

Socializing Liberty and Liberalizing Society:

Rawls, Sen and Nussbaum on the Unity of Freedom and Equality in Liberal Ethics

1. Introduction

"Begin with the human being: with the capacities and needs that join all humans, across barriers of gender and class and race and nation."

With these words, Martha Nussbaum begins her essay on human capabilities in a book (a series of essays by different authors) edited by herself and Jonathan Glover, called "Women, Culture and Development."¹ The enumeration of values, listed above, places her work the tradition of cosmopolitanism, concerned with a universalistic ("all humans") and boundary-breaking ("across barriers") liberal ethics. It also introduces the inextricably *social* dimension of "the human being."

Amongst the other contributors to the book is the economist Amartya Sen, co-author with Nussbaum of the so-called Capability Approach to human freedom and development. A wide spectrum of international researchers and (political, moral, economic) philosophers, including Nussbaum and Sen, have attempted to systematize and think through the age-old concepts of freedom and equality – or liberty and equity – through a lens of feminism, development studies and democratic universalism. Such fresh perspectives have enriched and widened the scope of liberty, or at least our *understanding* of the meaning of it. Probably a little bit of both.

John Rawls, especially in his Theory of Justice (1975) and Political Liberalism (1993), has provided analytical tools for a rational analysis of basic, "constitutional" liberties. This project has been interpreted as a defence of classical liberalism or even as dangerously close to absolutist libertarianism². However, I will argue (not necessarily against anybody in particular) that Rawls represents a viewpoint sympathetic to, and in league with, the aforementioned Capability Approach. This goes beyond stating the obvious: that Rawls's influence looms large over the Sen-Nussbaum project, and that Rawls figures prominently in the discussions and debate generated around these

¹ Nussbaum, M. & Glover, J. (ed.): "Women, Culture and Development: A Study of Human Capabilities" (1995), Oxford University Press, page 61.

² For a critique of Rawls's prioritizing of "basic liberties," see e.g. Sen 1999, pp. 63-65.

issues.³ No, there is a deeper connection: from the perspective of intellectual history, of the history of ideas and their development and use, we have witnessed, in recent decades, the birth (or, at any rate, thriving) of a new Social Liberalism. This liberalism represents the latest and perhaps most comprehensive (a word Rawls liked to use) attempt to unify the intertwined dual Enlightenment principles of *liberté* and *égalité*.⁴ In other words, Rawls and Sen/Nussbaum belong to a generation of socially concerned liberal theoreticians (although with Nussbaum we might wish to speak of a liberally concerned social theoretician), for whom there is no opposition between the two concepts. In fact, for these authors, the *unity* of freedom and responsibility – individual choice-making and social cooperation – is both descriptively accurate and normatively imperative.

With John Rawls, I will focus on his book "Political Liberalism" (1993), which advances and partially amends the doctrines of his first book. I will take Amartya Sen as the representative of another, partially complementary and partially divergent, approach. Of *his* books, I will focus on "Development as Freedom" (1999) and a short treatise called "Rationality, Ethics and Economics" (1991). Together, the two authors will illuminate a perspective on liberal theories where "the capacity for social cooperation is taken as fundamental" (Rawls, p.301).

2. John Rawls

Now, we shouldn't underestimate the formal nature of the principles of justice, fairness, equity and liberty in Rawls's scheme. Nonetheless, underneath its technical vocabulary, Rawlsian "utopianism" – taken to its logical Kantian conclusion in his internationalist book, "The Law of Peoples" (1999) – is concerned, already in "Political Liberalism," with answering a very simple and basic question: "How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical and moral doctrines?" (1993, p. xviii) Note the expression "free and equal" in conjunction with the phrase "reasonable though incompatible ... doctrines." The paradox of liberalism is precisely this difficulty of reconciling liberties (of expression, religion, customs etc.) with a conception of a *universally* just and fair treatment of people as equals. How do we reconcile heterodox (individual) aspirations with orthodox norms (socially) "constituted" in the form of inalienable basic liberties, as inscribed into "various bills of rights and declarations of the rights of man" (ibid. p. 292)? The classical problem is whether we should value freedom "over" equality, or vice versa; the very constitutive problem of modern liberal politics. Of course, this antinomy is partially just a semantic confusion, but it *has*

³ The index to Nussbaum/Glover, 1995, yields copious traces of Rawls's influence in terms of references. In fact, he is the most often cited (non-contributing) author in the book, aside from Aristotle.

⁴ The third and most problematic component, *fraternité*, is subsumed under a wider conception of equality and solidarity, such as "sisterhood" or, better, humanity at large (the global community). See, for example, the feminist critiques of fraternal equality and patriarchy in Nussbaum/Glover 1995.

resulted in a "split" between egalitarians and libertarians. Rawls, drawing from the social democratic and liberal critiques of *both* extremes, is unwilling to kowtow to only a partial view of society. Freedom *implies* equality, and vice versa. His is a synthesis of free market and welfare state philosophy, or as he himself puts it, "an egalitarian form of liberalism" (ibid.⁵, p.6).

