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Taking Humiliation Seriously

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In this article I will try to argue that the concept of respect can be appropriately defined in opposition to that of humiliation. What I call a "negative theory of equal respect" starts from a critical approach towards humiliating conditions, in order to highlight respectful policies and conditions like those within which an equal not-humiliation is ensured to every human being. Indeed, by providing a positive definition of respect, modern normative theories of respect miss an overlapping conception of humiliation too, since that philosophy usually identifies the presence of respectful relations with the absence of humiliating ones. However, as I will show in the next passages of the article, respectful policies of a just society – in a Rawlsian sense – can be compatible with social arrangements implying human exclusion.

At a first look, the attempt to define the concept of respect seems to face the same difficulties met by the Augustinian inquiry about the proper meaning of time[1]: people who wanted to provide those who asked about it with an explanation would probably give different answers and, then, admit not to know what it is exactly. Nevertheless, unlike the concept of time investigated by Augustine, there will be similar difficulties also in case nobody demanded a definition of respect, for the simple reason that people have divergent positive conceptions of this notion. This uncertainty surrounding the proper meaning of the concept in question does not concern only common sense: although moral philosophy has tried to solve this definitional – and, more noteworthy, conceptual – issue along its history, there is no agreement about the *political consequences* of the notion of equal respect among contemporary philosophers.

As I will show in the first part of the article, all philosophical attempts to clarify what respect positively is have been inspired by Immanuel Kant and none of them can neglect the link between its meaning and the equality of human beings. Differently from the concept of esteem, respect cannot be unequal: when people say they are respecting someone more than another person, indeed, they usually mean they are esteeming the first one better than the second one. In this sense, respecting people unequally would be a non-sense expression: indeed, the modern history of the concept of respect dates back and takes its proper meaning from the modern concept of law, which prohibited any unequal treatment of people grounded on arbitrary – be they natural or social – factors, like class, status, race or handicap.

John Rawls translated and renewed these Kantian arguments in *A Theory of Justice*: in this work, the transcendental grounds of the Kantian moral law were

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replaced with an equal decision-making procedure, in light of which people with different conceptions of the "good" could agree on the same principles of justice. In the second paragraph of the article, I will sum up the theoretical development of Rawlsian ideas about justice and equal respect, which are strictly interlinked. Despite the importance and the complexity of the justifications embodied in the Rawlsian conception of "justice as fairness", however, a lot of critics have underlined some problems inherent to this theoretical approach: according to Rawls' critics, neither the conception of "justice as fairness", nor political liberalism can provide a neutral justification of the concept of equal respect. In this regard, I will analyse some ambiguities which go through *A Theory of Justice* and, in a second moment, *Political Liberalism*, so that it will be possible to show the partiality of Rawlsian version of justice and, then, of equal respect. Finally, this analysis will show the necessity to adopt a different approach to the concept of equal respect.

In this last paragraph of the article I will argue that the attempt to define the concept of respect can be better pursued starting from the analysis of what humiliation is. Once degrading social assets have been identified, respect can be defined as the practical negation of them: according to this negative and practical conception of equal respect, if institutions and certain social practises humiliate people, the last ones know very well what this concept requires to do, that is to put an end to these unworthy conditions. Paradoxically, this negative conception of respect suggests that on the one hand people cease to know the meaning of respect when they are respected or – in the present perspective it would be the same – when they are not humiliated; on the other hand, people become intuitively aware of its meaning when someone mistreats them or nobody considers their condition of suffering.

Coherently with this approach, equal respect means an equal not humiliation owed to every human being. The obligation to respecting people includes a negative constraint: respect involves refraining from regarding or treating people in degrading ways. Starting from humiliating conditions, a negative and dynamic theory of equal respect aims not to theoretically justify what it wants to overcome in practice – degrading assets – and negatively promote respectful relationships between humans.

1. A Brief History of Equal Respect: Recognition and Appraisal Respect

In the recent literature of moral and political philosophy, the notion of respect for people is usually called to mind to mean a kind of respect that all people are morally owed just because of their status of human beings, regardless of their social position, individual characteristics, achievements, or moral merit. This idea dates back to the moral philosophy of Immanuel Kant[2], which focused on the claim that all free rational beings, as people are, are owed respect as such: no one person must treat people as mere means to his ends – as if the only value they have is what derives from their usefulness to the agent – because to be a person is to be an end in itself.

