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Bringing Fraternity back in to Europe. Learning from Rawls

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Introduction

The French Revolution inaugurated a new paradigm in political theory and political science, by inventing new concepts and reshaping reality. The great dichotomies of left and right, the ideals of equality, freedom and fraternity, which became symbols of democracy and democratization, were invented at the heart of Europe. Since then, any democratic project has relied on this theoretical apparatus. Popular sovereignty, which was firstly embraced, even if not with successful results, during the French Revolution, became a problem in the 20th century. After overcoming – even if only to some extent – the experiences of totalitarianism and fascism in Europe, this new political subject – Europe as a whole – had to reinvent modern democracy.

The project of the European union was a result of a set of very clear commitments to political and social ideals: on the one hand, embracing democracy as chosen and preferable political model, as way of guarantying peace among states¹; on the other hand, endorsing the liberal modern vision of fundamental individual rights.

The *Charter of the European Union* (2000) rests upon an articulation of liberal and republican elements: it is built upon a discourse of individual rights, while assuming shared values, which are the ground for the construction of the European community. This European project must rely on the interdependence between the ideals of liberty, equality, but also, the ideal of fraternity, which today appears as ‘solidarity’, insofar the creation of a community must encompass economic, social, political and cultural dimensions.

Although the main political documents of the European Union embraces the ideals of liberty, equality and fraternity, European practices seem to neglect or having forgotten what the ideal of fraternity really means. Any discourse on solidarity appears as a set of beautiful words with no content, or, if they have content, this is generally considered ‘utopian’ and inefficient. The ideal of equality has also been neglected: only a part of the concept – its ‘formal’ and ‘legal’ side, linked to the freedom of the market, free circulation of persons, goods and capital and competition – is promoted, while the ‘social’ and

¹ See DAHL, R., *On Democracy*. Yale University Press, 2000.

substantive part of it is seen as an obstacle to achieve in a sustainable manner specific economic and financial goals.

In this paper I want to argue that *if* we want to rescue the European project we must activate and translate into practices the articulation between these three ideals, having as larger background a strong conception of justice, which cannot be defined in a strictly legalist manner. In order to do so, I will start by presenting Rawls' account of the importance of the ideal of fraternity, an ideal which is the necessary (even if not sufficient) condition for the consolidation of a democratic project; I will then move to a critical analysis of current European state-of-affairs that suspend the fraternity ideal, therefore putting in check the success of the European project; finally, I will reflect upon recent challenges Europe faces today and look for its possible (re-)solutions.

I. Liberty, equality and fraternity in Rawls

Rawls' theory combines a defense of personal freedom with political equality, with a strong recognition that these values can only be accomplished and realized within a set of social, political, legal and economic structures. By articulating the private/personal sphere of individual rights with the public sphere as horizon where individuals shape themselves and find the conditions to constitute their own subjectivity in an ideally autonomous manner, Rawls introduces a rupture in the discourse of justice. Contrary to the social contract tradition from which Rawls departs, namely, Locke, Rousseau and Kant, which approached justice through the individual perspective (i.e., 'justice' applied to particular actions of individuals), Rawls considers justice as the necessary condition that shapes the basic structure of society – its institutions – and which consequently set the boundaries between what is 'just' and what is not in a community.

In *A Theory of Justice* (TJ) Rawls starts from the assumption that human beings are social creatures; therefore, the defense of individual rights must be made from the point of view of a fair system of social cooperation, which guarantees the basic settings for a decent life. But what constitutes a decent life? Clearly, Rawls does not want to tell us what is the life worth living; instead, he defends the priority of justice over the good. Why? First of all, because 'justice is the first virtue of social institutions, as truth is of systems of thought.'² Given that 'each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override'³, justice transcends the disputations about different conceptions of the good life. Justice is the virtue that creates the space

² RAWLS, J., *A Theory of Justice* (from now on TJ), Cambridge, Mass.: Harvard University Press, 1999, p. 3.

