

Rawl's encapsulation of society

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RAWLS'S ENCAPSULATION OF SOCIETY

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Abstract

The aim of this paper is to examine the premise that society is a stable system of cooperation, a premise that constitutes one of the pillars of John Rawls's theory of justice. The working hypothesis is that, by resort to this premise, Rawls has committed a typical philosophical error, that of 'encapsulating' a complex, multi-dimensional phenomenon (society), into a simple, one-dimensional, essential feature (cooperation). Various possible arguments for adopting and defending this premise are analyzed, and shown to be unconvincing. It is argued that Rawls's theory fails to take properly into account essential social components like conflict and power, and that it remains thus theoretically vulnerable from this point of view.

Keywords: competition, conflict, cooperation, encapsulation, fairness, John Rawls, J.S. Mill, J.F. Stephen, just society, system of cooperation.

Rawls's theoretical strategy of *encapsulation* can be detected at several different levels and points of his constructive enterprise. *Justice as fairness* itself, his famous concern, is encapsulated in a small number of principles. But the first thing to be remarked, perhaps, is his claim that society is, or should be seen as, a 'stable system of cooperation'.² The whole complexity of society is thereby encapsulated in a single fundamental characteristic: cooperation. This is, of course, a very useful step in Rawls' enterprise: if the aim is to have justice encapsulated in *fairness* interpreted as 'fair cooperation', then it proves very convenient to have society presented as 'a system of cooperation'. Such a presentation also seems to be a good starting point: few other things can seem as unproblematic and innocent as the idea that a certain society is basically a group of people cooperating and getting benefits from their cooperation. In this paper, I shall argue that this premise is not as innocent as it seems and that the

¹ University of Bucharest. The research work for this paper has been done while I was a Robert Bosch Senior Research Fellow at the Institute for Human Sciences, in Vienna. Part of this paper has been included in the list of 'working papers' published electronically by the IWM. I am grateful to the IWM for support during my work for this article

² John Rawls, *Political Liberalism*, New York: Columbia University Press, 1993, 15, 43, *passim*.

resulting perspective is vulnerable; this vulnerability illustrates pretty well, I think, the risks of encapsulation as a philosophical strategy.

1.

For people who are not so philosophically-minded like Rawls, it might be quite obvious that modern societies are very complex entities, the whole 'nature' of which simply cannot be encapsulated in just one kind of relations or interactions. Even if cooperation is a central aspect of all social forms of life, it clearly does not summarize the whole diverse net of human relationships.

Take, for instance, conflicts, which are, as much as cooperation, a major part of social life. Different interest groups and individuals permanently fight each other, in attempts to defeat, and sometimes even to annihilate, rivals or (what they see as) enemies, attempts which cannot be properly called 'cooperative enterprises'. Conflicts are not mere outrageous events in far-away countries; they are present, in different forms, in any country and any period of time. Modern democracy does not eliminate conflicts; it only modifies their form. The democratic system itself, as James Stephen remarked in his critique of another example of encapsulation (Mill's encapsulation of freedom), is based upon confrontation and compulsion, rather than upon cooperation: "Parliamentary government is simply a mild and disguised form of compulsion. We agree to try strength by counting heads instead of breaking heads, but the principle is exactly the same. It is not the wisest side which wins, but the one which for the time being shows its superior strength (of which no doubt wisdom is one element) by enlisting the largest amount of active sympathy in its support. The minority gives way not because it is convinced that it is wrong, but because it is convinced that it is a minority".³

These are not the subversive suggestions of some Nietzschean or some Marxist writer: Stephen was just a pragmatic conservative, endowed with lucidity. He simply could not forget the obvious fact that social life is the field of permanent fight between opposing interests, ways of seeing and priorities, and that "struggles in different shapes are inseparable from life".⁴

Given the omnipresence of social conflict in real life, some authors (Marx, most notably) have even considered it legitimate to encapsulate 'the essence of society' in (class) struggle: "the history of society is the history of class struggles", claimed a famous slogan. Encapsulating the whole diversity of social relationships in one single element (social conflict), is, of course, a strategy which obscures other, equally or even more, important, kinds of human

³ James Fitzjames Stephen, *Liberty, Equality, Fraternity*, London: Elder & Co., 1874, 30.

