought, an unrealistic task.

In this paper, I use Rawls' conception of political liberalism and the case study of housing policy in post-apartheid South Africa to examine the gap between ideal and nonideal theory and create a connection between moral theory and democratic virtue.

2.0 JOHN RAWLS AND IDEAL VS. NONIDEAL THEORY

John Rawls provides a framework of justice that is intrinsically conservative. A manifestation of conservatism that guarantees a set of basic liberties and rights that are inherently part of a liberal scheme that furthers democratic regimes. While John Rawls does not dictate what a society must do or include in its set of basic rights and liberties, and he does not include provisions as to what exactly the public reason must contain. He sets forth a series of parameters that define what a liberal state, the public reason, and the scheme of basic liberties and rights must fit within and allows a society to determine its details and provisions on their own, through the democratic process. This conservative framework is attractive in purely democratic sense and places the sovereignty of a particular state, above all else. For this reason, Rawls is chosen as the preferred school of thought for this work rather than the work of Jurgen Habermas or Michael Walzer, as examples.

John Rawls creates a dichotomy of ideal and nonideal theory. This effort by Rawls serves to connect high order political philosophy and political practice.⁹ While much attention among Rawlsian scholars has been dedicated to pursuing work within the parameters of ideal and nonideal theory, there has been little attention focused on what the distinction signifies.¹⁰

⁹ Simmons, John. "Ideal and Nonideal Theory." *Philosophy and Public Affairs*. 38. no. 1 (2010): 5-36.

¹⁰ Ibid.

Within the context of political theory, ideal has applied to moral theory as a whole with little room for the nonideal.¹¹ Rawls conceives of ideal theory as the necessary component for the beginning of any assessment or judgment of a society. While Rawls initially defines the distinction between the ideal and nonideal, his work relies heavily on the former. He claims in his seminal *Theory of Justice*, “the intuitive idea is to split the theory of justice into two parts. The first or ideal part assumes strict compliance and works out the principles that characterize a well-ordered society under favorable circumstances.”¹²

This dichotomy between strict compliance and partial compliance, ideal and nonideal, rhetoric and reality, is a dichotomy of academic narratives. In academe there have been substantial efforts to create delineations between scholars of policy and empirics while simultaneously there has been a large body of scholars dedicated to abstraction and idealism. What is necessary is a merger of these realms rather than delineation. In the gap between ideal and nonideal moral theory, what can be extrapolated is a well-defined set of moral abstractions and ideals that improve and become sounder when applied to nonideal situations. When we face nonideal situations, and for the purposes of this paper, nonideal situations that are occurring in a democratic environment, there is a relation between what we desire to occur, and what typically occurs under normal conditions of human and institutional capacity.

The ideal portion of his theory provides us with a “conception of a just society that we are to achieve if we can. Existing institutions should be judged in light of this conception.”¹³ Rawls’ delineation of these conceptions and insistence that the ideal is what a society must aspire to characterizes the majority of his work. He briefly touches upon nonideal theory as a factor

¹¹ Simmons., *ibid.*

¹² John Rawls, *A Theory of Justice*, (Cambridge: Harvard University Press, 1971), 245.

¹³ *Ibid.*, pp.246.

that must be considered in order to determine what is politically practical and likely to be effective.¹⁴ Using Rawls work as a foundation, the ideal and nonideal can be harmonized to produce sound moral theory. Ideal moral theory intrinsically deals with normative and evaluative issues rather than descriptive or factual issues and involves an appeal to values and ideals that are objective.¹⁵ Simply put, ideal theory should be seen as “ideal-as-normative.”¹⁶

In the application of the ideal to human interactions and moral theory, there are two critical distinctions to be considered; the factual and the moral. While the factual dimension of idealization involves the attribution of agents of human capacity and how they adhere to subjective conceptions of the norm. This refers to a human’s capacity for rationality, knowledge, self-awareness, and the absence of interpersonal utility comparisons as it is unnecessary in cases of political justice. The moral dimension of idealization involves modeling of people’s character, their actions and behavior, and how justice should manifest in the basic institutions of a society.¹⁷

No account of ideal theory is complete without a consideration of how ideal theory relates to the nonideal. Ideal theory is distinguished from nonideal theory in its reliance on idealization and ideal conditions to the point of “exclusion and marginalization, of the actual.”¹⁸ Ideal theory functions with several key assumptions¹⁹:

1. An idealized social ontology. While in ideal liberal conceptions, social ontologies will presuppose that citizens conform to classical conceptions of liberalism such as the exercise of voting, toleration, egalitarianism, and democratic governance. These social ontologies do not

¹⁴ John Rawls, *The Law of Peoples*, (Cambridge: Harvard University Press, 1999), 89.

¹⁵ Simmons.,*ibid.*

¹⁶ *ibid.*

¹⁷ *ibid.*

¹⁸ Mills, Charles. "Ideal Theory as Ideology." *Hypatia*. 20. (2005): 165-184

¹⁹ *ibid.*

include contemporary issues of reality such as coercion and exploitation.²⁰ While even in the abstract, ideal moral theory will make some assumptions regarding human character and the methods of interaction between humans. Idealized social ontology implies that in ideal theory certain ideas about how citizens behave, interact, and execute decisions will also be under the conditions of ideal reasonability, coherency, and logic.

2. Idealized capacities that are often times unrealistic or rare in actuality. In ideal theory, citizens will possess unrealistic capacities even for those who are considerably more advantaged such as high intelligence, wealth, ability to reason and cogitate to an uncommonly high degree, while in reality, many citizens are subordinated therefore reducing their capacities.²¹ Citizens are subordinated in ways that are both systemic and voluntary. There is discrimination on the basis of race, gender, age, and ethnicity that can cause deficiencies in education and development reducing one's capacities. There are also systemic disadvantages such as physical and mental incapacities that prevent the reaching of total human capacity. As well as voluntary hindrances on capacity such as a lack of desire to exercise and fulfill one's total capacity or a desire to only exercise particular capacities.

3. Ignoring historical discrimination and oppression is by definition a critical aspect of ideal theory. Ideal theory will only vaguely describe historic or contemporary oppression. This will “manifest itself in the absence of ideal-as-descriptive-model concepts that would provide the necessary macro and micro-mapping of that oppression, and that are requisite for understanding its reproductive dynamic.”²² Major historical issues, the Holocaust for example, and the prospect of current or future cases of oppression and discrimination creates inconsistencies that ideal

²⁰ *ibid.*

²¹ *ibid.*

²² *ibid.*

theory is unable to cope with. Ideal theory functions under a series of assumptions where issues of oppression and discrimination are minimal and humans do not have proclivities for this type of behavior.