³ Idem.

where different concepts of the good can emerge, meet and dialogue. This position eradicates any theory of justice grounded on utilitarian arguments, given that nobody can be sacrificed in the name of the ‘welfare of society’. But what would be a good theory of justice? Clearly one that is capable of affirming itself through the self-evidence of its principles. In order to accomplish this Rawls proposes us a hypothetical situation – the social contract taken to a more abstract form: Imagine that you don’t know anything about yourself – you don’t know if you’re a man or woman, rich or poor, talented or stupid, with or without a disability. Under such conditions (of the veil of ignorance) in this hypothetical ‘original position’ (the methodologically equivalent to the ‘state of nature’), what principles of justice would you choose in order to set the basic structure of society?

I will not enter into Rawls’ detailed account of this process. The important point to retain is that these principles that will be chosen – or *recognized* as valid and legitimate – are principles that can and will be shared by individuals with different conceptions of good. A community – in the strongest sense, namely, embracing the political, cultural, economic and social dimensions – can only be viable, stable and efficient if there is a basic but strong agreement regarding the foundational principles that support its own (re-)construction.

Therefore, the primary subject of justice – social justice – is the basic structure of society, i.e., ‘the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.’⁴

Rawls understood that it is impossible to disentangle rights/duties from distributive aspects. Since the French Revolution and during the 19th century, for instance, equality and freedom were parts of the same coin: fraternity pointed to a strong republican conception of citizenship, as translating the (today’s lost) ideal of the *general will*. Between the 19th and the 20th century many structural transformations happened in Europe, perhaps the greatest of all the introduction, development and consolidation of capitalism. While the 19th century was committed to the Enlightenment project of human emancipation, capitalism in its advanced form brought these expectations down to earth. The ideals – and their respective ideologies – of freedom and equality became progressively more apart, and freedom turned out to be a nice word that covered new forms of individual and collective exploitation, a more ‘civilized’ slavery, which produced radical inequalities in distribution of wealth, but also of primary goods. Therefore, Rawls understands that in order to rescue the Enlightenment project (even if that was not his specific agenda), in order to rescue the discourse of modernity, even if by transforming it, it was crucial to re-conceptualize the relationship between the ideals of freedom, equality

⁴ TJ p. 6

and fraternity, on the one hand, and to envision a practical way of translating this reconfiguration in a system of social institutions and social practices.

The conditions set by Rawls – the original position and the veil of ignorance – assure that human beings are equal ‘... as moral persons, as creatures having a conception of their good and capable of a sense of justice.’⁵ These conditions allow us to bring light upon the kind of agreement and principles that we would, in fact, accept. These principles are:

“First, each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.

Second, social and economic inequalities are to be arranged so that they are both a) reasonably expected to be to everyone’s advantage and b) attached to positions and offices open to all.”⁶

The first principle – of equal basic liberties – has priority over the second principle, which means that freedom cannot be sacrificed for the sake of economic advantages, for instance. This is what Rawls refers as serial order with the first principle prior to the second.

Rawls insists on this serial order and argues that these two principles express an egalitarian conception of justice.⁷ Unlike the system of natural liberty, which is regulated by the principle of efficiency (i.e., assuring that the total amount is fully distributed, regardless of how this distribution is made), and starts from the initial natural and social assets allowing both to create radical inequalities; and unlike the liberal system, which tries to mitigate the influence of social contingencies by imposing certain requirements (for instance, formal equality in accessing careers) but is incapable of addressing the problem of natural inequalities, Rawls advances a democratic interpretation of freedom, which is translated in the *difference principle*.

As the author says ‘... the intuitive idea is that the social order is not to establish and secure the more attractive prospects of those better-off unless doing so is to the advantage of those less fortunate’⁸. This means that, in the first place, nobody ‘deserves’ to be talented or born in a nice family, ‘the natural distribution is neither just nor unjust ...’.⁹ Since nobody is entitled to the privileges one is born with, there is a (moral) duty to understand talents, skills, strengths, as belonging to the ‘common good’, i.e., to the society as a whole. Rawls clearly says that ‘... the difference principle represents, in effect, an agreement to regard the distribution of natural talents as in some respects a *common asset*

⁵ TJ p.17

⁶ TJ p. 53

⁷ TJ p. 86

⁸ TJ p. 65

⁹ TJ p. 87

and to share in the greater social and economic benefits made possible by the complementarities of this distribution.’¹⁰ That means also, and this is our second point, inequalities will exist *but* these inequalities must be articulated insofar it improves the life of the worse-off. For instance, the naturally advantaged can gain more as long as they also cover the costs ‘... of training and education and for using their endowments in ways that help the less fortunate as well.’¹¹

This leads us to recognize that ‘... in justice as fairness men agree to avail themselves of the accidents of nature and social circumstance only when doing so is for the common benefit.’¹² The difference principle expresses a strong conception of reciprocity: it is a principle of mutual benefit.