⁴ *Ibidem*, 180.

relationship and plays a major role in justifying political violence. If struggle is all that social history is about, why wouldn't we go on fighting until (our) idea of social justice would materialize?

To be sure, Rawls' encapsulation of social life in cooperation goes in the opposite direction, exalting cooperation, not conflict, but it instantiates the same kind of reductive intellectual strategy and provides an equally truncated view of society. Hearing him speaking about "political cooperation on the basis of mutual respect",⁵ it would be difficult to imagine that political life includes also other things than elegant cooperative initiatives. But common sense suggests that, given the permanence of both cooperation and conflict in social life, it is more appropriate to speak about society as 'a system of cooperation and conflict', than as a (pure) 'system of cooperation'.

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Now, it might seem that such an objection is based upon a misunderstanding (Rawls' favorite complaint is that he is the victim of some misunderstandings). It could be said that what we face here is the following dilemma: either social conflicts are solved cooperatively, and in that case they are nothing more than special kinds of cooperative interactions (to be compared with sportive games, in which rivals fight in a cooperative way); or they are solved by sheer violence, and in that case they cannot be the proper object of a theory of justice like Rawls' theory (as confrontation based on ruthless use of force, a conflict cannot have anything to do with 'justice' or 'fairness'). If, then, this dilemma was accepted, it would appear that there is nothing wrong with Rawls' presentation of society as a 'system of cooperation': his theory seems to take into account all elements that a theory of justice should take, being, in this sense, complete and unobjectionable.

But this impression is false, and I shall try to show that by making three points.

The first point is that one cannot defend the idea of 'justice as fair cooperation' (which Rawls actually wants to defend) by proclaiming that the problem of justice can be meaningfully raised only where we have to do with some kind of cooperation: such a defense would be viciously circular. If 'justice' refers exclusively to cooperation, then of course 'just' means 'just cooperation'. But then an essential part of the strategy is circular: justice can be encapsulated in 'fair cooperation' simply because one has decided to restrict the application of the term 'justice' to cooperative interactions. And such a strategy is vulnerable to the obvious objection that the normal use of the term 'justice' goes much further beyond the field of cooperative interactions. We normally talk, for instance, of 'just' and 'unjust' wars; and one could call even a certain civil war 'just' (when, for example, those who have started it fight against

⁵ John Rawls, *op. cit.*, 156.

dictatorship, illegitimate discrimination, political arbitrariness etc.). From an usual, non-theoretical point of view, such a 'just civil war', although not an example of 'cooperative interaction', is extremely relevant for the problem of social justice: it is, actually, a piece of social justice in the making, one could say. Unfortunately, from a theoretical point of view of the kind alluded to above, i.e. from Rawls's particular theoretical angle as it appears in this possible reconstruction, one couldn't call a war 'just', because it was not a piece of cooperative interaction. Here we are, of course, tempted to say that there must be something wrong with the theory, as long as it prohibits certain uses of the word that we consider normal and correct. And the above is not the only relevant example in this sense. What about coercion and (political) repression? We need a theory of justice which allows us to say that certain kinds of coercion and repression are 'just' (for instance, repression of terrorist groups, of extremist violent groups, etc.), while other kinds are 'unjust' (for instance, repression of legal political movements, or of human rights activists). Under this interpretation, Rawls's theory won't allow this, because it encapsulated justice in 'fair cooperation' and coercion or repression cannot be taken as an example of cooperation.

Now, even if there is no dispute concerning the facts mentioned above, their relevance can still be challenged. Some of the examples I have given above might still seem irrelevant, inasmuch they are characteristic for an *unjust* society. Civil war, political (abusive) repression etc. could be seen as empirical facts which (although pretty widespread in the world) cannot be relevant to the ideal of a just liberal society of the kind Rawls refers to. Once again, one could suspect that the present critique is aiming at the wrong target. I therefore think that some insistence is still needed upon the fact that at least coercion, and even repression (which is a kind of non-cooperative interaction between some institutions and some groups or associations which are repressed) are not necessarily blamable activities, characteristic for states in which justice is not achieved. They are not only the consequence and counterpart of injustice, but also a constituent of justice: some kinds of coercion and repression are not *contingent*, but rather *constitutive* for any (just) state. As soon as one abandons the idyllic view of social relationships as simply 'cooperative', one remembers that society is not only the admirable field of *participation* but also the bleak field of *parasitism*; not only a place where honest people help each other, but also one where profiteers take advantage of other people, of social arrangements or of institutions. In any society, there are (and, presumably, there will always be) participants who behave as 'free riders', or who take advantage of some 'gaps in the law', or whose 'participation' consists in activities 'close to the law', or who actually break laws in order to get some kind of profit out of that. Coercion and repression, applied to such participants in the social game (and political extremists as well), are not a contingent, irrelevant task to be faced

