

*L'égalité. Nouveaux débats* (PUF, October 2002)

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 Summary  
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This book is founded on the fact that French society has become much more divided, particularly in response to three phenomena: the conditions of socio-economic integration (the phenomenon of social exclusion), the definition of cultural values, and the nature of socially desirable 'assets'. As a result, three founding principles of the notion of equality in France, conceived in the context of a relatively homogenous society, – equal rights, equal opportunities and the compensatory process of material redistribution -, now provide an insufficient response to new demands for justice. So we have engaged other theories: that of John Rawls, centred on the poorest members of society; and that of Michaël Walzer, regarding complex equality; both conceived in the perspective of a heterogeneous society, in order to set before them the new social reality in France.

*Part One* analyses both the causes of the rupture of the socio-economic continuum (the phenomenon of exclusion) and the contribution of John Rawls' theory when applied to aspects of redistributive justice (distribution of social position and the redistribution of material wealth).

As to the causes of social exclusion, which particularly affects unskilled workers, an analysis of the productive paradigm of the eighties and nineties clearly reveals the factors responsible for the rupture of the economic relationship that had operated until then. In the context of an economic situation that had become unstable, the continuance of 'Fordist' organisational rigidity in the French system of production, combined with a technical revolution that favoured more skilled workers, resulted in a situation where the least skilled among workers were excluded from the workplace. This was a break from the homogenous, Durkheimian model of socio-economic integration; which, we must remember, had served as an intellectual reference for the setting-up of systems of distributive justice and social protection in France (Chapter 1).

In relation to French theoretical references on equality, the principles of Rawls – and particularly the second principle, of the just equality of opportunity and absolute priority of the distribution of supplementary economic benefits for the least advantaged - offer three essential complements for social justice that take account of the reality of exclusion (Chapter 2):

To begin with, the first part of the second principle, "of just equality of opportunity", clearly implies that we cannot be content with purely redistributive, compensatory action if we are to re-establish justice in the distribution of social position and the redistribution of social benefits; most often, structural intervention is seen to be necessary in order to change prevailing thinking at a deep level ( e.g., in the mode of transmission of knowledge at school, reassessing the weight of practical in relation to theoretical matters; or in the management of work in companies, by encouraging the promotion of those organisations which are least likely to exclude). When applied to reinsertion policy for the "excluded" in France, these principles require the State to go beyond actions focussed on the individual (e.g. training) and to extend its intervention for structural change in the recruiting companies (employment strategy, organisation of production...) if it proves necessary.

Secondly the so-called principle of “difference”, which completes the previous principle and goes beyond our concept of creating equality of opportunity through education, based solely on the recognition of merit and talent. By stating that the priority given to the underprivileged is justified even after social differences have been neutralised, this principle infers that the distribution of talent that society requires at any given time is in itself arbitrary, as much so as the hazards of birth. Moreover, the unskilled “excluded” of today were, sociologically speaking of course, the pillars of yesterday’s industrialised society. So Rawls’ principle of difference provides a basis that justifies the redistribution of income and social protection even to those “excluded” from the workplace, contrary to the Durkheimian reference, founded only on organic solidarity through work. According to the Rawls’ principle, the solidarity that permits the social link is justified by the complementary nature of talents; it is understood as being intergenerational; it is not subordinate to the recognition of one talent at a given time in the development of a society. Consequently this solidarity in the redistribution of social and economic assets is based on objective factors; it is not dependent on relative criteria of a moral nature, nor is it subordinate to the inclinations of the better off.

Thirdly, Rawls’ principles are not applied in an indeterminate manner, (as opposed to what is called “positive discrimination” in France, which suggests empirically, without being more precise, that we must give more to those who have less). If we look only at the second principle, it takes account of economic constraints by fixing rules to regulate the relation between social justice and economic efficiency: on the one hand, justice overrules efficiency in as far as no economic improvement can be legitimate if accompanied by a deterioration of the material situation of the underprivileged; on the other hand, initiatives to reduce inequality (e.g. in income) are legitimate in themselves, as long as they do not cause the socio-economic situation of the underprivileged to deteriorate. This is one of the most contested points in the Rawlsian model of justice: one situation is preferable to another if the underprivileged find themselves in a better position materially, even if the second situation is more egalitarian overall than the first.