Under this light we see how the *difference principle* allows us to revisit and replace the principle of fraternity back on the table of democratic theory. Rawls acknowledges that this ideal has taken a secondary place in democratic discourse and practices, mainly because it points to ideas or values that are difficult to describe, explain or even justify. Fraternity, as it was advanced during the French revolution, has a primary meaning of equality, as a radical commitment to a common ground, eliminating modes of servility. It also points to ‘a sense of civic friendship’ and ‘social solidarity’. But this ‘civic friendship’ sometimes appears as too demanding; and ‘social solidarity’ is easily reduced to a political slogan with little content. Rawls wants to rescue this ideal, which, according to him, refers us to ‘... the idea of not wanting to have greater advantages unless this is to the benefit of others who are less well-off.’¹³ The principle of difference accomplishes this task, it gives content to an almost lost ideal, and it directs us to a redefinition of our current political and social institutions, having as its concern the distribution of social and economic advantages only.

As such, the articulation of the two principles of justice, in its three-fold manner, brings the recognition that there can only be freedom and equality *if* the ideal of fraternity is also guaranteed. The difference principle accomplishes this task, i.e., it tells us that there is no way of justifying the moral arbitrariness in distribution of wealth, race or gender. The fact that I am born a woman, white, poor or rich, should not determinate which goods of society I will have or not have access to. Since citizens are fundamentally equal, it is required that institutions guarantee an equal distribution of goods to all, unless an unequal distribution proves to be more advantageous to the worst-off. Therefore, the concept that underlines Rawls’ articulation between the principles and regulative ideals of

¹⁰ TJ p. 87 my italics.

¹¹ Ibidem.

¹² TJ p. 88

¹³ TJ p. 90

equality and freedom is the concept of reciprocity: reciprocity in freedom and in equality and conceived as fraternity.

Let us see how the democratic ideals, first advanced by the French Revolution and then recovered by Rawls, find their way in the European project.

II. Europe and its Ideals

The previous section had one specific goal: to show how the revolutionary ideals of freedom, equality and fraternity are a necessary condition to defend a democratic project, and should be taken as three parts of the same totality. My argument is that if one is committed to democracy, one cannot simply embrace the liberal ideal of 'freedom' without committing oneself to the ideal of 'equality' and 'fraternity', and this not only in a formal, but also in a substantive way. As I tried to show, Rawls has been the philosopher in the 20th century to bring light to the interdependence of these ideals.

The goal of this section is to take into account Rawls' position and relate it to the European project. In order to do so, I will start by offering an account of the discourses through which Europe commits itself with this set of ideals; second, I will identify the progressive abandonment of the fraternity ideal and argue that by doing so Europe may be jeopardizing its own future.

To begin with, we must acknowledge that Rawls' concern was with democratic liberal states. The search for principles of justice is necessary in order to recognize objective criteria that allow one to determine what is just and what not in a fair cooperation system. Of course, the deliberative process in the original position starts from the assumption that there is a common political culture – and here Rawls is thinking of a 'democratic culture' – and the principles are to be applied to a democratic society. As Cohen puts it

Justice as fairness is "for a democratic society", then, first because it assigns to individuals an equal right to participate and thus requires a democratic regime as a matter of basic justice. Second, it is addressed to a society of equals, and the content of its principles are shaped by that public understanding. Finally, it is intended to guide the political reasoning and judgment of the members of a democratic society in their exercise of their political rights.¹⁴

Sharing a common background makes easier to identify principles that can be accepted by all and this means that the foundation provided by the two principles of

¹⁴ COHEN, J., "For a democratic society" in Freeman, S. (ed.) *The Cambridge Companion to Rawls*, Cambridge University Press, 2003, p.87.

justice allows a wide range of reasonable, even if mutually incompatible comprehensive views. Even if *TJ* is not a theory of democracy, it tells us a lot about democratic thought and ultimately the reasoning behind democratic politics. The principles set the boundary between what is and what is not reasonable – a boundary that becomes evident once we subsume different conceptions of the good under the requirement of reciprocity.