only in some unjust societies: it is rather a main task of any just society. A just society is not simply a society based upon just principles, which provides fair treatment to friendly, cooperative, people; it is rather one based upon just principles and which enforces those principles (repressing people who are not so nice and cooperative, imposing some particular arrangements considered to be just). Justice involves not only just principles and just 'rules of the game'; it also involves their just application. For, obviously, we would not normally call 'just' a society which, although based, in principle, upon splendidly 'fair' arrangements, would not be able to enforce them. Thus, justice must include at least one self-referential principle: the principle that the just principles must be justly applied; one of the basic 'rules of the game' should be that which requires the just enforcement of the 'rules of the game'. And this leads us to the idea of 'just' coercion and repression: people who break the 'rules of the game' must be repressed in order that justice be attained. This is an aspect of justice which cannot be adequately dealt with in Rawls' theory, because repression is not a 'cooperative' interaction. His theory has thus built-in limits of application because it is based upon a narrow interpretation of society.

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The second point is that the above dilemma is suspect, because in real life you simply cannot divide social conflicts in just two categories, 'cooperatively solved' and 'non-cooperatively solved' ones. Human interactions in a given (modern) society are numerous and varied, and in most relevant cases of conflict one has to do with both cooperative and non-cooperative ingredients: i.e., in such cases one can detect both the use (or at least the invocation) of rules, principles, 'shared meanings' or norms, and the attempt to win by putting pressure upon rivals, enemies, institutions or the general public. Accordingly, there are many kinds of solutions to conflicts, with different degrees in which 'the rules of the game' are applied and with different degrees in which force (of various kinds) is used; in most cases, one does not find purely cooperative or purely non-cooperative solutions, but rather solutions resulting from different mixtures of rule-application and pressure-exerting: the way in which most conflicts end is determined by both (commonly agreed) regulations and the balance of power (between participants).

There is also another argument against dividing interactions in 'cooperative' and 'non-cooperative'. This dichotomy suggests that social interactions are either cooperative, thus 'legal' and relevant for a theory of justice, or non-cooperative, thus simply 'illegal' and therefore irrelevant for a theory of justice. This suggestion is, I think, mistaken. The whole framework of the argument mentioned above is simplistic and incomplete. The right interpretation of conflicts should take into account not a dichotomy, but rather a trichotomy of situations. For in fact we have to deal with three different cases:

(i) conflicts that take place inside the legal framework or in a space ‘covered’ by some ‘rules of the game’, and such conflicts can perhaps (although there are some doubts) be considered as special kinds of cooperative interactions; or, (ii) conflicts that develop violently outside any legal or normative framework, and which, perhaps, could be dismissed as irrelevant for a theory of justice; but also (iii) conflicts that evolve in contexts in which no relevant, complete, legal or normative framework exists, in spaces not covered by the ‘rules of the game’, or in which the existing rules can be interpreted in different, mutually incompatible, ways. The possibility of this third case arises because no system of rules, norms or laws is ever complete, crystal-clear and sufficient for the exhaustive, unambiguous, regulation of a certain social field: there always are and, as far as we can see, will be, ‘gaps in the law’, enclaves of unregulated (or at least incompletely regulated) behavior, rules that can be interpreted differently, ambiguities as to what the ‘spirit of the laws’ requires and as to what is ‘in accord with the given rules’, as to how principles should be applied etc. There can be no perfect algorithm for applying the principles, the rules or the law. This is evident in new cases, in which how the rules should be extended becomes a matter of dispute, but it is also true in familiar cases, because it is often disputable how ‘familiar’ a case is (i.e., how similar to the old ones, and to what extent different from them). There will always be enclaves of disputable decisions and debatable choices; the clash of interpretations will never vanish, a perfect algorithmic order, based on unanimously-agreed solutions, is not a realistic aim. Such ‘enclaves of disorder’ do constitute the favorite place for political and social disputes or even conflicts, because here the opposing groups can take advantage of the existing ‘gaps’ and promote their interests ruthlessly, even to the point of annihilating rivals, without, strictly speaking, breaking an existing law or offending a well-established, explicitly stated, notion of justice. When conflicts of the third type are finally solved by some sort of compromise, or by creating new rules, they can still appear as special kinds of cooperative interaction. But they are often solved in non-cooperative ways: the stronger group, or the relevant majority, simply imposes its will and dictates the solution it prefers. As solved through ‘the dictate of the stronger’, interactions of this kind cannot be simply dismissed as irrelevant to a theory about social interaction: on one hand, they are not, alas, untypical to modern social life, and, on the other hand, they cannot be left aside as mere factual contingencies. They are neither mere accidents, nor mere examples of deviation from what is right (from what justice requires): since they arise in (and take advantage of) an unregulated space, or at least, an insufficiently regulated one, they cannot be labeled ‘illegal’, ‘unlawful’, or simply ‘unjust’ (‘contrary to what justice requires’) and, to that extent, ‘irrelevant’ to a theory of justice. Such labels can be applied only where an unbiased algorithm is available, by which one could arbitrate between competing interpretations and rival groups; but in the cases I

am talking about, this is precisely what is lacking, so that all the competing claims or interpretations must be accepted as legitimate and relevant, and taken seriously into account as normal components of the net of social relationships.

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The third point is the following: the impression that social interactions could (unproblematically) be divided into cooperative and non-cooperative ones is based upon a confusion between real, deep, 'conflicts' and mere 'collisions' or local 'battles'. Although it is of course true that in modern societies some particular collisions of interests can be solved by applying well-established rules (constitutional principles, laws, regulations, norms etc.) in well-crystallized frameworks (such as courts, tribunals, parliamentary elections etc.), it would be deeply wrong to claim that, in general, conflictual interactions are, or can be, solved in this manner. In fact, most serious conflicts between individuals and groups are not solved in such pre-determined ways, through mere application of some (legal or electoral) algorithm; they continue for considerable periods of time, during which the participants go on fighting in various ways: by propaganda, social activism (public demonstrations, mass meetings, protest marches), political pressure, lobbying, strikes and others means (including some 'non-orthodox' ones). Only some particular 'battles' (which take place in courts, tribunals, parliaments or other institutional frameworks) can be, to some extent, compared with a competition in which the final result is clearly deduced by using a normative algorithm: that is why we can speak of 'the winner' in a trial or in some parliamentary elections, as we speak of the winner of a race. But significant social conflicts are not solved in this manner. There is no algorithm for deciding 'the winner' in conflicts between some ethnic minority and the majority or the government, between trade-unions and firms or companies, between well-established interest groups and so on. Some particular collisions (on a well-determined topic in dispute) can be settled in court or in some electoral process, but the struggle does not end here: its final result does not come as a solution of some (judicial or electoral) algorithm, but rather as the last stage in a long process of confrontation between the groups involved. These groups can, of course, be considered engaged in some cooperation, to the extent that they still obey some rules and do not wage a 'total war' (i.e., do not engage in civil war). But this is not to say that their interaction can be summarized as 'cooperative': for, in fact, they do not simply 'compete' for a leading position in a certain predetermined kind of 'game', but rather fight for their survival (as social or political forces and as interest groups). It seems hardly appropriate to consider such interactions as 'cooperative' ones, because in such cases different interest groups engage in merciless struggle, try to impose their own aims or preferences, put immense pressure upon others and aim at domination, instead of cooperating and seeking

acceptable compromise. Such interactions are conflictual, rather than cooperative, and they are sometimes conducive to devastating social conflicts – and, since they are characteristic to modern societies (at least as much as the ‘cooperative relationships’), they must be admitted as proper parts of social life.