According to Kant, people should always be treated as they were an end in themselves. In the Kantian justification of respect, dignity is absolute, incomparable, and the value of all rational beings is equal. What grounds dignity is something that all people have in common, not something that distinguishes one individual from another. Thus, each person is to be respected as an equal among equals, without considering their individual achievements or failures, social rank, moral merit or demerit, or any feature other than their common rational nature.

The moral recognition of respect highlighted by Kant has been recovered by Stephen Darwall: respect is different from the concept of esteem because the latter is related to performances made or merits earned by individuals. In this sense, everyone must respect every human being as such, but at the same time they can evaluate people differently for their qualities in certain fields. In an article from 1977, Darwall named the first type of respect as "recognition-respect" and the second one as "appraisal respect"[3].

In the last years, Darwall has called attention to an under-discussed dimension of the dignity of people on Kant's account: articulating the second-standpoint nature of respect, Darwall[4] focuses on the fact that people are all equal members of the moral community and, as such, people are tied up by horizontal obligations toward each other, that everyone has moral authority to demand. The claim for respect recognizes people's moral equality: respecting others means recognizing their moral authority and granting their requests as motivations for people to act. In brief, the duty to respect others does not have an impersonal character, coming from a moral law (as Kant argued): a similar duty is related to the equal and common status of people.

Starting from these two kinds of respect, as many kinds of self-respect can be distinguished: the first, *recognition self-respect* deals with status worth, which is unearned worth that derives from such things as one's essential nature as a person, membership of a certain class, group, or people, social role, or place in a social hierarchy. *Evaluative self-respect*, in contrast, has to do with merit that is based on the quality of one's character and conduct: people earn or lose moral merit, and so deserve or do not deserve evaluative self-respect, through what they do or become.

In light of the relationship between respect as recognition and self-respect, it is possible to understand better the dialectical character of equal respect: it cannot neglect the particular person that asks for it; at the same time, to respect someone means to treat him as an equal member of a moral (universal) community to which everybody belongs. In this type of argument about the moral grounds of equal respect, the adjective "equal" put together with the concept of "respect" is essential for the meaning of the latter: an unequal form of respect would be simply self-contradictory, for the simple reason that every person belongs to humanity, and this common feature forbids to justify any degradation of human dignity.

What are the political implications of such Kantian approach to the notion of equal respect? An answer to this question has been provided by John Rawls in the second half of nineteenth century: its analysis becomes central for contemporary political philosophy, in order to face problems linked with our pluralistic societies. The debate between Rawls and his critics shows that equal respect is the

precondition of the possibility to obtain an overlapping consensus in a political community about its political principles of justice. Indeed, a minimal requirement of social cohabitation is that every individual or social group living in a community wants to be respected. In other words, living together requires that everyone accept the *duty* to respect each other, other than the *right* of being respected. At least, no comprehensive doctrine would refuse this minimal precondition: equal respect has a moral nature that cannot be reduced to a procedural or formal principle and it does not require sharing some particular conception of truth; it is independent of the demands of truth advanced by different comprehensive conceptions[5].

2. From Justice to Respect. Seeking an Overlapping Consensus: About What?

As Salvatore Veca reminds us, "uncertainty claims theory"[6]: emblematic of this link between theory and uncertainty is the concomitance between the revival of political philosophy and the fortune obtained by *A Theory of Justice*[7], published during the crisis of legitimacy that invested welfare policies of liberal democracies in the second half of the twentieth century. Besides having contributed to the revival of political philosophy as such[8], *A Theory of Justice* put the concept of equal respect at the centre of political philosophy's interests: after its publication, the idea of equal respect has progressively grown in importance, especially in recent political philosophy debates about the moral grounds of a liberal and democratic society[9].

The Rawlsian "conception of justice as fairness" is one of the most systematic philosophical attempts to determine the conditions under which it is possible to obtain equal social cooperation, in a way that gains the consent of the members of a community regardless of the class, ranks or status to which they belong. In this respect, also the concept of law can be clarified in an alternative way from positivism[10] and naturalism[11]. According to Rawls – differently from moral realism– the irreducibility of different conceptions of the "good" does not allow to derive the principles of justice by starting from any transcendental order: anyway, the pluralism of conceptions of the "good" requires the pursuit of a neutral procedure in light of which citizens can share the same political principles of justice.