These principles are key to design a democratic constitution and democratic institutions in general; however, they should not be understood in an instrumental manner. Justice as fairness is a substantive conception of justice because it is concerned not only with the procedures, but also with the outcomes of justice. As Cohen says “[J]ustice of process is defined by the rights and liberties included in the first principle; justice of outcomes is assessed by reference to the second principle.”¹⁵

Thinking about the relationship between Rawls’ proposal and the European Union is challenging. One could argue that there is no way of doing so given the Europe is not a ‘democratic nation’, therefore, one cannot demand from Europe the kind of response that one can demand from one’s national state. Although this certainly is Rawls’ position, there is no reason why not to question and try to identify the conditions, which can make Europe a fairer system of cooperation, taking Rawlsian principles of justice as guidance.

64

Europe is not a nation nor a federation as the US. It is a new political experiment, a supra-national constellation, still under construction, that has no definitive political contours – even if it has all the political institutions in place, such as the European Parliament, European Commission, etc. However, Europe became only possible because it shares a common culture. Now, this too could be attacked: after all, Europe is full of contrasts and diversities, between different languages, local cultures, political backgrounds and so forth. This ‘common’ culture refers not so much to what there ‘is’ in Europe – in all its multiplicities – but more to what European nations want to ‘become’. Clearly: democracy is the common link. But, which democracy?

I take democracy in the European union as a commitment to create a new community grounded on a set of democratic political regimes *but also* a great *democratic society*. Since Tocqueville democracy has been associated simultaneously with the political and the social dimensions. Unifying both dimensions is the commitment with the ideal of equality – democracy is a ‘society of equals’, who by the nature of their equality have the same capacity to judge, participate, deliberate, and also to constitute their individual subjectivity in an inter-subjective horizon of interdependence, recognition and mutual respect.

¹⁵ idem p.93

The origins of the European Union were marked by a commitment to the three ideals of freedom, equality and fraternity: to harmonize the search for peace, with a respect for fundamental individual rights and political equality and to assure a common ground for solidarity among States.

Let us see how the European project is translated in the charter of Fundamental Rights (2000).

The preamble starts by saying that “The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values.”¹⁶ These common values belong to six blocs: dignity, freedoms, equality, solidarity, citizens’ rights and justice. Let us take a closer look.

Chapter 1 affirms the intrinsic value of dignity (article 1 to article 5), which encompasses the right to life, the right to the integrity of the person, the prohibition of torture and degrading treatment and the prohibition of slavery and forced labor. Chapter 2 defines the freedoms that the EU is committed to protect: right to liberty and security (article 6); respect for private and family life (article 7); protection of personal data (article 8); right to marry and right to found a family (article 9); freedom of thought, conscience and religion (article 10); freedom of expression and information (article 11); freedom of assembly and of association (article 12); freedom of the arts and sciences (article 13); right to education (article 14); freedom to choose an occupation and right to engage in work (article 15); freedom to conduct a business (article 16); right to property (article 17); right to asylum (article 18) and protection in the event of removal, expulsion or extradition (article 19).

Chapter III defines equality: equality before the law (article 20); non-discrimination (article 21); affirmation of cultural, religious and linguistic diversity (Article 22); equality of gender (article 23); as well as the recognition of the rights of the child (Article 24); the rights of the elderly (article 25) and the integration of persons with disabilities (article 26).

Chapter IV defines solidarity. This value is approached from the angle of labor rights (workers’ right to information; right of collective bargaining and action; protection against unjustified dismissal; fair and just working conditions – article 31); from the angle of social security and social assistance; from the angle of health care, access to services and consumer protection.¹⁷

¹⁶ *Charter of Fundamental Rights*, 2000, p.8

¹⁷ In article 34 p.3 it is written “In order to combat social exclusion and poverty, the Union recognizes and respects the right to social and housing assistance so as to ensure a decent existence

Chapter V is dedicated to expose citizens' rights (right to vote, right to petition, etc.). Chapter VI is devoted to 'justice'. Justice is clearly treated in its legal and juridical dimension: right to an effective remedy and to a fair trial (article 47); presumption of innocence and right of defense (article 48).

