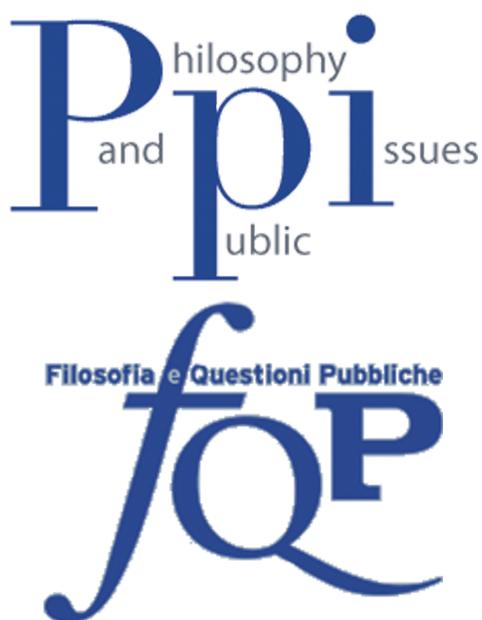


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THOMSON ON RAWLS AND PRACTICES

BY
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Thompson on Rawls and Practices

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In “Two Concepts of Rules,” Rawls advances a conception of rules as practices or institutions with the aim of defending (a form of) utilitarianism—the theory he endorsed at the time—from a difficult, if not fatal, objection. For illustrating the kind of objections he had, the examples Rawls selects are punishment and promises, two activities with which utilitarianism seems always to say something more and something less of what we want. Because of its peculiar justification of morality, utilitarianism seems unable to exclude cases in which circumstance are such that it can be morally required, for example, to condemn the innocent or not to keep a promise. Rawls advances a conception of rule-like practices meant to overcome such undesirable outcomes according to our considered judgments.

Rawls’ conception of social practices, as elaborated in “Two Concepts,” appears in the last of the three, partially independent, essays that comprise Professor Thompson’s book, where the fruitfulness of Rawls’ old idea of social practices is illustrated and the reasons for its final failure are analyzed. The analysis in the essay runs parallel to Gauthier’s (and Foot’s less developed) concept of dispositions, as the final conclusion of the essay suggesting how, despite appearances, once they are properly understood, social practices and dispositions must be taken as only one subject. However, the analysis of the two concepts of social practices and dispositions is managed in a sufficiently independent way, such that not too much will be lost by focusing

on only one of the them, which is what I am going to do by delimiting my considerations only to Rawls and practices.

Thompson's discussion of Rawls is not a typical Rawlsian discussion. It is certainly not a critique of the young Rawls, so to say, or a historic reconstruction of Rawls' thought. Neither is it properly a critique of Rawls in the way, for example, communitarians criticize and reject the abstract individualism that they believe characterizes the whole theory—not exactly, at least.

The declared intention of the essay is that of an “immanent critique” of Rawls' (early) work, aimed at forging a conception of social practices apt to making them applicable in practical philosophy. It is a conception, this last one, “much narrower” of the general, empirical, concept deployed in social sciences, to which Thompson wants to approximate by providing clarity to the obscure concept of social practices—clarity, Thompson believes, Rawls never reached.

It is clear, from this point of view that not very much of Thompson's own view depends on his reading of Rawls. Immanent critique, after all, is a method and Thompson could have devised his own conception of practices independently from Rawls. Still, Rawls' reconstruction is meticulous and internal. Besides, it is highly provocative. Professor Thompson not only makes statements which seem to directly address Rawls' scholars: “Rawls' early essay is much more important to his later work than is usually recognized,”¹ but he also sketches something akin to a diagnosis. He believes that whereas in “Two Concepts” Rawls was close to capturing the wanted, specifically practical, conception of practice, he then fatally undertook the wrong way,

¹ M. Thompson, *Life and Action* (Cambridge Ma: Harvard University Press 2008), p. 151, fn. 3.

“evidence of decline,”² that *A Theory of Justice* exhibits, which I take to be both as a diagnosis and a provocative one.

All this authorizes a discussion of Thompson’s reading of Rawls, which is essentially the aim of this paper by suggesting a counter-diagnosis. In doing so, however, a more general and sketched aim is also at work, namely that of defending a less narrow and more empirical conception of social practices in what I take to be a Rawlsian spirit.