4. Ideal social institutions such as stable family environments, government, and economic infrastructures. In ideal theory there will be no consideration of how these institutions may be intrinsically designed to disadvantage minority groups.²³ For example, the apartheid regime in South Africa was permeated to profound bureaucratic levels to promote the regimes strict segregation. The public servants operating in the public and social sphere may carry bias and prejudice that affect institutions and perceptions. Family environments may be split or ruptured in a variety of ways through voluntary or involuntary behaviors and economic arrangements may be set in ways that are not ideal but simply functional. Ideal theory may bring the concept of employment into consideration in a particular case study while neglecting nonideal factors such as underemployment and coercive employment, such as is the case in Chinese migrant technology manufacturing plants. Ideal theory does not bring into account these nuances.

5. An idealized cognitive sphere. This meaning that cognitive obstacles are minimized, an absence of bias and an understanding of the intricacies of modern human life, with little attention paid to how community-specific conditions and cultural factors along with power dynamics play a role in “distorting our perceptions and conceptions of the social order.”²⁴ Ideal theory fails to consider how health-related, both genetic and acquired disorders, can affect the cognitive sphere in addition to individual biases and hindrances to possessing an ideal cognitive sphere.

²³ *ibid.*

²⁴ *ibid.*

6. Strict compliance by all to uphold a well-ordered society.²⁵ Rawls argues that there is dichotomy between strict and partial compliance theory and that in ideal theory, strict compliance is needed and that the problem exists in the fact that the most a society can attain in reality is partial compliance leaving many pressing and urgent matters to chance.

These assumptions are critical in an examination of the role of ideal moral theory in relation to democratic virtue. With these assumptions one can recognize the strengths of ideal theory and what the critical elements of ideal moral theory are while at the same time it is revealing of it's inherent flaws; a reliance on perfection and absence of the consideration of practical realistic historical and contemporary factors.

Rawls' political liberalism addresses the political conception of justice as separate from comprehensive moral doctrine. In a Theory of Justice, he provides an account of justice that is similar and based on the comprehensive moral doctrines found in the writings of Kant and Mill. Rawls publishes his seminal treatise in 1971 and over the course of the following twenty years he received substantial criticism for not producing an independent conception of political justice.

In 1993, he addresses this in his second major treatise, Political Liberalism, where he provides a conception of political justice that is independent of moral and ethical precepts and is dictated by the public reason. The public reason being an aggregate of freestanding political conceptions of justice and are drawn from the public culture and form an "overlapping consensus." A society is free to choose how it will come about its political conception of justice but Rawls sets out three criteria for the reasonable pluralism that must be present in any conception of political justice: 1. It must limit itself to addressing the design of a society's basic structure, 2. It must be freestanding and liberated of metaphysical, moral, religious, and cultural

²⁵ These assumptions and criteria were originally taken from the Mills article and then redefined and rephrased in a manner appropriate to the context of this paper.

precepts, and 3. It must be constructed around certain fundamental ideas available in the society's public culture.²⁶ If these requirements are met then there can be a political conception of justice that adheres to another set of three principles: In a liberal state, the political conception of justice will adhere to a set of three fundamental criteria that Rawls lays out: 1. There will be a scheme of basic rights and liberties guaranteed and protected for all citizens, 2. Priority will be given to furthering the collective good, 3. A liberal state will ensure that all citizens can make use of the scheme of basic rights and liberties to pursue their rational life plan.

When public reason is reached, there is the manifestation of the liberal state. Following Rawls logic, if the liberal state is manifested following his conceptions of political liberalism and political justice, then a society is just. Of course, in reality, there is rarely strict compliance with the requirements of the liberal state, but it is this departure from ideal and into nonideal that I explore.

²⁶ Stanford Encyclopaedia of Philosophy, "John Rawls." Accessed December 30, 2012. <http://plato.stanford.edu/entries/rawls/>

3.0 ONORA O'NEILL AND IDEALIZATION

Political theorist Onora O'Neill uses a strong grounding in Rawls to examine how modified Kantian theory can be applied in pragmatic scenarios. While this ethical strategy is most recently attributed to O'Neill, it can be traced back in implicit form to Karl Marx in the *Grundrisse* and to other works in the canon of classical leftist thought.²⁷ Ideal theory is useful for a range of analysis regarding ethical concerns. Onora O'Neill argues that idealization and the abstraction associated is often times necessary in order to develop a set of guiding principles for practical reasoning. The only way to develop theory that has both depth and breadth is to abstract from highly specific scenarios. Using this method is an attempt at justifying the ideal by looking for its roots, or at least its possibility in the nonideal.

When working with nonideal theory, abstraction is necessary where abstraction is defined as “detaching certain claims from others.”²⁸ As O'Neill argues and I agree, when idealization displaces pragmatism, theory that is relevant and wide in scope is not made and the result is theory that can only be applied to particularly idealized agents.²⁹ Abstract conceptions of housing policy and political liberalism are predicated on ideal reasoning. Simply ideal and abstract theory without application or practical consideration fails to bring into account societal idiosyncrasies. A convincing account of justice will offer an appeal to strong theoretical grounds

²⁷ Mills., *ibid.*

²⁸ *Ibid.* 151.

²⁹ Onora O'Neill, *Bounds of Justice*, (Cambridge: Cambridge University Press, 2000), 155.

based in classical and contemporary political thought while providing details of how it would react to contingencies in actual agents and institutions.

There are virtues of nonideal theory. Much of ideal theory is highly abstract and can be considered removed from the assumed and uncontroversial goal of this type of moral theorizing, to “guide our actions and make ourselves better people and the world a better place.”³⁰ In this case, the aforementioned framework for ideal moral theory may prove to be not only unproductive, but also antithetical to moral and ethical theory’s ultimate goal. When moral theory is excessively abstract, as is often the case in ideal theory, then as theorists we are neglecting to consider the “realities crucial to our comprehension of the actual workings of injustice in human interactions and social institutions.”³¹ When considered the production of work that is firmly within the realm of ideal theory, much of it abstracts away from critical understandings that are required for one to comprehend how injustice affects humans and institutions.

Ideal theory is fundamental in considering issues of morality because it allows us to aspire to what all of our efforts should be dedicated to attaining. This meaning that ideal theory helps guide theory and policy in the direction of ideal circumstances, and when inevitably policy and practice are unable to attain ideal standards, it will still be attempting to fulfill ideal standards. The goals of lofty idealism are rarely attained and even more rarely sustained. Theory that is unrealistic in relation to human and institutional capacities serves little practical purpose and can be hindering. If theory can be produced that is solidly grounded in ideal political thought but formed to adhere to contemporary practical conditions of human and institutional capacity then our actions and policy are guided in light of realistic conditions.

³⁰Mills., Ibid.

³¹ ibid.