In *A Theory of Justice* the "original position" replaces the classic social contract, which has been elaborated by Hobbes, Locke and Rousseau[12] in different ways: in this imaginary condition of primordial equality, the principles of justice result from an agreement between free and rational people, interested in conciliating the pursuing of their interests with a fair distribution of social resources by basic structure of society. The parties involved in the original position do not know anything about their personal identities or interests; moreover, their representatives have to choose under an imagined state of selective ignorance, the so called "veil of ignorance"[13]. Together with this "device of representation", circumstances of justice[14], formal constraints of the concept of right[15] and rationality of contracting parties[16] describe the contractual conditions of the original position. Moreover, these conditions limit the range of admissible *conceptions* which compete with each other

to shed light on the *concept* of justice which is closer to the criteria of the contractual procedure[17]: according to Rawls, the coexistence of these conditions would determine the choice of contracting people in favour of two principle of justice, at first intuitively explained in the second chapter of *A Theory of Justice*[18] and, subsequently, compared with the alternative conceptions.

This short summary shows one of the fundamental aims of Rawls' constructivism: *A Theory of Justice* presents two principles of justice obtained through a contractual procedure which is disinterested in natural and social factors without any moral relevance and, therefore, morally arbitrary. In this respect, *A Theory of Justice*'s proposal consists in providing a neutral concept of justice, different from any other conception of the same topic, as required by a complex society shot through by identity and conflicts of interests among its members because of their reciprocal advantage derived from social cooperation. According to the first principle, all people should enjoy a fully adequate scheme of rights and basic liberties, while as the second one guarantees that all should enjoy fair equality of opportunity and, through the so called "principle of difference", prohibits any inequality which does not benefit the most disadvantaged members of society. The lexical priority of the first principle of justice categorically forbids to sacrifice the listed liberties in order to achieve bigger social and economical advantages.

Despite of the complex and rigorous structure of the Rawlsian speech about justice, some critics have evidenced some ambiguities linked with the lexical priority of the first principle[19] and the set of basic goods[20]: in order to eliminate these ambiguities, the second edition of *A Theory of Justice*[21] emphasized the importance of the two moral powers ascribed to the contracting parties, the capacity to have a sense of justice and to have a certain conception of the "good": to these two capacities are linked many qualities of the contracting parties, which are *rational* in choosing the best means to pursue their ends and *reasonable* in understanding and applying the principles of justice through which a fair cooperation is ensured.

Despite these changes, one of the most important criticisms advanced against *A Theory of Justice* concerns the neutrality of the original position: in this regard, critics of the Rawlsian theory of "justice as fairness" have argued that the two principles of justice would not *respect* plural identities shared by individuals belonging to different cultures: individualism of the Rawlsian conception of "justice as fairness" would fail to recognize the attachments people have to their social, cultural or ethnic groups and would *disrespect* them[22]. At this regard, the individualistic perspective adopted by Rawls in his description of the original position would not ensure *fairly* the initial *fairness* of the contracting people[23]. These criticism demonstrates that, even though liberals and communitarians[24] formally converge about the importance of equal respect, they substantially diverge in the opinion about what it specifically consists and what is required for it to be coherently applied to a political community.

In *Political Liberalism*, Rawls admitted the comprehensive nature of his previous Kantian constructivism and elaborated a political – not moral – conception of

liberalism, in order to achieve an overlapping consensus among irreducible but reasonable comprehensive doctrines within a certain society (the so called "fact of reasonable pluralism"). Indeed, the fact of pluralism requires to distinguish the reasonableness of an overlapping consensus from the rationality of a mere *modus vivendi*[25], so that modern democratic and constitutional states can be justified as "well-ordered societies". Not justifiable by any substantive conception of the "good" – which could not be shared by all the citizens –, the content of the overlapping consensus has to be neutral and impartial between such conceptions of the "good", in order to attract their common agreement, even if for different reasons: the political conception of the person implies people's double capacity of being rational and reasonable at the same time. In this way, political liberalism ensures that every reasonable doctrine proposes and accepts principles needed for social equal cooperation, without giving up its rationality, that is, its conception of the "good": again, citizens should regard themselves as free – not only capable of holding conceptions of the "good", but also as self-authenticating sources of valid norms – and equal, according to citizens' capacity to reciprocally recognize their moral powers of rationality and reasonableness.