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*Part Two* aims to put Rawls’ theory of justice to the test by applying its principles to the situation in France. On the condition that the theoretical references in the matter be considered as one possible basis for argument - in no way replacing democratic debate - the reference to Rawls’ principles of justice allows us, for example in the domain of social policy, to throw a more revealing light on the subjects that are difficult to analyse by consulting our traditional references. (This is especially true of the respect given to the Republican pact of equality.) Indeed, the reference to Rawls’ principles has been used here in two ways: firstly, to clarify the debate that took place in France in the nineties around the reform of the social state, and the eventual questioning of the globalising concept of the right to social protection (equality in matters of financial allowances and allocations received), in favour of a model more clearly focussed on the underprivileged, particularly those “excluded” from the workplace. Then, in the context of reinsertion policies<sup>1</sup>, to help define the criteria for allocating training courses of varying effectiveness to different categories of the unemployed (more or less skilled).

In the nineties’ debate on reform of the social state in France, the unsatisfying nature of the arguments exchanged arose from the difficulty of articulating our intellectual references on equality – chiefly that of solidarity linked to cooperation in Work (Durkheim) – with the new situation of exclusion and vulnerability affecting certain workers (Chapter 3). Thus the supporters of a social state, one that concentrates on situations of vulnerability and exclusion, advanced reasons related to the economic conjuncture to justify radical transformations of the social state, and a rupture of solidarity between social security beneficiaries. Those opposed to changing the social state, on the contrary, did manage to preserve the spirit of solidarity in social security, but they reached an impasse on the new situation enforced by the phenomenon of exclusion: the old justification of solidarity through work, which inferred a redistributive solidarity of social protection, can no longer be evoked. (In both cases – with a rupture of solidarity between

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<sup>1</sup> ‘Reinsertion policies’ comprise all state interventions – training or services to individuals, structural interventions, such as the incitation to recruitment or reorganisation of work in firms, etc. – whose aim is to encourage the economic and social integration of the unemployed or vulnerable workers.

the beneficiaries of social security, or safeguarding solidarity without appropriate justification - the risk of an extension of private social protection is very real).

The reference to Rawls' theory of justice provides two bases for argument that allow us to overcome the dilemma on the orientation of the social state. Firstly, if a consensus is achieved with regard to the validity of the principles of justice, the latter are applied on a lasting basis, independent of economic or political conjunctures. Secondly, the type of solidarity at stake in the Rawlsian problematic – the complementarity of talents, intergenerational solidarity - is not subordinate only to cooperation in work over a given period. One could even say, from this viewpoint, that the most successfully integrated individuals, whose talents are recognised by today's society, take advantage of a situation that grew out of the preceding period of the industrial society in which unskilled workers played a major role. Rawls' theory of justice provides solid justification for the maintenance of solidarity within the social state, with priority (but not exclusive) redistribution in favour of the underprivileged (the "excluded" and those in vulnerable situations), which allows their constant socio-economic progression.