If they are, Rawls’ notion of society as a ‘system of cooperation’ must be modified, and its ‘reductive’ character acknowledged: the ‘essence’ of society cannot be encapsulated in the ‘system of cooperative relationships’. By presenting society exclusively in terms of ‘cooperation’, Rawls provides an unnecessarily idyllic framework for his theory of justice. Whatever its merits, his construction suggests that *social justice* can be summarized in a few principles or encapsulated in some general explicit rules concerning ‘fair cooperation’. This encourages the hope that *all that is important, from the point of view of our aspirations towards social justice, can be captured by some explicit principles governing cooperation*, principles of the kind Rawls has proposed. But, if one admits that conflictual interaction is an essential component of social life, and moreover that conflicts can take place in spaces for which no unanimously-agreed regulation exists, one realizes that we really need not only principles of ‘fair social cooperation’, but also ‘principles of fair conduct in social conflicts’ and of ‘fair solving’ of such conflicts. That is, our idea of justice cannot be reduced to an idea of ‘fair cooperation’: it should also include at least ideas of ‘just social conflict’, ‘just civil war’, ‘just coercion’ and ‘just repression’.

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“So long as we live, there can be no escape from the struggle for power” (BRUCE ACKERMAN)

One basic element missing from Rawls’ picture of society is *power*. Although in most cases the problem of power is raised in connection with the state or with different institutions, it is obvious that the issue of power is inseparable from every aspect of society. It is not necessary to adopt a Nietzschean view of human life, in order to see that: both historic experience and present acquaintance with social issues prove that individuals, associations and groups systematically try to acquire, to exert and to use power in their attempts to reach their ends. People like Orwell insist that power is not just a means, but rather the end of social efforts; but we don’t need to agree with them: even as a (mere) means, power and the attempt to accumulate it are always present in society. Even if we confine our approach to power in this way, by taking it as an indispensable instrument, it still remains true that, in a sense, “power in whatever form is the essential thing”.⁶ If nothing can be achieved

⁶ James Fitzjames Stephen, *op. cit.*, 31.

without power, then of course power is the, or at least, a main component of the 'social game'. Now, is this indisputable fact compatible with the view of society as a 'system of cooperation'? Rawls would probably answer affirmatively, by claiming that in a 'just society' power is inoffensive, since it is always subordinated to cooperation: power is simply the means by which cooperation is achieved, protected, improved etc. Such a view of human beings as purely 'cooperative agents', and of society as a field where everything is subordinated to cooperation is obviously illusory. But not this is the main argument; the essential objection to such a view is that it presupposes a possibility to differentiate systematically between kinds of use of power, degrees in which power is used, the real aims of exerting power etc. The truth is that, although in many cases it is evident how power is used, to what aim, and in what degree, in innumerable many cases we are not able to determine exactly these aspects: it is very often the case that we do not know exactly if, when and to what extent should power be exerted; we cannot appreciate whether in some particular contexts the use of power is or was justified, whether the degree in which it is, or was, applied is the exact degree needed in order to improve 'cooperation'; and we cannot be sure whether the final, and real, aim of using power is/was a positive, 'cooperative' one. The complexity of social situations is such, that sometimes even those who exert power cannot determine exactly these vital elements. When fighting for power, a political party, or a group of people, are in general convinced by both the fact that their program would improve 'social cooperation' and the fact that their being in power is good *per se*; it is hard, even for them, to disentangle these two aspects of their aspiring to power, and consequently it is often impossible to say if and how power is used as a means or as an aim in itself. There can be cases in which the difference is obvious, but in general it certainly is not. Claiming that it is possible to distinguish systematically between 'power subordinated to cooperation' and 'power for its own sake' seems to be as naive as claiming that it is possible to distinguish systematically between 'things desired because they are valuable' and 'things desired because we are fond of them'; the trouble is that in most cases both are true, 'things are valuable and we are fond of them', and, in a similar way, power is valuable (as a means to promote cooperation) and we are fond of it (as power *per se*): in such cases, the two functions cannot be disentangled.

Thus, if the two functions of power are in general inseparable, it is useless to propose a principle of justice based upon such an unlikely separation: claiming that in a 'just society' power should always be subordinated to cooperation is similar to claiming that in a 'rational world' people should only be fond of valuable things - as one cannot in general distinguish between the two alternatives, the requirement is inadequate, and it once more suggests a certain kind of idyllic vision of society.