Nevertheless, this new statement of the problem presupposes firstly the same principles of justice listed by Rawls in a *Theory of Justice* and, secondly, the same problems owed to Kantian constructivism: otherwise said, in order to define some conceptions of the "good" as reasonable – other than rational –, it is necessary to determine the political principles which these conceptions should share[26]. Nevertheless, the neutralist account of justice provided by Rawls does not justify the convergence of different conceptions of justice on the two principles of justice. Not casually, in *Justice as Fairness. A Restatement* Rawls admitted that the original position does not ensure a unique emergence of a given set of principles of justice that together identify the institutions needed for the basic structure of society[27]. Rawls does not provide convincing arguments that would eliminate all other alternatives which might compete with each other in the original position. The comparison between the two principles of justice in *A Theory of Justice* could not be evaluated as complete, since some variants of utilitarianism could be chosen in the original position as well the two principles of justice. Following this argument, the institutionalist approach of the Rawlsian conception of justice as fairness undermines his political liberalism too: the impossibility to gain a unique set of principles of justice through the original position does not seem only shake the moral constructivism of *A Theory of Justice* to its foundations, but also to those of *Political Liberalism*.

Apart from the dissent between neutralist[28] and comprehensive[29] approaches of Liberalism – as well as between liberals and communitarians – contemporary political philosophy seems to be trapped in the following dilemma: although political philosophers share the fundamental significance of moral value of equal respect for a liberal and democratic community, they disagree about what interpretation is the most suitable to the common value of equal respect. I think that these problems concerning the political implications of the concept of equal respect

are due to the idealistic approach adopted by Rawls and his colleagues. Indeed, Rawls divided his theory of "justice as fairness" in two parts: the first, called "ideal theory", had to provide the principles of justice in light of which it could be possible to face the other, the "not ideal" part, of the same theory. As the entire history of the idea of justice shows, also its Rawlsian account reduced the injustice to a mere contradiction of the basic structure requested by the ideal norms: this way of conceiving injustice as a simple opposite-notion of some "normal" or ideal conception of justice did not allow philosophy to take seriously the victims – often silent – of material and symbolic violence.

Without any exaggeration, Robert Nozick argued that, after the publication of *A Theory of Justice*, all political philosophers should either work within it or explain why they chose not to[30]: in the final chapter of this article, I will provide some reasons to abandon the idealistic approach adopted by political philosophy interested in highlighting concepts like "equal respect" and "justice", in favour of a negative theory of these notions.

3. From Humiliation to Justice: A Dynamic Conception of Equal Respect

Similar to Rawls, Avishai Margalit has recently argued that the ability of individuals to respect themselves is dependent on their social and political circumstances[31]. In Margalit's view, a theory of respect should get rid of cruelty first, as advocated by Judith Shklar[32]. Humiliation is a close second: a decent society is one whose institutions do not humiliate people, that is, give people good reasons to consider their self-respect to be injured. According to Margalit, the concept of self-respect is essential for examining the oppression of women, people of color, homosexuals, and other groups that are marginalized, stigmatized, or exploited by the dominant culture, identifying ways in which oppressive institutions, images, and actions can prejudice the self-respect of members of these groups: according to this perspective, second class citizenship, unemployment, snobbish institutions, and violations of privacy are practical examples of humiliating policies.

By adopting Margalit's definition of a decent society, the two principles of justice defined by Rawls could be coherent with humiliating treatments or conditions against human people living in a political community. In a Rawlsian sense, just societies should guarantee equal basic liberties and distribute social and economical disadvantages in favour of the least advantaged people who are recognized *as full title* citizens of these societies: should a theory of respect accept indecent policies – Margalit asks in his book – towards people not recognized as citizens in a certain society? Another question is even more noteworthy: should a theory of respect continue to describe similar societies as just ones? Indeed, if a fair society is not decent as well, it could tolerate degrading acts towards some people: in a Rawlsian sense, a just society could disrespect people not recognized as full citizens, for the simple reasons that the primary good of equal respect is

ensured by the two principles of justice, which are exclusively applied towards full citizens. Otherwise said, in the Rawlsian conception of "justice as fairness" it would be meaningless to respect people without guaranteeing an equal access to the same basic goods – among which basic liberties have to be numbered – guaranteed to its citizens: nevertheless, Rawls clearly distinguishes people who are full citizens – his ideal theory applies its principles of justice exclusively to them – and people who are not. A Rawlsian just society could deny civil liberties of people not recognized as full citizens coherently with its own principles of justice for the simple reason they are not its citizens yet.