From this we see that the principle of basic liberties is set forward in chapter 2, the principle of equality in chapter 3, in its double angle: formal equality and the demand for measures that could be taken as the difference principle: for instance, if we take article 21 'non-discrimination' as conducing to positive measures that compensate for existing inequalities which compromise the value of human dignity (chapter 1). Curiously, chapter 4 on solidarity approaches the fraternity ideal from the labor-angle. Although it is understandable given the specific premises, which supported the beginning of the European Union – namely, of starting with an economic and monetary project first, rather than political – it becomes obvious that in doing so it amputated, or at least suspended, a significant part of the European body, necessary for the strengthening of 'common values'. Given that individuals are not only commodities in exchange in the job-market field, but moral equal persons, how to turn Europe into a 'society of equals'?

Rawls is clear saying that only formal equality of opportunities it not enough to make a society just: the community needs to assure a just economic order, and to support social capital, by granting equal opportunities of education, culture, equal opportunities in economic activities, avoiding monopolies and granting a social minimum. Again, one could argue that Rawls' proposal is targeted to nation-states, and not to the European supra-national experiment, therefore, these opportunities should be granted by European nations, individually considered. However, our point is simply to show that a) if Europe represents a social contract between different States, b) if it is committed to democratic ideals, c) if democracy has as its pillars liberty, equality and fraternity; d) if equality is granted through the equal right of free movement; then, e) Europe must rethink the content of the three foundational concepts as well as their relationship – therefore, it is necessary to bring fraternity back. The three ideals go hand in hand. But what would fraternity mean in today's context?

To start with, the idea of fraternity points to two different directions: it points *inwards* to those who share a common way of life (within each nation or region) *and* it points *outwards* to those who adopt different ways of life (different regions, nations, world). Fraternity appears as a *matter of fact* – among individuals within nations or between nations – but also as a *normative standard* according to which one can apply the difference principle, i.e., one can arrive at just outcomes in the distribution. Fraternity

for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.”

imposes the particular attitude *vis-à-vis* the individual(s), and assumes the universal horizon of commonality. Why is it important to rescue fraternity in the European context?

Europe is living a crisis of legitimacy: the European union can no longer sustain a practical commitment with the principles it endorses. While Europe had its existence justified after World War II, today the legitimacy of its rule is being contested on several grounds. I will not enter into details here – I would probably need to start by providing an account of the ‘crisis’ of liberal democracy or democracy *tout court*. For our purpose I want to mention two challenges, which seem to compromise the European project as a whole and the stability of coexistence between European nations. First, Europe is observing the rise of nationalist and populist movements that spread discord and conflict across the continent. Second, this new political dynamics exacerbates Europe’s abyss between North and South, on the one hand; and it also brings to light the problem of sovereignty of democratic states.

Regarding the first challenge, one observes several shifts in political discourses across Europe, which simultaneously brings to evidence the large political vacuum in Europe (or the truly ‘political’ problem of Europe) *and* the conflict between alternative modes of thinking and doing politics. From Finland to France, extreme-right parties capture a great percentage of populations’ support. Throughout Europe one sees discourses that foster ‘solidarity’ and ‘fraternity’ among themselves, excluding the ‘other’ – regardless if the ‘other’ is an equal European citizen or and outsider/ immigrant.

On the other side of the spectrum, we have countries like Bulgaria, Greece, Spain, where we observe the increasing visibility of new political voices – Greece, for instance, has a new prime-minister Alexis Tsipras, from Syriza Party, which is a radical left-wing oriented party. The fact that he won the last elections was initially seen as a victory for politics insofar it created a rupture in the European mainstream political spectrum, where everything tended to converge to the center. Tsipras represented the hope that it is/was possible to do politics differently; it also forced Europe to rethink the legitimacy of its decisions under the light of justice.¹⁸ Another example of rupture in Europe is *Podemos* in Spain. Both movements represent(ed) the hope for reinvention of political dialogue in Europe. It is interesting to observe the rise of opposite movements: extreme-right and the revival of the Left. The first thing to do is to try to understand why this is happening. People are not ‘irrational’ in supporting right or left; people have wants, needs, frustrations, and these parties are able to capitalize on that and create a discourse that reflects their aspirations and resolves their anxieties. This rise shows that the parties/movements involved are capable to fill out the political void that exists in Europe.

