CHAPTER 2

TWO CONCEPTS OF IDEALS

1. AN ONTOLOGICAL DISTINCTION

In the present chapter I propose a distinction between two concepts of ideals. In pursuit of the question what a defensible concept of ideals must look like I have focused on the relation between ideal and reality. There are two basic ways of viewing that relation: as opposition or unity. I refer to the concept of ideals that sees ideals as essentially opposed to reality as the transcendent concept of ideals; the concept that sees ideals as an integral part of reality I call the immanent concept of ideals.

The distinction between the two concepts thus has its starting point in the different answers to the ontological question what ideals are. In the course of this chapter it will become apparent that the two concepts also differ considerably in regard to both the question of gaining knowledge of ideals and that of justifying adherence to ideals. Epistemological difficulties can provide reasons for a revised account of the ontology of ideals. The epistemological positions depend on the ontological status of ideals, because the kind of entity ideals are is to a large extent determinative of the way in which we have access to ideals and of the reasons admissible for the justification of the belief in certain ideals. The development of the different concepts of ideals can be seen as a search for the most plausible account of both their ontology and epistemology.

The distinction between a transcendent and an immanent view on ideal and reality is the starting point for discussion of two traditions of thinking about ideals. Both traditions originate in a clear and strong assertion of, respectively, the transcendence and the immanence of ideals. The development of the traditions is explained by the reaction to problems generated by these strong core positions. Thus, I sketch a move towards less extreme accounts of the two concepts, in which opposition and unity are interpreted more modestly.

My aim with this chapter is twofold. First, I want to give a description of the two concepts of ideals that will shed light on the features of ideals. In the first chapter, I have already raised a number of questions and issues regarding the nature of ideals. For example, from the discussion of justice, it became
apparent that, at first sight, ideals seem to be unrealizable standards. In the
discussion of freedom underlying property law, the ideal appeared as implicit
in the legal rules. Features such as unrealizability and implicitness will be
subject of discussion here. I have also raised the question whether ideals and
values are different or identical. In this chapter, I will examine which of these
characteristics are included in the different concepts of ideals and I will pay
attention to the other characteristics following from the concepts. Secondly,
I want to use this discussion to formulate hypotheses that can guide my study
of Radbruch and Selznick. These hypotheses will concern both the
characteristics of the concept of ideals and the problems generated by each
concept. My perspective in judging the promises and problems of the concepts
is on the role that ideals should be able to perform. There are two functions of
ideals of which a concept should give a satisfactory account: ideals need to
serve as standards of evaluation and ideals need to give guidance to practical
concerns.

2. IDEALS AS TRANSCENDENT

Ideals appear as transcendent if one starts from a dualistic view of the world.
Dualism in the context of this discussion means the dualism of fact and value.
There is more than one way to understand the fact-value distinction: most
commonly it is understood as a logical distinction between types of reasoning.
First advanced by Hume and Kant, it is the idea that one cannot derive a
statement of value, of what ought to be, from a statement of fact, of what is the
case.\(^1\) The fact-value distinction I am concerned with here is more
fundamental: it is not a distinction between types of statements but an
ontological distinction between kinds of existence. Facts, as parts of
perceivable reality, are of a different nature than values. The question then is:
what are values? How are they different from facts, and in what way are they
related? I will start with a discussion of the Platonic view, as the clearest
account of a transcendent concept of ideals, and go on to discuss Kantianism,
constructivism, and subjectivism as reactions.

---

\(^1\) As Stuart Hampshire points out, Kant defended the stronger thesis that there is an
unbridgeable separation between moral and factual judgments, while Hume was only
concerned that derivations of ‘ought’ from ‘is’ are not logically conclusive (Hampshire
1949, 162). Hume’s is-ought problem has been the subject of vigorous debate in ethical
theory (e.g. Searle 1964), non-observance of the distinction is known as the naturalistic
fallacy (see Frankena 1939).
TWO CONCEPTS OF IDEALS

Fact and value can be seen as forming two different realms, the natural world in which we live and a world of perfection, of how things ought to be. This is the structure of a Platonic world of ideas.² Such a view has three central features: the ontological status of the world of ideas, its relation to the realm of fact, and our knowledge of it. In Plato's theory the realm of ideas was primary: the world as it should be was also seen as the real world. The perfection of the realm of ideas entailed that it was eternal: there is no reason why something perfect should perish. Similarly, being perfect, that is completely good, also meant that it was true — falsity implies imperfection, a lack or incongruity. If one identifies Platonic ideas with ideals, which I think is defensible,³ ideals in this view are perfect, eternal and true. These are large claims, which need to be substantiated. That, however, is problematic because of their separate realm of existence: how can these features of ideals be proven when ideals form their own distinct realm? Some connection is needed, first of all, so that we can know something about ideals, and, secondly, so that the significance of ideals for the world which we inhabit is made clear.

This connection brings in a second dualism: that of mind and matter. The link between the world of ideals and the natural world is established via the human mind (Reale 1990, 48). By way of his rational capacities a person gains insight in the character of ideals. We obtain information about ideals because we have special rational capacities that allow us access to them. This does not do much to clarify the rather mysterious picture that has arisen: a world of perfect ideals to which we have a direct link because of our rational capacities. But there is another, more indirect connection in Plato's view that should not be overlooked. Ideals form the patterns on which the world of which we are part is based. A beautiful thing, for instance a flower, is a reflection of the idea of beauty; however imperfect a reflection that flower is, it shows something of the idea of beauty. For Plato this means that ideals are the source of the valuable aspects of our world.⁴ This gives ideals an important role in the

² See Reale (1990, 47-63) on Plato's theory of ideas. Reale distinguishes six basic characteristics of ideas: being intelligible, being incorporeal, being in the fullest sense, being unchangeable, being self-identical, being a unity (49). In my discussion I focus on the first four. On the separation between ideas and reality, see also Devereux (1994, 193).
³ As noted in Chapter 1, the use of the term 'ideal' as a substantive is relatively recent, the use of the adjective 'ideal' was already used as referring to ideas by the Greeks. I use ideals in the context of Platonic philosophy as well, because many of the features attributed to ideas by Plato are later seen as features of ideals.
⁴ It is precisely because the ideas are of another (metaphysical) realm, that they can be causes of our (physical) reality, according to Plato. Something could only be a cause of something (continued...)
The Concept of Ideals in Legal Theory
Taekema, S.
2003, IX, 253 p., Hardcover