The critical point highlighted by Margalit makes us face two possible alternatives: should a theory of respect integrate the Rawlsian conception of "justice as fairness" with the negative duty not to humiliate any person – as Margalit argues – explaining in negative terms the meaning of the concept of respect? Or the possibility that a just society (in a Rawlsian sense) could deny human dignity suggests applying the features of a decent society model to a just society too, analysing in a different way the concept of justice, without ever omitting the reference to not humiliating institutions?

In recent years, Axel Honneth has tried to elaborate a social and normative theory in which inter-subjective relationships and requests for recognition are essential preconditions of socialization and individualization processes: in his account, Honneth focuses his theory of social criticism on the way people's self-respect and self-identity necessarily depend on the recognition of others and, as such, are vulnerable to being misrecognized or ignored both by social institutions and in interpersonal interactions[33]. In particular, what is of interest about Honneth's critical theory are the thin boundaries that he traces between two modern spheres of recognition, that of law and that of solidarity: the first implies the modern notion of equal respect, generalizing both the whole of recipients to which rights apply and the contents of the rights themselves, reacting to moral issues coming from civil society[34]. Honneth's model allows to conceive the notion of equal respect dynamically, not only regarding the past, but – more importantly – also the present and the future of this concept. Historically, with the birth of the modern state, equal respect progressively replaced the role previously assumed by social status, transforming honour owed to certain people[35] in unconditioned respect owed to everyone: in the same way, equal respect took the place of honour in distributing consideration and, through it, social goods[36], it is possible and, more noteworthy, desirable to conceive the recognition-respect of tomorrow as the overcoming of actual humiliations.

Adopting this perspective, a theory of respect by now has to face acts or conditions that injure human dignity. According to the last considerations, the concept of respect requires to prevent or – if already existent, as it happens in every political community – at least overcome humiliating social conditions. After all, what justifies – in Margalit's standpoint – accepting people's experience of respect for humans (or other beings) as grounds for an obligation is its coherence with their other moral beliefs: people's attitude to respect each other gives respect its proper

meaning. Arguing this justification of respect, Margalit recovers the Hegelian dialectic of master-slave struggle: no master could humiliate his/her servant if he did not recognize him/her as a human being able to admit his/her own inferiority and the master's superiority. Paradoxically, it is the experience of humiliation that concretely testifies to the existence of human dignity.

According to this methodological and semantic turn, it is possible to define respect as the absence of humiliation: in this way, a negative theory of equal respect disposes a practical definition of its subject. Taking humiliation seriously will us allow to do the same with the concept of equal respect, on which liberal democracies pretend to legitimate their institutions. According to this perspective, humiliating conditions are *logical* prior than respectful ones: a negative account of the concept in question would not allow anyone to respect someone and, at the same time, to humiliate them. By conceiving negatively the concept of equal respect as an "equal not humiliation" owed to every human being, a negative theory of respect avoids to justify social assets within which institutions can respect people and, in the meantime, humiliate them, as it could happen in a Rawlsian just society. Otherwise said, to respect people means not to humiliate them in the same way, that is taking seriously the violence and the humiliation of which people are made victims by other people, social groups or institutions. In brief, in taking cases of humiliation seriously a negative theory of respect will be able to do the same with the notion of *equal respect*, which has become central to liberal and democratic societies: in this sense, avoiding humiliation is logically prior to pursuing respect.

Besides, such a negative theory of equal respect gives priority to the moral feeling according to which the aim of avoiding evil is *morally* prior to that one which prescribes to pursue the "good" or the "just". Nevertheless, starting from social conditions implying humiliation, such a theory of respect focuses on social relations *more recognizable* than those respectful, since there is a hierarchic relationship between humiliating and humiliated people. In order to understand what these humiliating conditions are, I suggest putting the attention on those social norms which legitimate "asymmetrical relations of power", which are unequal redistributions of symbolic and material resources. These kinds of social relations show their humiliating nature when their own asymmetry is justified in light of values or principles, that – although they are prerogative of social groups which already benefit of them –, claim to equally guarantee the rights of every social member of a certain community.

According to a negative and dynamic theory of equal respect, this concept takes its significance from these humiliating situations of asymmetrical power among people: protecting people from an equal non-humiliation means that social institutions and practices are to be judged just or unjust on the basis of how they guarantee self-respect, which depends on the way social practices and institutions avoid self-contradictory asymmetrical relations of power. In this way, considerations of humiliation help to better understand self-respect and, therefore, the nature and wrongness of injustices such as oppression, as well as to determine effective and morally appropriate ways to resist or end such actions.