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To the objection that Rawls' framework is unnecessarily idyllic, there is a possible reply based on the distinction Normative vs. Descriptive.⁷

Rawls can, of course, claim that his theory is not a description of social life, but rather a theory about justice, so that he cannot be reasonably expected to account for all 'non-cooperative' components of modern societies.

This, I am afraid, is not a convincing reply. Even if the aim is not descriptive, but normative, the whole construction cannot be done without some interpretation of social life, its 'nature' or its characteristics. The validity of the final (normative) conclusions will depend upon the correctness of this interpretation: if it leaves out important, significant, elements of society, the conclusions will be poor and unsatisfactory. So the question remains whether all elements relevant for our idea of social justice are captured by an interpretation of social life as 'cooperative interaction'. They are not, I submit.

Some of the social conflicts which are obscured by Rawls' understanding of society as a 'system of cooperation' are not mere matters of empirical fact, irrelevant for a conception of justice. On the contrary, they are directly connected with social disputes about justice and fairness: as long as different groups and individuals fight each other in the name of different ideals of social justice, ideals which, in some extreme cases, justify even a destruction of the whole political system, the conflictual aspect of social life seems acutely relevant for any theory of justice.

Rawlsians would perhaps point out that precisely the lack of an ideal of justice is the source of conflicts, and that, consequently, Rawls should not be expected to accept an in-built element of social conflict in a theory which provides precisely that political 'middle ground' meant to avoid such conflicts. As long as his theory is 'representing' a kind of just social arrangement, why would it be compelled to take into account the real conflicts resulting from the absence of such a fair arrangement?

The presupposition of such a way of reasoning is that one can use the abstractions one pleases, provided that they are adapted to one's final aim; and especially when one's aim is normative, not descriptive, one is entitled to ignore any empirical fact one prefers to. This position is hardly acceptable, for the abstractions one uses (no matter to what aim) are not innocent at all. For instance, by starting with abstractions like "society is a fraternity of equal beings", one can easily construct a completely equalitarian ideal of justice, and then use this ideal in order to justify the initial abstractions: when told that human relationships are not exactly 'fraternal' and that men are not equal from

⁷ For instance, in his *John Rawls zur Einführung*, Hamburg: Junius Verlag, 1993, 195, Wolfgang Kersting affirms that the Communitarian critics of Rawls make a confusion between the descriptive level of social anthropology and the normative level.

every relevant point of view, one could easily reply that such contingent aspects do not matter, since the intention was not to describe empirical forms of life, but to build up an ideal of justice. Define society as a 'big family' the members of which are 'brothers' or at least 'cousins', and you can then easily reach the equalitarian conclusion that the whole 'heritage' of the family should be divided equally among all; follow Hobbes in defining society as a battle field between self-centered individuals and you will reach different conclusions about what is right; and, in every case, you can dismiss objections based upon empirical facts as irrelevant to normative issues.

In short, what I am trying to say is that the abstractions used in order to construct a theory of justice are not without (long-lasting) effect, they are not harmless: simplified or inadequate ideas about society are prone to lead to simplified or inadequate ideals of social justice. In Rawls's case, the premise that society is a system of cooperation encourages the encapsulation of social justice in some principles of fair cooperation. If society is nothing else than cooperation, what else than 'fair cooperation' could *social justice* be?

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"A modern society can be seen under different, mutually irreducible perspectives" (CHARLES TAYLOR)

Now, what it should be stressed here is, I think, that society is not one thing; it is rather many different, and interconnected, things at the same time. It is, indeed, a system of cooperation; but it is also a domain of competition and conflict, a field where different forces fight each other etc. It is a network of relationships between individuals who have rights and want to be as free as possible; but it is also a network of relationships between individuals who have duties, responsibilities, tasks and which must accept some constraints (although they often tend to avoid them). Society is a domain of peaceful coexistence between (some) persons with different aims and preferences, as Rawls always insists ; but is also a place of compulsion and even organized repression, and where many people try to dominate (economically, politically, or ideologically) instead of coexisting friendly with all the others.