In a different paper, Thompson writes, quoting McDowell, that to give ethics empirical bases is to “medicalize moral badness, to reduce it to a sort of psychological and volitional ill health.”³ Even if I will not be able to develop the point here, it cannot be forgotten that for Rawls unjust practices and societies, poverty and complicated families, give people very different opportunities to develop themselves, even from a moral point of view⁴.

II

Utilitarianism is often conceived of as the theory in which considerations about the good of the whole are the bases on which individuals have to decide their course of actions: singularly, each person, coping with circumstances of his/her own life, has to evaluate, in deciding how to act, what is the best course of action for the whole. Keeping or not keeping a promise, for example, is subject to my considerations about whether doing it or not will realize the best state of affairs,

² Ibid., p. 173.

³ M. Thompson, “Apprehending Human Form”, *Royal Institute of Philosophy Supplement*, 54, 2004, p. 10.

⁴ J. Rawls, *A Theory of Justice* (Cambridge MA: Harvard University Press 1971). Hereafter TJ.

according to the situation I am facing. It must be recognized, Rawls says and Thomson agrees, that this is in “conflict with the way in which the obligation to keep promises is regarded.”⁵

This does not mean that utilitarianism is completely deprived of ways of making sense of the strength we attach to the obligation of keeping our promises, and Rawls first considers one possible answer. For it is peculiar to utilitarians, Rawls says, to talk about the *practice* of keeping promises. By doing this, utilitarianists want to call our attention to the fact that, in deciding whether or not to keep a promise, we have to consider not only the specific circumstances we are facing, but also, among the reasons we have for keeping the promise, the damage that could arise from the socially advantageous practice of making a promise and not keeping it. Taking into account this wider context, assessing our evaluations in light of the further cost of jeopardizing the practice, we will soon realize how we do have to keep our promises much more often than it could seem by focusing only on this or that particular action⁶.

According to Rawls, such a line of defense does not take the objection as seriously as it deserves⁷. On the one hand, it over-emphasizes the threat of endangering the practice by breaking a promise in one case or another. As Ross has shown, Rawls says, by breaking her promises a person can ruin her own name, but not necessarily the social practice. On the other hand, it says nothing of all the situations in which the promisee is not in the position of showing up the unfaithful promisor: a dying father asking his son to execute his last wills or, to actualize, recent bioethical cases. In these particular circumstances, even taking

⁵ J. Rawls, “Two Concepts of Rules”, in S. Freeman (ed. by), *Collected Papers* (Cambridge Ma: Harvard University Press 1999), p. 29.

⁶ *Ibid.*

⁷ *Ibid.*, p. 31.

into account the utility of the practice, not keeping a promise can perfectly be the best thing to do from a moral point of view⁸. The strategy must be reinforced.

Rawls maintains that problems arising from social activities as promising, particularly in the utilitarian sphere, essentially come from a tendency to not take note of the distinction between the two levels of practices and actions as a logical distinction, one forming the impression that their justification could work in the same way. But utilitarianism, properly understood, is a theory for institutions, not for individual choices. That means that utilitarian justification is never allowed for the singular decision made by singular individuals, but rather rigidly restricted to the establishment of social practices.

The aim Rawls wants to pursue in “Two Concepts” is that of pushing further and clarifying the insightful and decisive distinction between justifying *a practice* and justifying *an action falling under it*, which he takes to be implicit in the utilitarian tradition of Hume, Bentham, Mill.⁹

The tendency to confine utilitarianism to the kind of answers that render it inapt to make sense of our understanding of obligations comes, as we have seen, from the tendency to see the justification of a practice and the justification of an action falling under a practice working in the same way. But such a tendency, Rawls thinks, comes from a deeper and persistent conflation between two logically distinct conceptions of rules: the summary view and the practice conception.¹⁰

⁸ Ibid., p. 30.

⁹ Ibid., p. 20, fn. 2.

¹⁰ Ibid., p. 34.