The cognitive, logical and moral priority of humiliating conditions allows us to face them without waiting any further for a positive and unanimous definition of respect. According to the last considerations, it is possible to sketch the following conclusions: like humiliation, which is prior to respect because the former is logically, morally and cognitively more recognizable than the latter, the concept of injustice could result as much prior to justice too. Like the positive concept of justice defended by Rawls and a great part of the philosophical tradition, also this negative conception of the same topic tries to obtain an overlapping consent: nevertheless, the subject of this overlapping consent does not concern any principle of justice – be it derived from procedural or substantial conceptions of the item at issue –, but this has to do with humiliating social conditions within which human sufferance is justified by institutionalized norms which do not maintain their promises of justice. In order to criticise social phenomena or conditions as unjust it is not necessary to construct and share the same principles of justice. On the contrary, it is possible to question the promises of justice embodied in institutionalized norms, which legitimate asymmetrical relations of power between people: this internal criticism would allow us not to wait for a general and universal agreement about any principle of justice to face actual injustices. Instead of starting its analysis from a theoretical definition of what the concept of justice means, this negative account of justice conceives this notion as the practical negation of present injustices, which – in the perspective at issue – are conceived as synonymous of humiliations. On this supposition, humiliation is a negative category that aims to give priority to negative policies, thereby promoting the dignity of every human being[37].

In order to demonstrate the reliability of this hypothesis, it is necessary to follow Judith Shklar's invitation to recognize the sense of injustice experienced by the victims, independently from what the "normal" paradigm of justice prescribes[38]. In this way, the sense of injustice is distinguished from a simple negation or omission of the duties required by the current model of justice. Since not every sense of injustice can testify to real inequality, a negative theory of justice should not to start from an abstract definition of the concept of justice, from which the meaning of injustice would depend as its opposite: rather, it has to determine what the conditions of humiliation are. This negative approach to the concepts of "justice" and "respect" has the privilege to mediate both a descriptive and a normative dimension: a negative theory of justice puts the attention on social relations which cannot do without values or principles in order to justify the asymmetrical relations of power between people involved in them. Instead of questioning dominated people involved in such relations to justify their claims for overcoming their subaltern position, a negative conception of justice denounces the ideological justifications on which asymmetrical relations of power are grounded. A negative theory of justice tries to do nothing but support these social claims: in this sense, it renounces to describe the best social world to be achieved in favour of a critical perspective which can support those people involved in the worst social relations of today's world.

Note

[1] Agostino, 1968, p. 759: "So what is the time? If nobody asks me about it, I know it well: but if I wanted give some explanation to who asks me, I don't know".

[2] Kant, 1785, 1788, 1797.

[3] Darwall, 1977. Other philosophers, however, treat "esteem" and "appraisal respect" as synonyms (Margalit, 1996), and Darwall himself (2004) calls "appraisal respect" a form of esteem.

[4] Darwall, 2004, 2006, 2008.

[5] Galeotti, 2010.

[6] Veca, 1997, p. 156.

[7] Rawls, 1971.

[8] John Rawls has been one of the most important philosophers of the twentieth century: his main work, *A Theory of Justice*, has influenced not only the debate within this discipline, but also the rest of the social sciences. However, recent debates in other disciplinary fields testify their great debts to the Rawlsian vocabulary: in this regard, M. Friedman (2006) applies the Rawlsian distinction between "rational" and "reasonable" to the history of science shot through by paradigmatic revolutions.

[9] Dworkin, 1977; Walzer, 1983; Larmore, 2008.

[10] Rawls' constructivism differs from positivism mostly because it is not interested in providing an institutional account of the law: rather, its theoretical aim consists of describing the conditions of legitimacy of the law. In order to satisfy this proposal, Rawls' liberalism was initially inspired by a constructivist approach applied to the morality: directly facing the plurality of its moral standpoints, his primary concern was to legitimize the social order of western societies through a neutral procedure.

[11] Rawlsian liberalism differs from the moral realism in a consistent point, worthy to be underlined: without referring to natural rights and their interpretation provided by the social contract theorists, the constructivist idea of (moral) truth is not inscribed in nature and it does not transcend the subjects engaged in its research. In this respect, Dworkin's (1977) conception of law occupies an intermediate position between moral constructivism and moral realism: his interpretivism is influenced by a realistic conception of law, without conceiving it from a naturalistic perspective.