Much of the political philosophy discourse ignores and neglects nonideal theory. Rawls asserts in his *Theory of Justice* that justice is the first virtue of institutions.³² Given that the dominant political theory work since the publication of *A Theory of Justice* has been overwhelmingly within the realm of ideal moral theory in the Rawlsian tradition, any alternative appears as criticism. However, ideal moral theory is not the only mode of political theory. Much of the work that for several generations of scholars has been functions of Rawls' work, is now mostly exhausted and an alternative to this mode, an alternative that shifts the lens in which we view justice, is in order. The search for ideal, or pure, justice is “[deplorable]...the search for pure justice not just unnecessary and probably hopeless but also profoundly conservative and actively detrimental to the work of combating injustice and reducing suffering.”³³

Nonideal moral theory possesses a set of benefits that have gone unacknowledged. Nonideal theory can be predominantly broken down into a dichotomy of generalism vs. particularism.³⁴ This is where issues of morality can be addressed in the context of general moral principles that have universal applicability irrespective of idiosyncratic contingencies. Particularism focuses on particularized agents and individuals, issues, or problems with institutional framework. For the purposes of this paper the particularistic approach of nonideal moral theory is most productive, with South African housing policy being the particularized case. However, there are pitfalls of focusing solely on particularistic nonideal moral theory. In order to produce a method or theory that is generalizable and can be applied to a multitude of scenarios, theory must keep in mind general moral principles. While both nonideal and ideal theory must consider general moral principles, the variety of moral principles is far different. In

³² Rawls, *A Theory Of Justice.*, *ibid.*, pp.3

³³ N.Plume. *A Theory of Injustice* (unpublished manuscript, publication forthcoming)

³⁴ Mills.,*ibid.*

nonideal moral theory, morality is based on real world scenarios of virtue and abuse of what can be most generally referred to as human rights or the rights and privileges guaranteed by a liberal state. While in ideal theory morality rests on antiquated or grandiose conceptions of morality that are not in line with real world scenarios. While it is critical to maintain these overarching conceptions of morality, such as the parameters of a justice state, it is important to consider the morality that faces citizens on a daily basis. In nonideal moral theory, a theorist may fall pitfall to totally rejecting abstraction and generalism and therefore “[depriving] one of the apparatus necessary for making general theoretical statements...”³⁵ One can easily become closed off in a tight theoretical space that does not permit for generalizable theory, and if we can make theory that is particularistic but also sufficiently abstract as to be able to make broad claims.

I seek to extend in the same tradition as O’Neill by using Rawlsian moral theory in the context of the nonideal circumstances of housing in post-apartheid South Africa. As O’Neill claims and I will advance in my argument, the best method for creating theory that brings into account both the ideal and the nonideal is to “theorize the nonideal.”³⁶ I will argue that from the connection between ideal moral theory and nonideal moral theory and its relation to democratic virtue, there lies a normative method of addressing issues of justice. I seek to produce a modified Kantianism³⁷ that functions in a realm that produces a cogent moral theory that is both weighted in theoretical reasoning while also pragmatic and realistically generalizable.

While this paper engages a substantial criticism of ideal theory and later on uses it to justify a variety of claims, it is not purely ideal theory. It is a melding of both ideal and nonideal

³⁵ *ibid.*

³⁶ *Ibid.*

³⁷ This meaning a method based on the categorical imperative where an act or thought exercise can be universally applicable and accessible.

moral theory that creates a more apt set of parameters that the normative method utilizes in its criteria.

4.0 POST-APARTHEID SOUTH AFRICAN HOUSING POLICY AS CASE STUDY

South Africa is an emerging third world democracy that is competitive in the global economic sphere and has demonstrated its ability to meet democratic standards and be a leader in the global south. However, South African democracy is only nineteen years old and is still fleshing out issues of democratization typical and in proportion to it's age and historical context. While much of the social issues caused by the apartheid regime have been dealt with, such as systematic segregation, unequal education, discrimination in employment and social services, and while by many metrics South Africa has progressed substantially there are several threats to democratic stability. There are issues of rampant unemployment among the black community, social segregation, underlying racial tensions, and most importantly, a blatant spatial segregation.

More specifically than geographical segregation is the issue of housing policy. While in the new democratic South African constitution there is a guarantee to adequate housing for all as part of its democratic mission, it has failed in doing so. While much policy and public research has been devoted to this issue, little of it has had positive affect on the housing crisis and contemporarily, the situation is more convoluted than ever before.

South African housing policy as a case study allows for a political theorist to examine an issue of democratization that is specific, but with much larger implications for political liberalism. If an issue such as housing policy can be worked out through a framework of

Rawlsian political liberalism and Kantian justice, then generalizable claims can be made as to how to solve similar in emerging and advanced democracies.

As proposed, this paper seeks to examine how the nexus of nonideal and ideal moral theory can be tied to democratic virtue in order to produce more stable democracy. If providing adequate housing to citizens is a South African democratic obligation, and the current approach to addressing is based on a series of ideal conditions, that be traced back in a broad sense to moral obligation to rectify systemic racial discrimination, then we can narrow the issue to a lack of concordance between ideal and nonideal moral theory. A method of approaching housing that sets forth a series of legislative abstractions and conditions that are deeply rooted in the realities of nonidealism, then it is possible that democratic virtue be satisfied effectively.

The following portion of the paper will outline housing policy before and after the democratic transition and will elaborate on key points in the policy making process. It will provide an elucidation of the complex Housing White Paper. This meaning that it will go through the nonideal conditions on the ground in South Africa beginning with a brief history of apartheid era housing, then moving chronologically through details of housing policy in the democratic transition, policy and implementation flaws, a report on the current state of housing policy, and an empirical prognosis of housing policy in South Africa.

4.1 HOUSING DURING APARTHEID

It is impossible to give an account of housing policy in South Africa that does not consider the intentional forces of separate development and geographies for racial populations. While some aspects of apartheid can be traced back to the original settlers of the western cape in the latter 17th century, the codification of distinct racial geographies occurred in 1950 and 1961 with the Group Area Acts.³⁸ This legislation prevented black citizens from taking up permanent residency in white areas and had the repercussion of producing distinct cities for white and black citizens and reordering the geopolitical landscape.³⁹ It also forced tension between different ethnic groups that were forced together in the townships and caused broken families due to the demand for temporary labor in the cities where laborers weren't permitted to bring their families.⁴⁰

South African housing policy can be divided into three coherent phases. From the successful win for the National Party in 1948, the formalized apartheid state began. The township phase from 1948 to 1961 represents the construction of townships outside of urban centers, on the fringes of established society, in the "veld." The homelands phase from 1962 to 1977 that pushed the black population towards outlying, rural areas, known as the homelands. The final phase from 1977 to the end of apartheid in 1991, was known for resistance and reform.⁴¹ During this final phase is when domestic and international pressure began to persuade the apartheid regime to stop worsening the conditions for the black majority and reconsider apartheid.

³⁸ C.J. Mackay, "The development of housing policy in South Africa in the post apartheid period," *Housing Studies*, 11, no. 1 (1996): 133-147,

³⁹ Anthony Lemon, *Homes Apart: South Africa's Segregated Cities*, (London: Paul Chapman Publishing, 1991), 8.