In the same way, Rawls' principles of justice can guide those taking measures for reinsertion at a local level, in helping them specify measures for the unemployed (training courses, work contracts, employment for the community, etc.), or, more strictly, in the distribution of reinsertion programmes (Chapter 4). To take the example of the straightforward case of reinsertion measures, the application of the principle of just equality of opportunity incites us to attribute *the most effective measures* – work contracts in this case – to the *least skilled* among the unemployed workers. The application of the principle of difference fixes a limit to this allocation process: it must not lead to an increase in the number of situations of exclusion in a locality, whether it be in the number of "excluded" individuals or in the average duration of unemployment. In concrete terms, in Chapter 4 of the present work, we have used Rawls' principles as tools for analysis and assessment of certain reinsertion strategies carried out in Ile de France, according to criteria of social justice. So we can observe that in a majority of reinsertion programmes, in contradiction with Rawls' principle of difference, the *effective* takes precedence over the *just*: the most successful reinsertion measures in terms of professional integration are frequently applied, because they offer more effective management of exclusion in the short term, to the unemployed *who are already skilled*. This practice of local reinsertion policies, if it were to be perpetuated, firstly would not fulfil the demand for justice in the orientation of programmes; secondly, if it were to become generalised, it would contribute to consolidating the phenomenon of exclusion, and to the continued decline of opportunities for professional integration open to the underprivileged.

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*Part three* explores the implications for French society of another concept of equality proposed by Michaël Walzer, more adapted to the heterogeneous nature of modern society, that of 'complex equality'. One of the main criticisms addressed to Rawls' theory is its unequivocal nature of simple equality: its concept, the promotion of justice in material well-being, seems to be the central aim of state intervention, and a necessary and sufficient condition for the realisation of an authentic life plan. Michaël Walzer, on the other hand, without underestimating the importance of socio-economic justice, remarks that other 'social assets' exist alongside material wealth. These, also likely to be desired and shared by individuals, are political power, professional responsibility, cultural identity, intellectual recognition, public reputation, religious responsibilities, etc. Seen from this angle, a just system must encourage the existence and the relative autonomy of several "spheres of justice", especially for the limited number of "assets" that possess a great social worth in any given society; always avoiding that any one of the things shared, e.g. money, become dominant in relation to the others, imposing a uniformity in the social hierarchy. There is nothing to prevent us from combining this pluralist concept of the social world with Rawls' problematic, according a priority to the underprivileged in each sphere of justice (except in the case of some exceptions linked to very specific criteria of redistribution of an asset within one sphere, for example the religious).

If we refer to social practices that particularly concern those who have experienced the greatest difficulty of economic, cultural and social integration in France in recent years, two new spheres of social action have emerged, the political and that of cultural identity. Both can be approached in terms of complex equality.

To describe the social signification of a sphere of justice that includes the most dominated in the *domain of politics* in France, we might first call upon the theoretical clarifications of Hannah Arendt (Chapter 5). She criticises the so-called ‘representative’ models of modern democratic societies, where the real power is confiscated by a few, reducing the majority of the population to a state of passive consumption. More fundamentally, she sees this model as reducing politics to a necessary means to achieve other ends, outside the field of politics (freedom, equality, material well-being, etc.). To this dominant concept of politics in the modern world, Arendt opposes the signification favoured by its Greek inventors - of democracy in the act - where politics is presented as an end in itself for the mass of the citizens, and not as an activity subordinated to more noble ends. Michaël Walzer, for his part, notes the specificity of the political sphere: on one hand it is perpendicular to all the others, and so belongs to the domain of *means* for the achievement of justice in other spheres of action; on the other hand, it is a social asset with a *value in itself*, likely to be desired by the individual for the satisfaction it procures. So, on condition that we re-establish one of the obscured significations of politics, that of active participation of the citizen in public affairs, the domain of politics does indeed pertain to the principle spheres of justice, and concerns all of us.

In that perspective, the practice of committees of the unemployed, particularly in the nineties, revealed that the political sphere thus redefined could concern above all the most dominated members of the population. The social unrest during the late nineties provides an instance containing all the characteristics of a form of political democracy in action – exemplifying the democratic, pluralist and public nature of those collective actions; the claims addressed to the government were global, going far beyond the sole interests of a particular group (a guaranteed minimum wage for all, progress on the reorganisation of work and a shorter working week, etc.); lastly, the militant action of the unemployed to gain recognition of their social value, but also for that recognition to be gained through protest, so through political activity. However, we must note that as political actors, the organisations representing the unemployed have received no real institutional recognition. This comes into contradiction with the application to the political sphere of Rawls’ second principle, which supposes priority for state intervention - financial and institutional, as well as offering symbolic recognition, etc. – in favour of assistance for the constitution of mechanisms to represent the most underprivileged (the “excluded” from the world of work being underprivileged in two respects: their socio-economic situation and symbolic representation).