How, then, does he view the individual in relation to the society? "The conception of the person is regarded as part of a conception of political and social justice" (p.300); this means that no man is an island. Indeed, "society [is] a social union of social unions" (p.371). Rawls's "organizing idea is that of a society as a fair system of social *cooperation* between free and equal persons viewed as fully *cooperating* members of society over a complete life." (p.9, my italics) Notice how the idea of "cooperation" occurs twice in the sentence; first as a noun, and *again* as a verb. Elsewhere, he states that "social cooperation is always for mutual benefit" (p.300) and that, moreover, "there is no alternative to social cooperation" (p.301). This rather Hobbesian view (of the society as an *a priori*) is nonetheless firmly rooted in an egalitarian contract theory which negates any blackmail of natural born subjection. Instead of innate duties to a sovereign, a person's responsibilities lie in the very acquisition and exercise of freedoms in a society of equals.

These considerations underlie his "principles of justice" as presented in "Theory of Justice," modified versions of which are revisited in the first chapter of "Political Liberalism." We have no time to review the details of his theory of distributive and procedural justice, nor do we have any time to go into his theories at any length. Only the first of his principles is important to reproduce here (in truncated form): "Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties" (p.5). Note the coupling of "equal" and "liberties"; note also how the word "equal" occurs *twice* in the sentence, somewhat inelegantly but forcefully. They lead to his formulation of "basic equal liberties" (p.291), but while he grants these basic liberties "a special status" (p.294), he makes the argument that in his formulation "no priority is assigned to liberty as such" (p.291) – only *particular* (to-be-enumerated) liberties. This statement, made to differentiate his theory from libertarian variants or any of the "many variant liberalisms" (p.6), is rather *ad hoc* and, in my opinion, unsatisfactory, because it goes dangerously close to a pragmatic and constructivist conception of the social contract theory, while relativism of this sort is precisely what, on the whole, Rawls wants to avoid with his idea of equal liberties. Furthermore, it seems not to take far enough his attempts to overcome this false rhetorical distinction.

His conscious effort to overcome "the impasse concerning the understanding of freedom and equality" (p.369) – the aforementioned divide between the two reasonable⁶

⁵ Unless otherwise stated, all the Rawls quotes in this chapter are from Political Liberalism, for which reason the year of publishing is omitted henceforth in favour of simple page numbers.

⁶ Indeed it could be possible to analyze egalitarianism and libertarianism as "reasonable though incompatible comprehensive doctrines", to use Rawls's expression. Rawls's synthesis, or any other "egalitarian-liberal" synthesis, makes the two principles both reasonable *and* compatible.

Enlightenment principles – has guided his search for a political philosophy of "free and equal persons capable of being fully cooperative members of society over a complete life" (ibid).

3. Amartya Sen

The capability approach wants to avoid being merely an academic exercise (a metaphysical treatise), even more so than Rawls, who arguably was not the most empirical of philosophers. Instead, it wants to make a distinction between abstract, ideal (and idealized) freedoms, and real, practicable opportunities and capabilities that people have. For example, as opposed to a supra-sensible principle like Smith's "invisible hand", we may want to take into account *real* hands, either tied behind people's backs (due to poverty, illness or oppression) or liberated to take part in social processes of cooperation and development. Indeed, development is a major theme in his 1999 book, "Development as Freedom;" but development *as* freedom? Development for him means not only GDP increase, but a growth of human *opportunities*. So, he says that "the general enhancement of political and civil freedoms is central to the process of development itself" (p.288), not because freedoms increase productivity or anything like that, but simply because freedoms *are* development.

Development as Freedom explicates the unity of the conceptual duality almost in an identical form that we found it in Rawls. The book's culmination, chapter 12, treats "individual freedom as social commitment" (pp.282-292), and thereby brings the book to its natural (and logical) conclusion. As the last chapter, it summarizes his position, which is a wonderfully uncompromising dedication to freedom-as-social-commitment: "There is no substitute for individual responsibility" (p.282) and "freedom is both necessary and sufficient for responsibility" (p.284). He has more faith in man's sense of duty (whether natural or taught), even without external restrictions or compulsions, than those philosophers for whom duty is simply observance of the law. In fact, here he is closer to libertarians: "The development of environmental ethics can do some of the job that is proposed to be done through compelling regulation." (p.269) He also discusses, but only partially agrees with, Plato's idea that "a strong sense of duty would help to prevent corruption." (p.276) But overall he is reluctant to favour simple government restrictions as the answer. To reach a state where "people themselves have the responsibility" (p.282), however, requires the presence of fair and equal opportunities in life: "Without the substantive freedom and capability to do something, a person cannot be responsible for doing it" (p.284). So, to give a negative example, a poor person is not responsible for his poverty if he never had any opportunities for bettering his condition (say, finding work); this is directed against unregulated free markets, and is what separates his form of egalitarian liberalism from pure libertarianism. Note, in the preceding example, the unity of "freedom and capability": 1) This emphasis on *actualisable* freedom places his theory on the side of "positive freedom" in Isaiah Berlin's distinction. 2) Secondly, this unity (of