⁴⁰ *Ibid.*

⁴¹ Mackay, *ibid.*

For non-white citizens, little to no alternatives existed outside of short-term renting and land tenure was a major point of tension. Any tenure to land that was possessed before the township phase began in 1948 was forfeited when forced migrations occurred. Black citizens were forced out onto the homelands, colloquially known as the bantustans where education and social life was closely monitored and directed by the apartheid regime. Land tenure was not an option and the white government exercised brutal and total control over the designated areas. Curriculum, training, and activities were all geared towards preparing young black South Africans for exploitative work either in manual forms in what was the rapidly industrializing nation, or in the homes of the white elite.

At the time of the democratic transition, housing tension was at an all-time high. The backlog for subsidized housing was at three million units and with a growth rate of 178,000 units per year by 1994. Grandiose plans were crafted at the end of apartheid and during the transition. However, much of this was rhetoric and policy and failed in implementation and practicality. With a background of what was happening at the arrival of 1990, and the collapse of apartheid, the stage is set for an examination of the main pieces of new legislation, the policy creation process, and the eventual policy flaws and implementation errors.

4.2 PRECURSOR TO NATIONAL HOUSING LEGISLATION

With the end of apartheid in 1990, the first democratic elections were held in 1994. In the meantime, the process of reconciliation began with a series of forums dedicated to a variety of socioeconomic issues facing the country. Housing policy in South Africa originates from a series of discussion and recommendations made within the National Housing Forum.⁴² The housing forum served as the vehicle for the eventual housing white paper and then the Reconstruction and Development Programme and subsequent legislation.⁴³

Housing policy remains a threat to South African democracy. The widespread and constant prevalence of egalitarian rhetoric and behavior is consistently undermined by the reality on the ground. Housing is an issue that bridges the gap between social and economic policy and is a crucial factor in a stable democracy. A majority of black South Africans live in townships in outlying areas, with little means or access to urban centers and therefore little chance of gaining meaningful work or satisfying basic needs. The government has failed in its mission to correct for the injustices of apartheid and in the case of housing policy, this process has been undermined not by the government itself, but by the outgoing government and by business interests.⁴⁴ In order to better analyze and interpret the consequences of the legislation, an elucidation of how the legislation came about is necessary.

⁴² Kiran Laloo, "Arenas of Contested Citizenship: Housing Policy in South Africa," *Habitat International*, 23, no. 1 (1999): 35-47,

⁴³ *ibid.*

⁴⁴ *ibid.*

In the early 90's after the formal collapse of apartheid, the Congress for a Democratic South Africa, otherwise known as CODESA began work on rectifying the injustices of apartheid. The congress then formed a series of forums and subgroups to address the particularities of different apartheid legacies, socioeconomic issues, and formulate policy or policy suggestions for the incoming democratic government. As this was occurring, housing, as well as the country in a general sense, was in profound disarray. There was prevalent homelessness, abandonment by the government in the townships and the homelands, escalating political violence, mass protests and social unrest, all the while there were further sanctions and heavy divestment from abroad, effectively exacerbating the situation.

The private sector realized that in order to create change and correct for apartheid, it was in the private sector's best interest to contribute and participate in the process of post apartheid development. In the aftermath of apartheid, the Independent Development Trust and the Development Bank of South Africa were created as "parastatal institutions"⁴⁵ to help in the process of redevelopment. During a meeting of these two institutions and delegates of CODESA in June 1991, the parties determined to create a National Housing Forum to facilitate the discussion and creation of a just, post apartheid housing policy.⁴⁶ The National Housing Forum was launched in August of 1992. This group served as the catalyst for all future housing policy.

From 1992 until the democratic election in 1994, the national housing forum served as the organizing vehicle for consensus building. It was composed of representatives of nineteen organizations, including political parties, trade unions, financial and construction bodies and various trusts and civic organizations. The purpose of the unified interdisciplinary forum would

⁴⁵ This term refers to institutions that are created and subsidized by the government to function in the private sector and eventually be self-reliant while serving the public.

⁴⁶ibid.

be to “to negotiate policies and initiatives which will help redress historical imbalances and meet future needs for shelter.”⁴⁷

In August 1993, the national housing forum reached an understanding with the government that established an accord of what post-apartheid housing policy would look like. The accord reflected a post-apartheid housing policy that contained permanent geographies and structures, land tenure, adequate sanitary, water, and electricity supply for all South Africans. The accord for future housing policy developed in 1993 contained twenty “points of departure” that were critical in any vision for fair and reformed housing. Of these twenty points, several are particularly salient: housing policy should be sustainable, the need to recognize housing as part of the broader economy, the need for consensus, the need to promote viable communities, the need for rational and justifiable administrative structures, the necessity of transparency and accountability, the need for free market forces, the direction of subsidies to the most disadvantaged.⁴⁸

Parallel to the efforts of the national housing forum were the efforts of the Urban Foundation. The Urban Foundation was developed by the private sector to promote business interests in an effort to alleviate poverty and inequality in respect to housing. The Urban Foundation was founded in 1976 and by the time of the democratic election in 1994, had produced substantial research, all in favor of private sector interests, and was able to influence policy making.

A third parallel component of the formation of housing policy, was the African National Congress policy plan, known as the Reconstruction and Development Programme. This policy document served as the housing manifesto of the African National Congress in the first

⁴⁷Mackay.,ibid.

⁴⁸ ibid.

democratic election. The Reconstruction and development Programme built on the traditions in the South African Freedom Charter and was considered the conclusion of much policy debate between political factions and within civil society. While it was considered the conclusion of policy deliberation, it was considered the beginning of the process of developing the complex and detailed economic policy and legislation necessary for the implementation of the programme.

The Reconstruction and Development Programme (henceforth RDP) outlines several key issues with housing policy and what a sound housing policy would require. While the RDP remains a vague and ambiguous document, mostly a political treatise and not actual policy suggestions, it was a crucial component in post-apartheid housing. It calls for meeting basic housing needs for all South Africans, developing human resources, building the economy, democratizing the state and society, and implementing the RDP.⁴⁹ It also strongly emphasizes the fact that the RDP, like all policy manifestos of the African National Congress, are people-driven and have the ultimate goal to promote the welfare of all South Africans. It also emphasizes and promoted the need for accountability, simplification of administrative structures, the need for standardization of minimum and basic needs, and the removal of discriminatory legislation.⁵⁰ It called for action to build one million dwellings within the first five years of an African National Congress government and it called for housing to occupy no less than five percent of the total budget.

Once the first election took place and the African National Congress was firmly in control of the national government, senior members of the national housing department consulted with senior members of civil society and the private sector to produce a final set of

⁴⁹ibid.

⁵⁰ibid.

accords before implementing any housing strategy. In this final round of consultations, a conference was held in Bloemfontein, the capital of the Free State province, to synthesize the efforts of the De Loor Report, which was a major contributor to the eventual white paper, the points in the manifesto-style Reconstruction and Development Programme and the accords between the national housing forum and the government from 1992 until the election of 1994. The consolidation of all of these policy suggestions were compiled into a single white paper, the housing white paper, that was presented to the national parliament in October of 1994.