From a slightly different viewpoint, Jürgen Habermas, though he bows to Arendt’s idea of the primacy of an active and deliberating democracy, nevertheless refuses to place institutional logic outside the field of politics. Taking account of the indispensable role of institutions in complex and pluralist societies, Habermas’ project has a triple approach: first to identify an intersubjective action (communicative action), oriented toward consensus, as a basic structure of life in society and as the kernel of collective and deliberative action anchored in the world of experience; then to favour the interaction between communicative rationality and systemic rationality born of institutional actions (by encouraging exchanges between civil society and institutions within a public political space, an intermediate place of confrontation between the private sphere and the politico-administrative sphere); finally to comfort communicative action, so as to irrigate institutions with a permanent flow of aspirations that stem from the deliberative democracy of the world of experience and civil society. According to Habermas, it is the rising movement of communicative rationality toward systemic rationality that brings about a significant step toward an increase in real democracy.

At the level of local strategy of interventions for unemployed and vulnerable workers, within their structures, the organizations responsible for setting up the programmes offer opportunities for exchange in authentic public areas of debate, between associations (representative of a communicative logic) and institutions (representative of a systemic logic). There is yet another possible way for the unemployed to take action in the political sphere, within Habermas’ definition. We must note in passing that this opportunity for the unemployed to act within the deciding instances on matters of reinsertion - which concern them – is still all too rare. But such an opportunity would present the double advantage of inscribing the political exercise in time (and sometimes involving the formerly unemployed), as well as allowing the unemployed to manage the results of their action on a day-to-day basis. It does not contradict the application of Rawls’ principles of justice to the allocation of reinsertion programmes, when used as a

reference (among others) to help clarify choices. The existence of a practice of deliberative democracy associating those concerned constitutes, moreover, a guarantee against all technocratic excess.

Recognition of the other sphere of justice, relative to *cultural identity*, is far from accomplished in France, especially for the social categories that have emerged from the successive waves of immigration. Ideas on this question continue to evolve, but under the influence of an ideological debate that has been continuing for the last twenty years on the international scene, and under the constant pressure of cultural minorities in France to gain recognition of their collective identity.

We can identify two categories of contribution generated by the international debate on cultural identity (largely an Anglo/American one) which oppose the *liberal* and *communitarian* (Chapter 6) currents of thought. The pro-communitarian thinkers (Charles Taylor, Michaël Sandel), first undertook to reassess the role of cultural belonging in non-alienated, authentic self-accomplishment of the subject - which to them implies that the subject should first be able to know their own identity (in consequence, that the State wishes to confirm the collective references of belonging); also that society should create favourable conditions for recognizing the social value of such communities, this social confirmation being seen as indispensable for the self-affirmation of the subject. This possibility of assimilating the collective values of belonging is necessary, even for those who want to break away, partially or totally. But for those thinkers, the non-alienation of the social link (the refusal of passive subordination to the national culture), for subjects who identify with a cultural minority, is an essential condition for their true and lasting engagement in the national community.

Secondly, authors such as John Rawls, Ronald Dworkin, and especially Will Kymlicka, who belong to the liberal school of thought (more precisely, "liberal-solidarist", partisans of state intervention to satisfy the ends of justice), make recognition of cultural minorities a question of social justice. Kymlicka especially, observing modern democratic societies, remarks that, in most cases, the state is not at all neutral in ethno-cultural matters despite what the constitutional texts may proclaim. Minorities find themselves integrated in the dominant cultural model, organised into a societal culture that is imposed on all. If one concurs with the importance communitarian thinkers attribute to the recognition of collective identities in the meaning and conduct of existence, Kymlicka sees an injustice toward the cultural minorities and people who are associated with them. We feel that it is perfectly appropriate to apply Rawls' principles here, encouraging state intervention – juridical, material, symbolic, etc. – in favour of the recognition, the defence and the promotion of individual rights and those of minority communities.