And to the simple truth that society is many different things, one must add a second (equally) simple truth: we normally do look at society in many different ways. Sometimes, we look at it as a system of cooperation and then we might be interested in 'fair cooperation', as Rawls insists. But some other times we look at it as a system of conflicts between individuals and groups, between different kinds of interests and priorities, etc.; in such a case, we might need a sensibly different idea of justice than that encapsulated in 'fair cooperation'. Suppose we engaged in such an analysis of society. One of the conclusions

would probably be that the present arrangements (concerning distribution and redistribution) are the final result of a long series of confrontations which took place (in a democratic manner, say) between different interest groups. One possible proposal would then be to leave them as they are, and wait for new outcomes of future similar confrontations; i.e., instead of believing, like Rawls, that “the content of justice must be discovered by reason”,⁸ one could sincerely believe in spontaneity, and expect that the best solutions to the problem of social justice would result from free democratic confrontations between the relevant groups. Others could object to such a passive attitude, claiming that some interest groups are disadvantaged, by not possessing proportional means of promoting their (justified) interests, and, consequently, that no ‘spontaneous’ arrangement can be ‘fair’. The solution, in this case, would perhaps be that of trying to promote justice by creating ‘fair’ conditions of fight for social justice: creating a certain ‘equality of opportunity’ for all the relevant groups, in their efforts to promote their legitimate interests; increasing the possibility of direct expression, for all the groups involved (by using referendum as a means of democratic ‘competition’ between various preferences, for instance) and so on.

When we are interested in maximizing individual freedom (as we often are), we would probably agree with Rawls’ encapsulated notion of justice, simply because we do have in it (in the first principle, more precisely) the arrangement we need or, at least, the best we can imagine. But when interested in duties being fulfilled and in responsibilities being assumed, which is also something important for us (and vital in any just society), we would probably have to ask for something else than Rawls’s recipe, which does not offer very much in this respect. We would also need a different idea of justice when making judgments upon the quality and quantity of compulsion or repression needed in certain cases, for the principles of ‘fair cooperation’ cannot be of much help here, and so on.

Thus, a more realistic look into the matter indicates that what people expect from *social justice* is much more complex than any Rawlsian set of principles for fair cooperation: we don’t think about society exclusively in terms of ‘cooperative arrangements’, we think about it from several different points of view, and therefore we generally expect from social justice more than Rawls’ construction can promise: we expect fairness not only in cooperation, but also in conflictual relationships, and it is very unlikely that this kind of fairness can be reduced to fairness in cooperation. We expect social justice to include also arrangements implying the fulfillment of duties and the adequate assuming of responsibilities. Again, it is very unlikely that fairness as accomplishment of everyone’s duties can be derived from Rawls’ principles, given the notorious “limited scope of obligation on the liberal view” (as Michael Sandel puts it).

⁸ John Rawls, *op. cit.*, 274.

We are therefore led to the conclusion that encapsulating society in 'fair cooperation' is not a satisfactory start for the theory of justice. But, in the theoretical framework proposed by John Rawls, this particular encapsulation is not isolated; actually, it is connected with several other (very similar) abstractions. Take, for instance, his view of institutions: "Society's main institutions, and their accepted forms of interpretation, are seen as a fund of implicitly shared ideas and principles".⁹ A critique (similar to that made above) can be made against this principle too. It is quite true that we sometimes see an institution as a crystallization of some shared principles, but it is equally true that some other times we see it differently: as a set of roles and hierarchical positions which can be, but which are not necessarily, agreed upon, or as the result of some historical evolution of a previous institution, a result which many people would like to change but have not yet been able to, etc. Thus, we are normally not inclined to encapsulate an institution in a 'fund of implicitly shared ideas and principles'. For Rawls, though, this is a quite natural step: after reducing society to a 'system of cooperation', he has, of course, to reduce institutions to funds of 'shared principles' of cooperation. Things make sense, then; but the general image is an oversimplified one.

2.

In the first part of this paper I have tried to argue that the picture of society as a 'system of cooperation' is not a complete and sufficient one. In the remaining part I shall try to question even the partial adequacy of this picture: supposing that Rawls' picture is not complete, is it at least *partially* adequate?

I think that the answer depends on the interpretation given to the term 'cooperation': under certain interpretations, saying that 'society is a system of cooperation' is not adequate at all, not even as a partial image.