4.3 THE PRODUCT OF THE RDP: THE HOUSING WHITE PAPER

The detailed housing white paper provided a framework for future policy on housing in the aftermath of the first democratic election. The Housing White Paper is an exemplary case of consensus-building policy making.⁵¹ The housing white paper was presented to the South African parliament in Pretoria and released to the press and the public in October of 1994. The housing white paper is an effective blueprint for implementation of housing policy. This portion of the paper addresses each aspect of housing prior to the democratic transition and then through the various aspects that require consideration for implementation.

The preamble sets forth the context of the Housing White Paper. A people-centered government and policy is required. The document and its contributors believe that the single most important aspect to any meaningful change is the emphasis on the “latent energy of the people.”⁵² Much of the housing crisis in the post-apartheid era stems from a variety of complex and convoluted social and economic factors. In the democratic South Africa post 1994, the reality of the housing crisis consisted in a backlog in delivery, systemic homelessness, and the immensely complex administrative apparatus inherited from the apartheid regime where segregation was the organizational unit.⁵³

⁵¹ibid.

⁵²O'Malley, Pedraig. Nelson Mandela Centre of Memory, "The Reconstruction and Development Programme." Accessed December 26, 2012.

<http://www.nelsonmandela.org/omalley/index.php/site/q/031v02039/041v02103/051v02120/061v02126.htm>.

⁵³ South African Department of Housing, "A New Housing Policy and Strategy for South Africa." Last modified 1994. Accessed December 29, 2012. <http://www.info.gov.za/whitepapers/1994/housing.htm>.

The white paper is divided into sections examining housing in the context of the broader economy, the current housing profile and the needs for the future, and strategy for implementation. At the time of the authoring of the housing white paper, reliable, unbiased, public sector statistical data regarding housing was unavailable. The white paper set out a series of statistics and assumptions that the paper predicated its policy on. While the statistical evidence provided in the white paper is ample, below are key points in the statistical report.⁵⁴

These key statistics framed the strategies of the housing white paper.

- Population growth in 1994 was established at one million annually and an added 200,000 dwellings needed per year.
- 40% of the population has an income of less than 800 rand per month. (ten rands= ~one dollar)
- 2/3 of the seventeen million who live on less than one dollar per day, an established threshold for global poverty, live in rural areas outside of commercial zones, far from economic opportunities, have insecurity land tenure, water and sanitation issues, and a lack of other basic services.
- Estimations for 1995 were that the backlog would reach 1.5 million units and one million low quality units that would require upgrading.
- 58% of households in 1994-1995 maintained secure tenure.
- 9% maintained informal or traditional tenure arrangements.
- 18% or 7 million people lived in squatter settlements, backyard shacks, or possessed no sense of tenure.
- 5.2% of households live in hostels.
- 25% of households have no access to piped water.
- 48% have no access to proper plumbing.
- 46% have no access to the electrical grid.

A second issue that contributes to the housing quagmire is the administration of housing.

While during apartheid there was a predominant conception of separate development for the

⁵⁴ MacKay.,ibid.

white and black populations. This allowed the apartheid regime to effectively segregate society at the most fundamental area. By the time of the democratic transition in 1994, much of the public administration in rural areas and townships had collapsed and were dysfunctional. While the white paper emphasizes that administration in the democratic South Africa should be handled at the most local level possible, a national housing administration should be formed to regulate and administer housing on a national level. The national housing ministry would be responsible for: setting broad goals, defining standards, administer subsidies and funding, monitoring delivery, and to handle accountability with parliament.⁵⁵

The white paper suggests several policy interventions to halt the deteriorating situation. A major theme of the new democratic government was that the substantial divestment from South Africa by foreign investors beginning the 1970's and accelerating through the 1980's to apply pressure on the apartheid regime needed to be rectified. Yet the white paper makes the explicit point that, "the reinstatement of a habitable public environment has to be the precursor to a resumption of private investment and sustained developments."⁵⁶ Government intervention was seen as an expedient and a necessary path in order to establish regular payments and private sector services. The overriding theme was that with government intervention and subsidy to rectify the crisis and establish normalcy in the housing market, private industry could then preside in the housing market, promoting a more vibrant and developed South African economy.

⁵⁵ *ibid.*

⁵⁶ Dept. of Housing., *ibid.*

4.4 CURRENT HOUSING POLICY

While data on current day housing policy is scarce and difficult to assess due to issues with the legitimacy of sources and private sector funding for research skewing results, it is difficult to ascertain what progress has been made to date. However, data and analysis is available in the early 2000's. This portion of the paper will evaluate the effectiveness and some of the details of implementation and delivery since 1994.

South African housing from 1994 onward can no longer be evaluated as a result of apartheid era planning and strategy, even though a consideration of those factors is imperative, post 1994 housing is the result of action or inaction of the government, civil society, and the private sector in the democratic South Africa. While housing policy is often viewed as isolated and then analyzed in relation to a variety of social and economic factors, it is critical to examine housing policy since 1994 in the context of international trends and the influence of supranational bodies such as the World Bank, the World Trade Organization, and the United Nations.⁵⁷ However, even with housing policy being contingent on a variety of international factors previously unaccounted for, housing in South Africa is still a hyper-local issue where regional and municipal politics and administration play a huge role in policy and delivery.⁵⁸ Two primary factors played a role in housing policy implementation since 1994.

First there is the public provision of rental housing as a means to quell and solve the housing crisis.⁵⁹ However, the fiscal limitations of South Africa in the years following the democratic transition made this nearly impossible. In other less-developed countries, it was

⁵⁷ Marais, Lochner, and Skip Krige. "Post-Apartheid Housing Policy and Initiatives in South Africa." *Urban Forum*. 10. no. 2 (1999): 116-135.

⁵⁸ Ibid.

⁵⁹ *ibid.*

proven that publically provisioned rental housing is unsustainable for an emerging economy.⁶⁰ It was also indicated by experience in other less-developed countries that any type of long-term public provisions of housing, whether they be rental or more permanent forms of land or property tenure is unsustainable even for nations with more stable public fiscal climates.⁶¹ South Africa chose this route initially as an expedient to resolving the continued deterioration of the situation and as a means to eventually transfer the majority of responsibility for payments back to the people and for construction, maintenance, and administration of housing to the private sector. However, this was not the case. The time frame in the available data indicates that the South African government maintains a large presence in the housing market and while they have yielded to pressure from the private sector in a number of ways including state-backed mortgage schemes, this has only served to further complicate the situation. With this combined public and private sector presence there has been little to no positive result and at times detrimental results for the people while not decreasing government presence, an ultimate goal of the original housing white paper.