In the summary view, rules are consequences of our past decisions which are, accordingly, antecedent to them¹¹. Because I found a decision in certain circumstances often fruitful (on the whole), it makes sense for me to establish a rule and continue acting that way in all following similar cases. Thus, I can make a rule to keep my conversation on a very general topic with people I am not acquainted, of never talking about philosophy at parties or never commenting on politics too seriously.

These rules are the product of my past experiences and their benefit resides in being ways of simplifying our calculations, reducing the possibility of mistakes due to the necessity of a fast decision, or the difficulty of taking into account every time all the relevant circumstances and so on. Sometimes they can produce some loss, but gains on the whole are greater than losses. It is clear, on the other hand, that I can always choose to act otherwise in one case or another or to revise the rule on the basis of new experiences. It is up to me.

This conception of rules is not confined to personal rules, different for each person, according to our personal experience. For we can reach general rules too. If one estimates that in repeatedly faced circumstances a rule exists that is likely to produce correct decisions, that is, decisions that would be arrived at by applying the utilitarian principle case by case, then “one would be justified in urging its adoption as a general rule.”¹²

But even if we can obtain general rules in the summary view, they are still to be distinguished from a practice conception of rules, where “rules are pictured as defining a practice” and are, therefore, in contrast with the summary view, “logically prior to

¹¹ Ibid., p. 34.

¹² Ibid., p. 35.

particular cases.”¹³ This means that “a particular action that would be viewed as falling under a practice wouldn’t be *described* as that kind of action whether the practice didn’t exist.”¹⁴

Under such a conception of practices, once a practice has been established, there is no room for people choosing, acting or justifying their actions on utilitarian calculation. Utilitarian considerations are the ground upon which we establish the practice of promises, for example. But once the practice has been established, there is no longer the possibility for any of us to decide whether or not to keep a promise. The reason why one has to do what he/she has to do is the practice and the impression that it is a matter of personal choice whether to keep a promise or not disappears.

Many aspects here are crucial for Thompson. In his attempt of justifying what Thompson calls “acts of fidelity” or, in Rawls’ own terms, the obligation to keep our promises, by bringing an action under a (independently justified) practice, Rawls is devising a special kind of two-level theory, with the aim of dissolving problems that arise in situations in which, as we saw, utilitarianism seems to be in conflict with our intuitive judgments on what should be done, what Thomson calls tight-corners.¹⁵

This dissolution arises from distinguishing between justifying a practice and justifying an action falling under it, whereby a relation is established between the practice and the action such that “only through the practice the action can be brought into connection with any supposed end of morality.”¹⁶ For Thompson, this means that once a conception is justified

¹³ *Ibid.*, p. 36.

¹⁴ *Ibid.*, p. 37. Rawls’s italics.

¹⁵ M. Thomson, *Life and Action*, p. 152.

¹⁶ *Ibid.*, p. 152

according to a certain standard of appraisal, a “transfer principle” is stated claiming that, if the practice is justified, an action falling under it is justified too. But this seems to require a sort of “transparency” in the way in which the practice justifies the action following it. Indeed, it was central to Rawls’ original conception of the established relation, Thompson believes, that the so-called “transfer principle” is “a merely *formal* or *non-substantive*”¹⁷ one.

But while this was, for Thompson, the fruitful Rawlsian move of “Two Concepts,” actually the right move, Rawls was not able to defend it because of a certain opacity about the concept of practices he was deploying. Although Rawls came interestingly close to see how a concept of practices able to sustain the sort of “transfer principle” implicitly assumed by Rawls “must be taken to bear a much narrower sense than it is customarily attached to [it],”¹⁸ he eventually did not grasp the point and did not reach, by himself, the desired specifically practical-philosophical conception of practices. This is the object of Thompson’s immanent critique.

I will attempt to show that no trace of a formal or analytical transfer principle was given in “Two Concepts” and no trace of decline is observed in TJ.

III

Because the object of the immanent critique is the relation between the practice and the action falling under it, clarifying should bring us, respectively, to grasp Rawls’ early concept of practice and how much good there was in it, to see the reasons why Rawls was not in the condition of completely grasping such a

¹⁷ *Ibid.*, p. 169, Thompson’s italics.