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The New Shorter Oxford English Dictionary (the 1993 edition) tells us that 'to cooperate' means 'to work together' (for the same purpose, in the same task), 'to act jointly', or 'to combine' (in order to share benefits). The *Longman Dictionary of The English Language* (the 1993 edition) equates 'to cooperate' with 'to act or work with another/others for a common purpose', 'to act together', 'to associate with another/others for mutual benefit'; 'cooperation' means 'interaction with common benefits'.

In these explanations, there are several suggestions which should discourage any attempt of presenting society as a 'system of cooperation'.

⁹ *Ibidem*, 14.

First of all, the suggestion of a common purpose or task (characterizing all participants in cooperative interactions) is obviously opposed both to our intuitions about social reality and to Rawls' aims: we do not think that all the members of a modern society do share a unique common purpose and, of course, what Rawls wanted to do was precisely to provide a theory of justice for people among whom there is no such consensus either on values or on ends. Thus, if cooperation actually implies a common purpose or a common task, then modern social life is not an example of cooperation.

Secondly, the suggestion of a certain 'togetherness' (which appears almost everywhere in these explanations of the term) should make us very suspicious. Given the dimensions of modern societies and their complexity, given the 'indirect', mediated, nature of most of the social interactions, the characteristic feeling (for their members) does not seem to be the 'sense of togetherness' but rather a certain 'sense of immersion': people feel that they are somehow 'immersed' in a huge social recipient, or integrated in immense nets of relationships, the features of which they are seldom and only to a minuscule extent able to influence. 'Togetherness' has of course been an element insistently emphasized by liberal, contractarian thinking, but to contemporary ears the word sounds more like a nice metaphor inherited from old, Enlightenment, times than as a realistic designator of social realities. Contemporary citizens tend to consider themselves 'enclosed in a huge social machinery' rather than as simply 'working together'.

Thirdly, there is also a certain suggestion of 'free-willingness' which does not seem appropriate for modern social life. The element of 'working together' implied by the above explanations seems to suggest that social cooperation has been freely chosen by participants, who, therefore, are somehow responsible for the way in which they cooperate and for the arrangements governing their cooperation. Nothing could be more implausible than such an implication. Even if we do cooperate, the cooperation in which we engage is not devised, adopted or freely chosen by us, and we are to a very small extent responsible for the arrangements which constitute the framework of our cooperative interactions. The cooperation we engage in and its basic arrangements are the final result of a long chain of historic events, and we seldom feel responsible for this result; we perceive those arrangements as constraints which we have to accept rather than as something we are asked to agree upon. Our cooperative arrangements are the effect of history, of a long series of past events, not of our immediate cooperative efforts, and from this point of view it could be said that our characteristic forms of life *compel us to cooperate*, rather than being the result of our intentions to cooperate. Consequently, cooperative interactions are at best a part of the social life, but they are far from being *what social life is about*. Happily so, indeed, for were social life governed by the sheer logic of cooperation, then it would have been

extremely poor: a lot of cultural activities, for instance, which are not of obvious, immediate and instrumental benefit for many people, would have appeared as dispensable and it would have been hopelessly difficult to convince most of the taxpayers to 'cooperate' in order that those activities and the corresponding institutions be supported. What helps such activities and institutions to survive is precisely the fact that modern social life is not governed by the simple logic of cooperation: they are supported because they are considered *valuable per se*, in a certain form of (civilized) life, not because they contribute directly to some forms of cooperation.

Now, what the conclusion of such remarks should be? It should not be, of course, simply that there is no such thing as social cooperation. Rather, we should probably say that there is a cooperative aspect of social interactions which is hard to deny, but which is also insufficient, taken in itself, for a correct characterization of modern social life. To deny the reality of cooperation would certainly be absurd; but to present 'society' as being (basically) 'a system of cooperation' is misleading. Such a presentation provides a very one-sided view of social interactions and obscures essential features of social life.

BIBLIOGRAPHY

- Kersting, Wolfgang, *John Rawls zur Einführung*, Hamburg: Junius Verlag, 1993.
Rawls, John, *Political Liberalism*, New York: Columbia University Press, 1993.
Stephen, James Fitzjames, *Liberty, Equality, Fraternity*, London: Elder & Co., 1874.