The second major factor that has shaped housing policy since 1994 has been targeted subsidies.⁶² The subsidy was eventually determined at R15,000 maximum for families with incomes less than R800 per month.⁶³ These subsidies existed as a payment that could be used in several forms: 1. On a serviced site, 2.a serviced site with a rudimentary structure, 3.in situ upgrading, 4.a portion of the cost of a house or a flat.⁶⁴ While this idea was theoretically sound, it fails in practicality. Due to rampant corruption in the disbursement of the funds that come to

⁶⁰ *ibid.*

⁶¹ *ibid.*

⁶² *ibid.*

⁶³ *ibid.*

⁶⁴ *ibid.*

municipal housing authorities via the national housing ministry, the funds that arrive in the municipalities are often insufficient. The private sector has neglected proper building codes and even when delivery is successful, housing quality is often low and dwellings become inhabitable within six months.⁶⁵

An illustration of this can be found in data collected from housing authorities in the Free State province. 22,836 subsidies were approved for citizens in the Free State in 1998, 3.1% of the national total of subsidy approvals at the time.⁶⁶ Of these approved subsidies, only 17, 118 were executed in their entirety while the rest remain unaccounted for.⁶⁷ At the national level for the same time frame, 726, 267 subsidies had been approved while only 261, 263 had been executed successfully.⁶⁸ While the African National Congress wanted to devolve all possible administration and bureaucracy to the lowest possible level, this was conducive to corruption and bureaucratic stagnation.

While the economic and policy aspects of apartheid and post-apartheid housing policy are critical in the consideration of the effects of inadequate housing policy on the liberal state, it is beyond the scope of this paper to consider all the complexities and implications of an analysis of the entirety of South African housing policy. This section of the paper served to elucidate and provide the reader with the factors leading up to the democratic transition and then the policy that was suggested for rectifying the multiple facets of housing.

Another component of housing policy that is critical for further consideration is the role of marginalized voices. While economics and policy play a major role in the systemic problems of housing policy as well as in the problematic solutions of post-apartheid housing policy, there

⁶⁵ *ibid.*

⁶⁶ Department of Local Government and Housing, Free State (1998)

⁶⁷ National Housing Ministry, National Task Team (1998).

⁶⁸ *Ibid.*

is a parallel role of voices. What is meant by voices is the voices of different communities: women, homosexuals, the extremely impoverished, shackdwellers, and the HIV positive. These marginalized voices play a critical role in influencing policy and in affecting the pathways of change in a young democratic liberal state such as South Africa. More importantly than the few activists and groups that are able to gain prominence and affect policy, is the role of silenced voices and their path and how they affect society-at-large.

One such marginalized and silenced voice is that of the shackdweller's of South Africa. More specifically, Abahlali BaseMjondolo, a Marxist collective originating in the rural townships of KwaZulu-Natal province in South Africa. It is hyperdemocratic, horizontally structured, with leadership spread over the entirety of the collective, and with no formal rules, regulations, or mission. Even though data on the group is difficult to come across, it is estimated that the collective is affiliated with 30,000 shackdweller's and has countless more who in some way are involved or have attended events organized by the collective. The fight for rights and improved conditions in the jondolos, or shack/township communities in suburban and rural Durban, via channels not associated with civil society. They consider themselves the "Third Force" between government and civil society. The collective, unlike NGO's and non-profits, does not wish to go out and educate and fight for the cause, but are exclusionary, and ask that people come within to educate themselves, rather than they go out to educate the world exterior to the jondolos. The collective is known for organizing and mobilizing tens of thousands of shackdwellers in protests and riots, both civil and uncivil, against government and private institutions that neglect promises or attempt to oppress the shackdwellers.

More importantly than the philosophy and behavior of the collective, is their role in promoting the voice of the marginalized. While there is no metric to demonstrate the collective's

effectiveness, they claim to be the voice of the anger of the poor. The role of the collective is to promote the voices of all the marginalized populations and affect policy. The collective fights for a reconfiguration of the philosophy of public space by understanding space as a product of social means rather than economic means, the latter being the agenda pushed by the democratic, government of post-apartheid South Africa.⁶⁹ While this paper does not focus on how marginalized voices and groups and radical collectives such as the aforementioned can affect policy, it is critical to recognize the role of marginalized voices and to be cognizant of a parallel component of society where those whose voices are heard, are a select few, and that many other voices are left unheard and silenced and still play some role, regardless of its effectiveness, in the totality of a particular society's discourse.

⁶⁹ David Harvey, *Social Justice and the City*, (London: Edward Arnold Publishers, 1973), 27.

5.0 A KANTIAN NORMATIVE METHOD FOR ADDRESSING ISSUES OF GLOBAL INJUSTICE

I have set out to develop a connection between the nexus of ideal and nonideal theory and how it can affect democratic virtue. I have described what democratic virtue is, what the dichotomy of ideal and nonideal moral theory is, and how one can use the case study of South African housing as a particularistic approach to addressing an issue of injustice. What is left to do is demonstrate how with a strong grounding in Rawlsian political liberalism and Kantian justice and the injustices of post-apartheid housing policy as case study, one can produce a broad method for address issues of democratic injustice.

I argue that there is a normative method for addressing issues of justice that is strongly grounded in sound theory and classical leftist political thought while remaining receptive and adaptable to pragmatic concerns. A theory and method that connects high order political philosophy and ideas about virtue, obligation, and need with real-world issues of oppression, coercion, unenforced protections, and inaccessible rights.

Any convincing account of theoretical reasoning must be paired with practical reasoning in order for it to be practical and generalizable to a variety of cases. A universal cosmopolitanism that is developed through the public reason must consider the needs and affects of a society's action on distant strangers. A universalistic normative method for addressing issues of justice must be in line with universally accepted norms and must be mutually accessible

by different traditions (ie.reasonable pluralism). As social and economic exchange becomes more commonplace across large distances and across vast cultural differences responsibility to non-citizens is imperative.

Any theory that neglects real-world implications in favor of high idealism and abstraction will not suffice when addressing issues of global justice that are intrinsically realistic. By using a conception that is radically inclusive in the tradition of Kant's moral imperative and "principle of principles" society can prevent injustice. No account of justice will be comprehensive and sufficiently justified beyond a doubt and like all theoretical reasoning there are flaws in the premises and logic but this work is a compromise between practicality and high order philosophy that is at once abstract and ideal, while maintaining a consistent theme of reality.

What would a method for addressing issues of global injustice look like? This is a framework to address issues of injustice. While this paper looks at South African housing policy, the objective is to be able to generalize the ideas and principles revealed through this analysis, and produce a method that can address issues of injustice on a global scale. The normative method asks two primary questions. The theory is clarified in a flow chart on the following page:

1. Does the issue compromise democratic virtue and therefore the liberal state? This meaning: is it a violation of the basic scheme of rights and liberties?