Given the evolution of French society toward cultural heterogeneity, like other developed nations, France could not remain outside the general ideological trend for cultural recognition. Thus, a number of authors have proposed developments based on the Franco-Republican model, in the direction either of temporary public recognition of minorities, or more lasting public recognition, but solely for individuals and not for cultural communities as such.

Dominique Schnapper's theories represent a concept of migrant integration in France that, taking account of questions of cultural identity, tries to reconcile them with the Franco-Republican principles - applied with more flexibility -, but unchanged in their fundamental nature (in particular, the public non-recognition of minority cultural communities). For this author, the absence of cultural neutrality at state level in the process of integration is the price we have to pay so that citizens as an ensemble can unite and participate in the national society. Such a viewpoint, which has a certain legitimacy, if only in the purely instrumental sense, attaches little importance to the quality of the social link thus imposed, as long as the communities concerned become aware of the injustice they endure. Moreover, real-life observation shows a strong propensity to maintain minority cultural identities, well after the temporary period of adaptation to a new country.

Faced with this limited outlook of temporary tolerance of collective identities, other thinkers have moved toward more profound transformations of this model of integration: toward an extension to the ethno-cultural domain, toward concepts of justice and equality. Sylvie Measure and Alain Renault propose legal and institutional recognition of cultural difference, but strictly limited to the individual, excluding all recognition of collective entities. These two authors, though they find individualised recognition justified – anticipating France's inclusion in a Europe that for the most part recognises such differences, maintain that any collective recognition would run two risks: firstly that of subjecting the individual to the ascendancy of the group, even imprisoning the subjects within their ethnic community; and secondly that of making collective identities more rigid, resulting in the fragmentation of the social tissue. But, if we accept the communitarian demonstration, which sees the existence of individual identities as being subordinate to contexts of social belonging, it results that the individualised recognition of identities could not be durable in the absence of recognition of those collective structures that generated them. The "liberticidal" risk of

compulsory assignation of the individual to her/his group can easily be limited by the legal pronouncement of the absolute primacy of individual rights – especially individual freedom, an integral factor of human rights -, in all collective law.

As for the second risk, of the immobilisation of collective identities and social fragmentation, it could be overcome without moving back to a spirit of cultural justice, by adopting the model of *multi-belonging* proposed by M. Walzer. In the same vein as the model of complex equality, it is a question of multiplying the possibilities for the individual to circulate among several cultural affinities. Thus we take into account the increasing complexity of the process of individual identification in modern societies. The risks of imprisoning the individual within one identity are reduced, and the pluralism of engagements toward different identities favours a more just form of social decompartmentalization than that imposed by the subordination of all to one dominant culture.

If we look carefully, we can observe many actions that reveal the active participation of citizens and the defence of cultural identities. We can also extrapolate this form of interaction, and say with Michaël Walzer that, beyond the material claims, it heralds the basic conditions that permit a society to move resolutely toward socio-economic equality, active democracy and the recognition of cultural identities. "I have always believed", says Michaël Walzer, "that democratic socialism should allow the development of a society stimulated by many associations"; adding "...but it seems to me that the most crucial test of any socialist society, is its capacity to make collective life itself the continued creation of ordinary men and women" ("Eloge du pluralisme démocratique", in *Pluralisme et démocratie*, Esprit-Seuil, 1997, p.210). Pluralism in social assets, governed by principles of justice - taking the form of citizens' initiatives and modes of cultural expression - constitute the most favourable social context with the prospect of a social bond nourished by the creativity of multiple and active engagements.

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