[12] Rawls, 1971, p. 12: "In justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of social contract. This original position is not, of course, thought of as an actual historical state of affairs, much less as a primitive condition of culture. It is understood as a purely hypothetical situation characterized so as to lead to a certain conception of justice".

[13] Rawls, 1971, pp. 17-22. "[...] no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength and the like. [...] the parties do not know their conceptions of the "good" or their special psychological propensities", Rawls, 1971, p. 12.

[14] Objective circumstances of justice are related to every aspect of human life and make human cooperation both possible and necessary; on the other hand, subjective circumstances of justice have to do with different conceptions of the "good" believed by people: "For simplicity I often stress the condition of moderate scarcity (among the objective circumstances), and that of mutual disinterest, or individuals taking no interest in one another's interests (among the subjective circumstances)", Rawls, 1971, p. 119.

[15] "A conception of right is a set of principles, *general* in form and *universal* in application, that is to be *publicly* recognized as a *final court of appeal ordering the conflicting claims* of moral persons", Rawls, 1971, p. 124 (cursive in the text is mine).

[16] This condition of original position consists in the absence of envy and in the reciprocal disinterest between contracting people Moreover, sense of justice of contracting parties ensures that, once chosen in the original position, the principles of justice will be observed. See Rawls, 1971, pp. 130-132.

[17] About the distinction between "conception" and "concept", cfr. Hart, 1961, pp. 155-159. Rawls

turns to the notion of "pure procedural justice" because it transfers its fairness to its effects or results, once it has been lead to the end: indeed there is not any independent criterion in light of which it would be possible to gain a certain result, cfr. Rawls, 1971, pp. 85-86. Rawls calls "perfect procedural justice" that procedure which distributes resources on the ground of external criterion to the same procedure. Again, in the case of "imperfect procedural justice", distributive procedures can provide a just procedural model without ensuring its realization.

[18] Cfr. Rawls, 1971, pp. 48-51. This first step of Rawlsian argumentation is made possible by the "reflective equilibrium", through which contracting parties can obtain the coherence between their believes. Rawls simplifies the application of the two principles of justice through the so called "four stage sequence", to which original position, constitutional, legislative and judges' stage belong to. See Rawls, 1971, pp. 195-201.

[19] See Hart, 1973, pp. 534-555.

[20] In the second part of the second principle of justice (principle of difference), Rawls judges the opportunities that people have through the means they possess, without taking seriously the variations they have in being able to convert primary goods into good living. A. Sen (1980, 1992) has focused on this criticism in various works: in the last one (Sen, 2010, p. 66) he writes "The conversion of primary goods into the capability to do various things that a person may value doing can vary enormously with differing inborn characteristics (for example, propensities to suffer from some inherited diseases), as well as disparate acquired features or the divergent effects of varying environmental surroundings (for example, living in a neighbourhood with endemic presence, or frequent outbreaks, of infectious diseases). There is, thus, a strong case for moving from focusing on primary goods to actual assessment of freedoms and capabilities".

[21] Rawls, 1999 a.

[22] Nagel, 1973; Sandel, 1982; Taylor, 1992.

[23] Nagel, 1973, pp. 226-229.

[24] Taylor, 1992; Kymlicka, 1989, 1995.

[25] Rawls, 1993.

[26] See also Rawls, 1999 b, pp. 137: "The content of public reason is given by a family of political conceptions of justice, and not by a single one. There are many liberalisms and related views, and therefore many forms of public reason specified by a family of reasonable political conceptions. Of these, justice as fairness, whatever its merits, is but one".

[27] Rawls, 2001, pp. 132-134. Rawls writes: "there are indefinitely many considerations that may be appealed to in the original position and each alternative conception of justice is favoured by some consideration and disfavoured by others. [...] The balance of reasons itself rests on judgement, though judgement informed and guided by reasoning", Rawls, 2001, pp. 133-134.

[28] Ackerman, 1980, 1983; Nagel, 1987.

[29] Raz, 1990.

[30] Nozick, 1974.

[31] Margalit, 1996.

[32] Shklar, 1984.

[33] Honneth, 1990, 1992.

[34] Honneth, 2001.

[35] In fact, another significant distinction worth being underlined is between respect and honour: in the pre-modern world, honour acted as an intermediary in attributing value to people in relation to their social status hierarchically differentiated.

[36] Walzer, 1983.

[37] Margalit, 2004.

[38] Shklar, 1990.

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