2. Is the issue a dilemma with ineffective policy affecting real-world situations? This meaning: Is it an issue where there is a clear disconnect between the theoretical underpinnings and the actual circumstances; is there a disconnect between ideal and nonideal?

The objective of the flow chart is to map out the reasoning of an alternative method for addressing issues of injustice should be conducted. While the chart is not explicitly reflective of Kantian, Rawlsian, or O'Neillian claims, it was crafted as a way to sort and categorize real-world

issues. Solutions to these issues must be addressed using a modified Kantianism that contains strong motifs of Rawls and O'Neill.

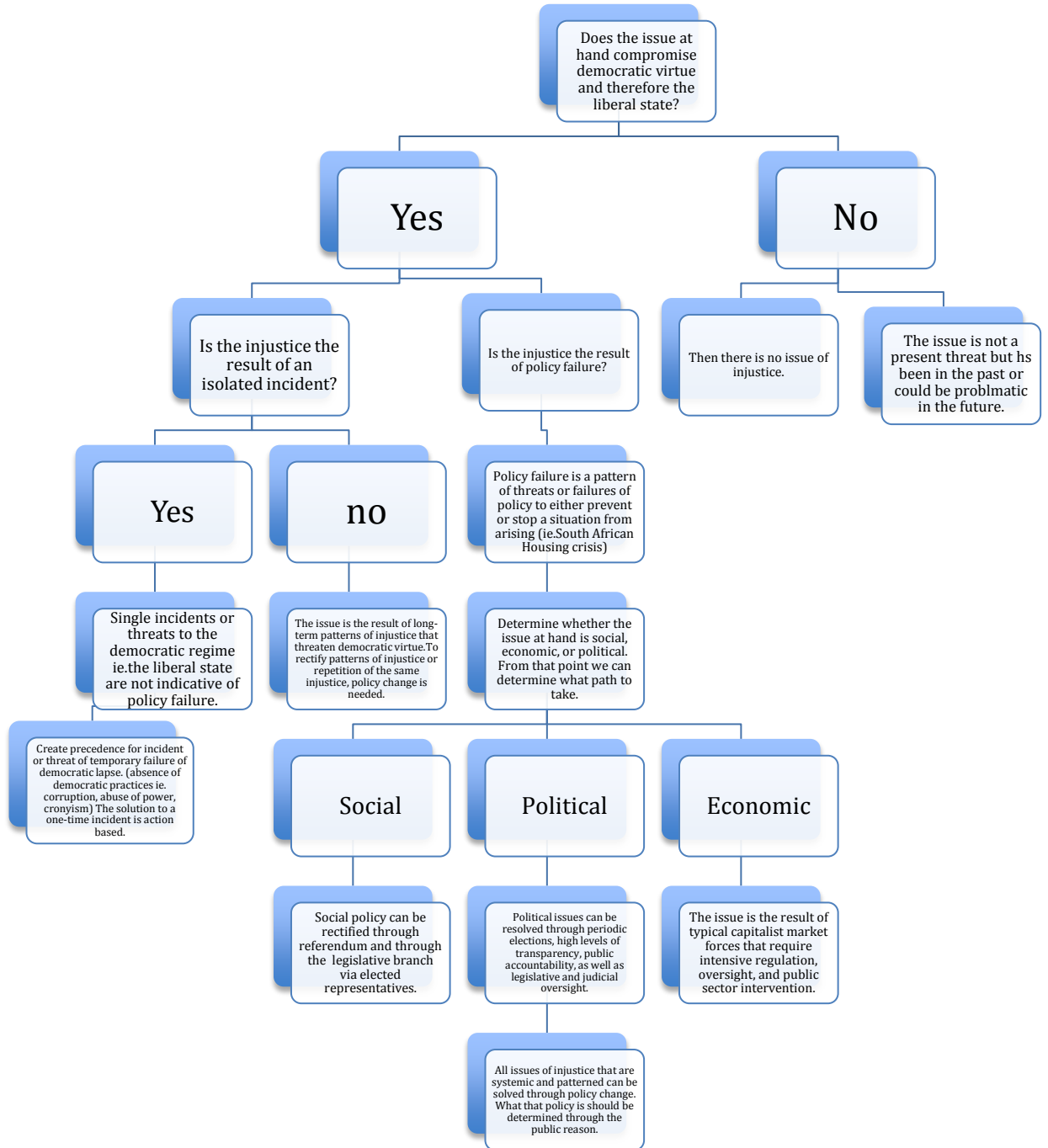


Figure 1: Paths of Thought: Isolating and Identifying Issues of Global Injustice

These pathways of thought that help frame the normative method for addressing issues of injustice must be framed in a particular Kantian-O'Neillian modified cosmopolitanism where policy is the product of moral concerns regarding ethical duties and obligations. Through a Rawlsian lens, priority must be assigned to societies most disadvantaged and following this logic, policy must be designed through a Kantian framework that insists that all people must be able to participate actively and be able to change policy that affects them.

This framework allows us to determine where exactly an injustice, (e.g. housing crisis in South Africa, healthcare in less developed countries, wiretapping in the United States) is found within the institutional and societal structure of society. It can be either an isolated incident or a policy failure. Policy failures are patterns that indicate, through social protest and unrest and demonstrable dysfunctionality, that a policy or set of policies is ineffective. Policy can be ineffective in one of two ways either through flaws in the written policy or flaws in the implementation of sound policy. What I propose doing should not be thought of as a method of designating precepts for what is best in a society, but as a method for identifying where the issue lies, and parameters for potential solutions reached through the public reason.

5.1 SOUTH AFRICAN CASE STUDY AND THE NORMATIVE METHOD: THE CONNECTION

The role of the South African housing policy case study is to examine a particularized case of injustice, where a disadvantaged population is being further exploited and coerced into circumstances that are out of their control propagating poverty, social stigma, and low degrees of social mobility. With the elaboration on the current situation in South Africa, one can see that a variety of systemic factors contribute to the current situation, and these factors are the result of initially the apartheid regime that was intent on suppressing the black majority, and then the democratic government's intent on securing capitalist, free market economic objectives in face of a disadvantaged population that was not being served. If a case such as housing policy in rural KwaZulu-Natal province can be addressed through the chart that I provided, and through the lens of a modified Kantianism, then this same method can be used for addressing other issues of global injustice.

Before going on, the term "address" must be defined and elucidated. For the purposes of this paper, to address an issue is to identify where a social ill is originated, whether it be the policy side or the theoretical underpinnings of that policy, or in implementation and action. Following, "address" refers to examining an issue through the lens of a modified O'Neillian-Kantianism, meaning: adhering to the categorical imperative and abstracting from idealized theoretical scenarios to produce nonideal theory that can affect policy in a positive and productive way. When we address an issue of global injustice, we are seeking to understand its origin, and we are seeking to provide basic parameters that are just and fair for the solution. We are certainly not attempting to provide the details of a solution nor the policy minutiae of a solution.