¹⁸ *Ibid.*, p. 161.

good, and finally to figure out a concept of practices adequate to practical aims, it makes sense to start, as Thompson does, by identifying some features of the concept of practices he wants to attribute to Rawls. The features, in particular, that show how Rawls, according to Thompson, even if not with full awareness, had in mind a practical-philosophical conception of practice, different from a sociological one. These are three essentially: generality, actuality and the capacity to rationalize our actions.

Generality seems to be an obvious requirement for social practices. However, Thompson's restrictions on what a general practice is are peculiar. Whether "the real presence of something somehow 'general' is among the conditions of the possibility [of the individual act of fidelity, that is,] of the truth of the thought that *X did A because she promised Y she'd do*—just as something like an intention or wanting or other will to do B is presupposed in the truth of it that *X did A because it was a means to doing B*,"¹⁹ Thompson believes (and seems to believe that Rawls believes) that to say this is equivalent to saying that people acting under a practice are all doing *exactly the same* thing. "Whatever else may be true of them, whatever exactly they are, practices [...] can only be said to be *manifested, instanced* or *exhibited* in [indefinitely many acts of indefinitely many agents]."²⁰

Besides, practices are real, existing, things. They are actual, granted that their actuality is compatible with a more or less large number of deviant cases²¹. Finally, the concept of practices which is in question here is "intrinsically practical."²² With this,

¹⁹ Ibid.

²⁰ Ibid., p. 159, author's italics

²¹ Ibid., p. 166.

²² Ibid., p. 163.

Thompson intends that practices play a role in explaining individual actions similar to that of intentionality²³.

Actual practices, instantiated in individual rationalized actions, and so intrinsically practical, are what Rawls is speaking of in “Two Concepts” and demonstrates how his concept of practices was a peculiar one.

By commenting on a passage from “Two Concepts” (which I quote in the footnote for convenience) Thompson takes Rawls as embracing the three following theses²⁴. By affirming that “the practice is prior to its objects,” Rawls is engaging himself in saying that “some of the types of action tokens of which instance a given Rawlsian practice can only be ‘tokened’ at all in actions that instance this or some other similar practice.”²⁵

This more sophisticated way to restate Rawls on Thompson’s side seems to be a way to introduce the second aspect of the conception of practices he attributes to Rawls. According to Thompson, because Rawls says that, independently from an appropriate practice, some terms lack a sense and not only an application, we are entitled to assume that a Rawlsian practice is not only instanced in actions, but also in what Thompson calls “certain exercises of concepts,” where these concepts exist only if there is an appropriate practice-instancing exercise. I take this to

²³ *Ibid.*, p. 164. See the second essay of the book, dedicated to action and intentionality.

²⁴ “Striking out, stealing a base, balking, etc., are all actions which can only happen in a game. No matter what a person did, what he did would not be described as stealing a base or striking out or drawing a walk unless he could also be described as playing baseball, and for him to be doing this presupposes the rule-like practice which constitute the game. The practice is logically prior to the particular cases: unless there is the practice the terms referring to actions specified by it lack a sense”. “Two Concepts”, p. 164.

²⁵ M. Thomson, *Life and Action*, cit., p. 176.

mean that there is a practice not only when people perform actions that *others*, for example, can see as falling under a practice, but when they themselves, exercising the appropriate concepts, see their actions falling under this or that practice.²⁶

It is this, I think, that allows Thompson to say, finally and most importantly, that Rawls' speaking of "rule-like practice" has to be taken as referring to the fact that this practice-instanting exercises of concept *must include* "a certain type of general 'deontic judgments,'"²⁷ as, for example, promises are to be kept: *pacta sunt servanda*.

Such deontic judgments are present in the participant's large background judgments and are at the basis of their favoring, in general, actions that conform to the practice of actions that contrast it. "The choice the faithful agent faces, whether to keep or break his promise, presupposes the presence of a 'rule' that favor keeping it."²⁸

"Take that sort of thought away—Thompson adds—and the practice falls to the ground, taking everything else with it – acts of promising, promise-keeping and promise-breaking [...], as well as exercises of the concepts of these things."²⁹

But Rawls had such a thought, Thompson believes. So we are authorized to state that Rawls was, in fact, devising a specifically practical-philosophical, non-sociological, conception of practices.