principles and praxis) places his theory on the side of practical philosophy and toward a pragmatic conception of justice. Indeed, he says that we should focus our energies on "the identification of patent injustice" (p. 287), and to be content with locating and correcting them as we find them.

Seeing freedom as compatible and coextensive with duty and social cooperation implies a critique of many established platitudes about free markets and the role of egoism in the marketplace (and elsewhere). He proposes a revamped ethics of capitalism. For example, he says that "it is important to dispute the common description of Adam Smith" (p.271) as a promoter of shameless egoism. He wants to differentiate the ideology of avarice from the concept of freedom. This is done in order to show that liberally regulated markets can operate *cooperatively*. He reinterprets Smith as a champion of reasonable and fair liberalism, and quotes a passage from him: "humanity, generosity and public spirit, are the qualities most useful to others" (p.272). In *this* context, interestingly enough, Sen turns to Rawls: "What is at issue here is what our great contemporary philosopher John Rawls has called our 'moral powers' shared by us: 'a capacity for a sense of justice and for a conception of the good.' ... In fact, the role of values is extensive in human behaviour, and to deny this would amount not only to a departure from the tradition of democratic thought, but also to the limiting of our rationality"⁷ (ibid.). So, for Sen, what is at stake is a "tradition of democratic thought" where freedom and social cooperation are not mutually inclusive; what Sen here refers to *broadly* as "values", Rawls, as we have seen, *specifies* as equality, justice, fairness, cooperation etc. In fact, "the role of values", set against and next to freedom, complementing and enriching it, is to provide the basis for social cooperation and egalitarian ethics.

Cooperative engagement and economic interaction, as *free* human processes for which we are *responsible* (to the extent of our *capabilities*), demand an overcoming of the ideology of selfishness: "Self-interest is, of course, an extremely important motive" (p.261) but it has to be understood and taken "beyond the narrow confines of purely selfish behaviour" (ibid.).

This move is crucial for an understanding of the emergent ethics of the Capability Approach, and for this reason I should spend a moment with Sen's short essay, "Reason, Rationality and Ethics" (1991), where he proposes a move beyond "the narrow view of rationality as the pursuit of self-interest" (ibid. p.7). His dominant interest here is questioning and destabilizing the dominant myths of the capitalist ethos. Instead, but without moving away from the domain of freedom, he proposes a much more complex ethics where altruism, too, plays an important and real role. Such considerations are largely ignored in "modern economics [which] narrows the analysis of actual choices, actions and behaviour of all human agents analyzed in this tradition" (ibid. p.5). Overall, in both of these books, and underlying the moral compass of the capability approach, is an emphasis on the value of social cooperation and egalitarianism in society, and fairness and justice for all. As

⁷ Martha Nussbaum has written on the role of emotions and value judgements *in* reason.

rational, self-interested but socially cooperative beings, with capabilities and opportunities governed by a democratic-liberal process, human beings may *actualize* the freedom they have long *theorized*.

4. Concluding Remarks

We have seen how both Rawls and Sen have argued for, and practically delivered, a novel conceptual unity of freedom and equality. This unity, although theoretically inherent in the 18th Century and 19th Century discourses on liberty and equality (for example, in that famous slogan, "liberté, égalité, fraternité"), had been forgotten thanks to the loudness of the "extremist" traditions of "equality first!" (Egalitarianism, e.g. state socialism) and "liberty first!" (Libertarianism, e.g. free market capitalism) In fact, it seems unlikely that our society can do without one or the other. Certainly, from a liberal Enlightenment perspective (say, Kant), our society stands on *two* feet, not one. Such a unity is found and experienced in lived life, in societies as we see them (empirical communities) and societies as we imagine them to be one day (utopian frameworks). Of the various liberalisms existent, both Rawls and Sen (and, by extension, Nussbaum) represent some of more promising varieties, precisely because they aim to enlarge the scope of liberty *with the very same move* by which they enlarge the scope of social cooperation.

Rawls's "egalitarian form of liberalism" and Sen's idea of "individual freedom as social commitment" are two of the most elegant formulations of this long-lost unity. Such non-dual, holistic conceptions offer marvellously unprecedented, and seemingly effortless, interpretations of the subtleties of this Enlightenment tradition's rhetorical repertoire.

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