In order to better illustrate, I will run the issue of South African housing policy through the chart and through the normative method. In the context of the above figure, when examining South African housing policy, we can determine that the poor conditions, the economic hardship imposed by spatial arrangement, and the segregated nature of post-apartheid housing policy is compromising democratic virtue and therefore the liberal state. For this issue, it is clear that it is not an isolated incident, but a systemic flaw originating in the apartheid regime and then left unresolved in the democratic South Africa. Therefore it is a policy failure defined as a pattern of observable events or conditions that policy in place is unable to prevent or stop. From this point, the issue should be categorized as political, social, or economic. An issue such as post-apartheid South African housing policy enters all three realms. There is a component of corruption and political cronyism, there are social repercussions, most importantly the continued subjugation of the black majority, and most importantly, the economic consequences. The economic consequences take the broad form of disengaging any potential for social mobility, and the propagation of unemployment, and severe poverty leading to poor health, social stigma, and lack of education among other unfavorable conditions. While the chart proposes a series of general solutions for each component, more broadly and critical to the normative method is not what the solutions are and what policy is, but how solutions and policy are arrived at.

The normative method insists on parameters for any solution to be just and to aid in restoring a state's liberal status. 1. The solution must be accessible to all within a society to aid in forming if they so choose, 2. The solution must be available to all citizens to be able to change, 3. The solution and/or policy must be formed using the public reason, 4. It must be self-imposed by a sovereign state and not superimposed by foreign states, 5. It must be changeable in

the future, 6. Its provisions must be sustainable and long-term viability must a primary consideration, 7. If the issue at hand involves the immediate threat to human life, the solution must contain provisions for immediate remediation with long-term strategy to be implemented with all due haste, 8. The solution must consider repercussions to distant strangers both positively and negatively.

These seven criteria provide parameters for a solution. In the same style as Rawls, who sets forth not the specific ways and mechanisms of how to go about forming a just society, but the parameters of how a just society will take form, this Kantian normative method functions similarly.

I have chosen post-apartheid housing policy as a case study for this experimental normative method, yet any global issue of injustice could be viewed through this same process making the normative method generalizable. However, by simply choosing a case study that is country specific, it does not neglect the inherently cosmopolitan nature of the argument. The South African case study is used to extrapolate and craft a normative method and make principles of a transnational nature. The normative method that is described above and again below, is crafted in a way that can be applied across all states and is both generalizable and universal.

6.0 CONCLUSION

In this paper I began by proposing a new approach to thinking about justice in the liberal state by connecting two previously disparate elements, democratic virtue or obligation, and moral theory. I describe moral theory as a dichotomy of ideal and nonideal moral theory. I argue that in moral theory, ideal theory is needed and fundamental, but that nonideal circumstances must play a larger role in the formation of theory and that there must be a connection between them. Following this, I argued that with theory solidly based in abstraction and idealization, but that was flexible and accommodating of real-world, practical scenarios, there exists a connection to democratic virtue. A connection between democratic virtue and how a society determines democratic obligations, and how a pragmatic moral theory, can produce justice.

I use and elaborate on the Rawlsian principles of justice as fairness: I elucidate the public reason, the political conception of justice, and how a just state arrives at decisions. I also elaborate and rely heavily on O'Neill's modified Kantianism, where for there to be justice, the terms of justice must be equally available to all citizens to change and modify at will. As an objective of this paper, I provided a case study of a contemporary global injustice, post-apartheid housing policy in South Africa. This scenario presents dilemmas that are social, economic, and political, and have both long-term and short-term repercussions that affect the day-to-day life of South Africans. If theory can be produced that can address this type of complex and convoluted issue, then we can be assured that my proposal is sound.

My proposal is that to solve issues of global injustice, such as housing policy, first, it is critical to determine the origin of the problem and categorize how it is affecting society. Then I lay out a series of eight points that create parameters to arrive at justice and I call this the normative method for addressing issues of global injustice. These parameters, in an intentional Rawlsian conservative style, are meant not to dictate what a society must do to be just, but the parameters for a society to exercise its own sovereignty, free will, and public reason, to arrive at solutions and policy that are just. More important than what the particularities of justice are or what democratic obligations are, is how we arrive at them. If the process is just, and the decision-making process is just, then the result will be a correctly rectified policy and a more just society.

From the normative method, I suggest not only a method for addressing issues of global injustice and setting forth parameters of justice, but I suggest more importantly a new way of looking at moral theory. This work seeks to extend through the case study and elaboration provided, a new approach to examining issues of moral theory and as an exercise outside of the normative realm of ideal moral theory. This mode has been the dominant approach in political philosophy and this type of approach and mode of functioning is fundamentally distortive. For theory to be properly adequate and comprehensive it must be logically sound, critical, and most importantly empirical. While I do not wish for my argument to fall prey to trends of hyperfactualism in empirics, I do argue that in order to make theory that is valid and applicable, it is critical to combine elements of the real in theories of how human and institutional behavior should occur.

Edmund Husserl makes a claim regarding the profound and “universal self-understanding of the philosophic ego as the bearer of absolute reason coming to itself.”⁷⁰ Yet he argues that while high order philosophy and theory must be guarded and protected, there is an “intrinsic connection between the life of pure *theoria* and its practical efficacy in transforming mankind.”⁷¹ This link between pure theory and its ability to transform or change society is what I have argued.

⁷⁰ Richard Bernstein, *The Restructuring of Social and Political Theory*, (University of Pennsylvania Press, 1976), 177.

⁷¹ *Ibid.*

7.0 AFTERWORD

When I began this research project, I knew I wanted to explore theories of justice. I wanted to understand justice, understand what role it played in our decision-making, and how we can make society more just, and to discover if this was possible. After extensive work with Dr. Lotz, many hours spent writing this and other papers for him and Dr. Goodhart and other professors, I can claim that while my understanding of justice is clearer, it's nucleus eludes me. While I can understand how it manifests, what it requires, and how we can best approximate a nebulous concept such as justice, its definition is elusive. While moral philosophy in the context of theories of justice is subjective and normative even with our best attempts at objectifying and standardizing, one can still hope that true justice exists. One of the stated aims of this paper is to develop ideas about justice that are both ideal and well established in theory, but also practical and realistic. With this in mind, I find it difficult to see total justice being possible outside of a few political theorists minds'. It is inherently contradictory to the human condition that is depraved, self-interested, and simple. This does not mean that I have lost faith in the possibility of a more just global society. Pragmatic moral theory is needed to accomplish this. This thesis is my attempt to elucidate the convoluted and complex realm of academic work on justice, primarily Rawls and O'Neill for my purposes, and investigate a real-world scenario, and attempt to craft theory, a normative method that combines these different realms coherently. While I am

also a bystander of many global injustices, I can contribute to their rectification by attempting to produce moral philosophy that is suitable to engage the intricate issues that emerge in an increasingly globalized society.

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above all else, and have been unrelenting in their support of whatever goals I have chosen to pursue.