¹⁸ This hope was recently challenged, given that Tsipras, despite his effort to transform political negotiations in Europe, was forced to accept more austerity measures.

They provide a social guidance, a social orientation that Europe as a whole has dismissed. In other words, these parties, or movements, right to left, give content and meaning to the concept of fraternity and they bring out to the table the need to address social injustices (unemployment, exclusion, discrimination, lack of opportunities, etc.).

Second, related to this legitimacy crisis that creates the propitious environment for the revival of old discourses (anti-European) or the creation of new ones, one needs to address the impact of the gap between economic, social and political measures, since this gap compromises any pretension to arrive at a just society, or even more radically put, a large 'society of equals'. Austerity packages that were imposed across different nations (Greece, Portugal, Ireland) had serious consequences for these countries and Europe as a whole. On the one hand, it exacerbated the abyss between North and South but also between Europe as a whole and each nation in particular. In doing so it also put into question the sovereignty of the state and the democratic regime and culture of each nation. By being forced to accept Troika's impositions, each country was deprived of its foundation: its sovereignty was stripped out and the relationship between representatives and represented became meaningless. I will not go into details, for the debate is well known. The point I want to make is that by contesting the democratic ground of each nation, by promoting technocracy over politics, Europe was seen on a different light, and the question emerged: is the European project doomed to failure? After all, what reasons do citizens have to comply with the rules (and by 'rules' I also mean 'democratic rules') if reciprocity seems to converge with exploitation and domination instead of justice?

III. European Challenges

Europe can only become a fair system of cooperation *if* a) rescues a set of ideals – democratic ideals of equality, liberty and fraternity; b) creates measures to apply these ideals in the system of practices; c) creates a new discourse and narrative. In this section I will go back to Rawls and try to explain why I consider these three elements as necessary condition for Europe's survival. In order to do so, I will look at two other challenges Europe is facing today: the problem of unemployment (at domestic level but also at the 'union' level since it impacts dynamics of migration within the common space); second, the problem brought by 'European citizenship'.

In the description of the original position, Rawls takes rational individuals, equals as moral persons, as the starting-point. These individuals are committed to reciprocity insofar it is assumed that individuals recognize each other as equals. Without this supposition reciprocal exchange would be impossible. Therefore, it is clear that rationality in Rawls assumes a horizon of reciprocity to start with, in order to find the principles that can guarantee a mutually advantageous cooperation. Reciprocity affirms itself in a positive way – fostering social cohesion and justice as fairness – but also negatively, insofar it can

impose asymmetrical demands upon the relationship between individuals, mediated by institutions.

The difference principle, as we have seen, is a principle of reciprocity; it incarnates the revolutionary ideal of fraternity, which involves an improvement of the worse-off with respect to the initial 'arrangement of equality'. The strongest argument for reciprocity, however, is the argument of stability. The entire point of making this movement of suspending one's identity and identifying the principles of justice is to assure that one will comply to the rules, it will obey authority, it will have a standard that will allow one to distinguish the just from the unjust. Once the basic structure of society is set according to these principles it will embody the ideal of equality from its inception (as 'equal moral persons') and have a set of strategies that will allow institutions to deal with natural and social inequalities. This, of course, will impact the ways in which rights and duties are assigned to each, through institutions. Reciprocity is the *invisible hand* that is always working but which to some extent cannot be pinpointed.

As we have seen Europe does not fit into the closed society of a domestic state required for the *TJ*, therefore the question is not how to make Rawls' conception of justice work in European context. However, it originally stands for a system of cooperation between nations. All nations share democratic assumptions, despite the fact that each country has its specific constitution. But this cooperation translates itself in a limited concept of freedom (to exchange, to buy, to move), and a thin concept of equality (dependent on freedom's definition). Consequently, this system of cooperation is only partial: it does not aim, in practice, at creating a common, integrative, inclusive, reciprocal community; it is hostage of its hybrid condition of not wanting to become a federation, nor wanting to be reduced to a set of nations. A 'society of equals' in such context is simply impossible. So, actually the question should be: How to transform actual Europe in a system of *fair* cooperation?