²⁶ *Ibid.*, footnote 13, p. 176.

²⁷ *Ibid.*, p. 177. In the last chapter of the third essay, and of the book, Thompson writes: "Judgments [of the kind 'He is doing A because he promised her he would'] might of course be framed by an anthropological observer. But it also belonged to this doctrine that the *exercise* of such practice-dependent concepts and the employment of such practice-dependent forms of account are themselves among the phenomena of the practice," p. 198.

²⁸ *Ibid.*, p. 177.

²⁹ *Ibid.*

Unfortunately, Rawls did not follow his intuition. It would have been very helpful had Professor Thompson decided to explicate what exactly distinguishes a sociological conception of practices from a non-sociological one. It seems reasonable to assume, however, that deontic judgments play a main role, as shown by the following considerations.

In a passage from “Two Concepts” in which Rawls, trying to clarify his distinction between justifying a practice and justifying an action falling under it, affirms that if someone, involved in a practice, is asked why she did a certain action her “explanation or defense lies in referring the questioner to the practice.”³⁰ “Why are you in a hurry to pay him?”—Rawls illustrates—“Because I promise to pay him today.” For Rawls, this means that if you know both that the practice exists and that I promised, there is no further room for asking why I did that action. I know that you promised x to return the money and I know that there is a practice according to which promises must be kept, but now why did you return x the money back? Rawls would probably conclude that you do not understand what you are saying.

Thompson believes, on the contrary, that even if Rawls *seems* to show that referring to the practice transparently gives moral significance to the act of keeping the promise, he is actually stating something less than this. Referring the questioner to the practice, on reflection, is referring her to considerations that account for the action as something that has or had to be done *given the practice*. But this is not enough, if referring to the practice has to be, let’s say, the ultimate answer on why I did what I did. Rawls’ concept of practices was “too thin” for the work it was

³⁰ Ibid., p. 178.

intended to do, admitting under it games and any sort of things allowed by the thesis of logical priority³¹.

The only forms of justification of individual action at issue must [...] find application even with games. Though Rawls argues that the practice of making and keeping promises is a good one, he is impeded from arguing that the ‘reasons’ that the practice underwrites are genuine moral reasons or that the agents who act on the strength of it are thereby acting well, morally speaking.³²

I take this to mean that, however games have to be conceived, whatever explains their existence, games do not arise out of an exercise of concepts, to state in Thompson’s terms, necessarily including deontic judgments.

But why not exactly? And what exactly are deontic judgments? The reason why games cannot exemplify the concept of a practice in the desired sense is stated in a footnote where Thompson establishes that it follows, from the fact that we can restrict the notion of games in a way such that if you do not follow the rules of the game, you are no longer playing the game, that “action in accordance with the rules of game are only *instrumentally* necessary to continued play.”³³

But this seems insufficient to clarify the notion of deontic judgments. Games, after all, include punishment, umpires and referees, foul moves, juries and jurymen. Making a foul move does not look like making no move. It is rather like making a *wrong* move, one for which you can be punished according to the rules (generally known by the participants). Playing a game or the existence of a game seems *to presuppose the presence of rules that favor a*

³¹ Ibid., p. 179.

³² Ibid.

³³ Ibid., p. 178, f. 16.

certain type of action. Otherwise, how could there be competitions, championships, Olympic games, and so on?

But even conceding games as a wrong case of practices, what do we have to say in cases like: ‘Why did you make of Mary entering before at the lift?’ ‘Because gentlemen give way to women.’ ‘Why are you shaking the hands of that man, pronouncing your name?’ ‘Because an educated person always says her name and shakes hands when introduced.’ Why are these not deontic judgments? And if they are not, how do we have to manage with practices like stopping at traffic lights, paying taxes, and laws in general? Are these practices such that once you do not act according to their rules, you are in some way not playing? And why?

The answer cannot be deferred to the easiness with which we can leave the practice. Maybe it is important to recall here that, according to Thompson, the essence of a deontic judgments is that it has to be intended as a rule “the general reception” of which “enters into the constitution of the phenomena to which it pertains,” and “cannot be founded on a long run of experience dealing with these phenomena.”³⁴

This seems to suggest that a practice is itself a necessary thing. A practice, that is, is not a *contingently given system of rules*, once we have it there can be necessary actions. It must be something able to dictate necessary actions by being necessary in its turn. But this is not what Rawls says.