If one looks at the situation of unemployment today, one can easily identify how far Europe still is from an egalitarian and just society.

According to Eurostat, in February 2015 Europe has approximately 24 million people unemployed, however the distribution of unemployment is unequal across the 28 countries: Germany had the lowest unemployment rates (4,8%), followed by Austria (5,3%), while Greece had the highest rates (26%) as well as Spain (23,2%).¹⁹ If one looks at youth unemployment trends, the number increases significantly, reaching 24%, distributed in the following way: Greece, with 58,3%, Spain with 55,5%, Croatia with 49,7%, Italy with 40%, Cyprus with 38,9%, Portugal with 37,7%. Germany and Austria

¹⁹ http://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment_statistics. Access on April 28th 2015

were the only member states with a youth unemployment rate below 10% (7,9% and 9,2% respectively).

If one analyses these numbers in the light of income distribution in Europe, it becomes clearer that Europe is far from being a just society. According to the European commission

“In the EU in 2011, the income share of the richest 10% of the population was largest in Portugal and Latvia (where the top 10% had 27% of total income), while in Cyprus, the UK, Bulgaria and France the top 10% had 25-26% of income.”

And

“In the EU, the value of the Gini coefficient in 2011 ranged from 0.24 (in Slovenia) to 0.35 (in Latvia). Other countries at the top of the ranking were Portugal (0.34) together with another four countries, where the value of the Gini coefficient was around 0.33, Romania, Greece, Bulgaria, and Spain. At the bottom of the country ranking, Sweden, Czech Republic, and the Netherlands have Ginis that are only slightly higher than Slovenia's (around 0.25). Other countries can be broadly divided into two groups, with France, the UK and Ireland, some of the Southern European countries and the EU13 countries having Ginis of between 0.30 and 0.33, and other EU15 countries together with Malta, Slovakia and Hungary having values of between 0.25 and 0.29.”²⁰

Portugal and Latvia are the countries with highest inequality in income distribution. Of course this is only part of the picture: to this one must look at the wealth: who has it and how society distributes it.

Rawls argued that a fair society must rely on an appropriate scheme of institutions, where social and economic processes are thought through political and legal institutions. In many occasions Rawls argues that a society is just if and when can counterbalance the tendency of too much accumulation of wealth in the hands of the few, while assuring a social minimum for all citizens.²¹ The point of Rawls is to show that a society is only fair when it is capable of addressing and correcting the distribution of wealth and ‘to prevent concentrations of power detrimental to the fair value of political liberty and fair equality of opportunity.’²²

²⁰ <http://ec.europa.eu/social/main.jsp?catId=1050&intPageId=1870&langId=en>. Access on April 28th 2015.

²¹ Rawls says ‘... the government guarantees a social minimum either by Family allowances and special payments for sickness and employment, or more systematically by such devices as a graded income supplement (a so-called negative income tax).’ TJ, p.243

²² TJ, p.245

However, Europe faces another challenge, which is a structural problem from within: individuals who belong to member-States define their 'European citizenship' via the freedom of movement, i.e., the freedom to move and live in any European country. The opening of frontiers brought new rights to individuals (the right of circulation), and it created a common ground that eradicated 'immigration' policies, for instance. Kochenov tells us that

By granting EU citizens free movement rights, the Treaties *de facto* and also *de jure* made it largely impossible for the Member States to have any 'immigration' policy concerning EU citizens. In other words, modern EU states cannot give preference to their own nationals compared with other EU citizens and are not entitled to stand in the way of EU citizens exercising their Treaty rights.²³

What this means is that officially no European citizen is immigrant in any EU nation. However, once we try to flesh out the content of 'European citizenship' we face theoretical and practical obstacles. Theoretical, because there is no European constitution that actually defines the rights and duties of citizens. Practical, because individuals still define themselves mainly through the angle of 'national citizenship'; and the rights 'European citizenship' grants can only be accomplished at the expense of concrete democratic rights (political rights in particular). Do European citizens have the same political rights regardless of the country they live in? Not really. For instance, citizens who reside in a country different from their nationality cannot vote for national elections. This simply does not seem fair:

Should being European in Europe not entitle you to have a say in the way the part of Europe you live, work, and pay taxes is governed? ... Should their lack of a possibility to use the democratic process in order to influence policies by which they will be directly affected not be construed as a potential obstruction to mobility? Who wants to go and live in a country without being able to exercise full democratic rights?²⁴

Taking this into account one sees that while formally the existence of many 'peoples' and nations in Europe does not – and cannot entail – any kind of immigration or discrimination policies, and despite the fact that every European citizen is 'equal' to every other, formally speaking, one could argue that there is another type of discrimination taking place: most individuals, given the pressure of the labor market, in order to escape the trap of unemployment, willingly make the trade-off for jobs in exchange of political, social and even cultural autonomy.²⁵ What a closer observation of migration dynamics in Europe tells us is that there is only a 'formal European citizenship', but which has no

²³ KOCHENOV, D., "What's in a people? Social facts, individual choice and the European Union" in Jeffers, Kristen (Ed.) *Inclusive Democracy in Europe*, European University Institute, 2012, p. 84

²⁴ CAYLA, Ph. and SETH, C., "Kick-Off contribution" in: JEFFERS, K. (Ed.) *Inclusive Democracy in Europe*, European University Institute, 2012, p. 67

²⁵ COSTA, M. N., "Europe, what future?" in *Res Publica*, vol. 18, n.1, 2015, p. 161.

substantive content. As I argued elsewhere, as long ‘as Europe remains hostage of neoliberal ‘politics’ [...] Europe is doomed to fail, because neoliberalism is incompatible with democracy and with Politics.’²⁶

IV. Concluding Remarks

To conclude I must say that Europe has to reinvent itself if it wants to survive. An economic union – with its discourse of freedom and equality reduced to the labor-market – is clearly not sufficient; in fact, it appears to be a growing motive for discontentment and disenchantment with European politics. It is important to go back to Rawls for two reasons: First, Europe was the product of a commitment with democratic ideals. In order to survive, Europe must change and reinvent its discourse and produce a new narrative, reinforcing its historical commitment with freedom, equality and fraternity. Rawls shows that these three dimensions are interdependent. It remains the challenge of transforming this narrative in a new set of practices. This leads us to our second reason. Rawls shows the importance and even symbolic significance of creating a Constitution according to principles of justice. Only a European constitution can foster the necessary sense of belonging of individuals and nations to this *common* project. As Rawls says ‘the constitution establishes a secure common status of equal citizenship and realizes political justice’²⁷ and ‘... the basic structure is regulated by a just constitution that secures the liberties of equal citizenship.’²⁸ Only then can a true ‘solidarity among states’ begin to flourish.

Given the pluralism and diversity in European space, the difference principle is a key element in fostering a common sense of belonging to something, which is still new – and a sense of reciprocity between individuals from different states. The difference principle creates a solid ground for fraternity’s return in political discourse and institutional design.²⁹ Europe must be courageous enough to give this step and dare to re-conceptualize its institutions according to the difference principle – the principle that embodies

²⁶ Idem, p.163

²⁷ TJ, p.175

²⁸ Idem, p. 243

²⁹ For instance, confronting the challenge of unemployment today, and in trying to arrive at a criterion that allows to determinate the ‘social minimum’ in Europe, one could take Rawls statement as guide: ‘Once the difference principle is accepted ... it follows that the minimum is to be set at that point which, taking wages into account, maximizes the expectations of the least advantaged group. By adjusting the amount of transfers ... it is possible to increase or decrease the prospects of the more disadvantaged, their index of primary goods ... so as to achieve the desired result.’ (TJ, p. 252) A social minimum does not imply scaling down from the greater wealth until everyone has nearly the same income. It simply implies that adjustments are made as to improve ‘the long-term prospects of the least favored extending over future generations.’ (idem)

practices of solidarity and which is capable of establishing a system of cooperation that is mutually advantaged and capable of dealing with several forms of domination. Only then 'European citizens' will be able to conquer a truly significant ontological and political status.