By illustrating his concept of practice, and after having clarified that practices “are set up for many reasons,” Rawls individuates, among the reasons for setting up practices, the fact that “in many areas of conduct each person deciding what to do

³⁴ Ibid., p. 177.

on utilitarian grounds case by case leads to confusion, and that the attempt of coordinate behavior by trying to foresee how others will act is bound to fail.”³⁵ The alternative to this, “one realizes,” is that of “establishing a practice.” And he adds: “it is essential to the notion of a practice that the rules are publicly known.”³⁶ Establishing a practice then means *publicly* defining “a new form of activity.”³⁷ The publicity condition is essential. This explains how establishing a practice is the source of our obligations.

The idea, briefly stated, is that whether, under the summary conception, it can be the case, actually it will be the case, that in some occasions I will get the best for the whole by violating the rule (including cases in which I’ll be the beneficiary of good, provided that nobody is damaged), publicly establishing a rule should include such a condition. But establishing a rule, which includes the condition that anybody can draw him/herself from, whenever it seems a good thing to do, and anybody knows that anybody would, means establishing nothing. If we decide to install traffic-lights for reducing accidents, there will be cases in which stopping at a red light will produce social loss. Still, it makes no sense to install a traffic-light which everybody knows that everybody will stop at, only when they will consider it a good thing to do. For what would be the gain in foreseeing, coordinating, reducing uncertainty? The rule according to which promises must be kept derives from this.

It follows from what we said that nothing in such a public condition implies that people sharing rules and acting according them share anything *identical*. Actually, this is explicitly denied by Rawls. “It must, of course, be granted—Rawls says—that the

³⁵ “Two Concepts”, p. 36.

³⁶ *Ibid.*

³⁷ *Ibid.*

rules defining promising are not codified and that one's conception of what they are necessarily depends on one's moral training. Therefore it is likely that there is considerable variation in the way people understand the practice, and room for argument as to how it is best set up. For example, differences as to how strictly various defenses are to be taken, or just what defenses are available, are likely to arise among persons with different background."³⁸

“Considerable variation,” “room for argument,” “differences in evaluating available defenses,” all have to be taken as *genuine, substantive, disagreements* on whether or not an action falls under a practice, that is nothing conceptual.

IV

According to Thompson, Rawls eventually came to realize that his conception of practices was too thin to work, even if, unfortunately, this brought him in the wrong direction of TJ. In hypothesizing what brought Rawls to the declining route of TJ, Thompson individuates as the probable cause, Rawls' conviction, already sketched in “Two Concepts” and diffusely argued in TJ, that practices embody criteria for excuses. For Rawls, namely, a packet of rules, stating when not keeping a promise, for example, is justified, is part of the practice. Such an apparently reasonable idea is, nevertheless, what “impeded his defense of transparency in ‘Two Concepts’ and later forced him to quite different type of transfer principle we found in *A Theory of Justice*.”³⁹ The reason, this time, is easier to understand. Actually, we already hinted at the point.

³⁸ Ibid., p. 41.

³⁹ *Life and Action*, p. 184.

Insisting that a system of rules or a practice also includes releasing clauses, as we can call them, means admitting that people sharing a practice can still disagree on a substantive matter, having, for example, different ideas on what counts as a promise or when circumstances are such that one can be released from an obligation. This would be in contrast with the formal, analytical, connection between practices and actions falling under them Thompson is looking for and essentially in contrast with what Thompson believes a practice is.

The way Thompson chooses to show that Rawls' idea that practices embody releasing clauses cannot work, however, is a little bit convoluted. The criticism starts with the claim that to take seriously the idea that practices embody their releasing clauses has as a consequence that practices embodying different releasing clauses are different practices. Besides, according to the clauses they embody, two similar practices of promising can be just or unjust. A practice of promising, that is, can be made unjust *as a whole*, so to say, by its not including certain releasing clauses. In fact, it would be rejected, as a whole, in the original position.⁴⁰

Thompson judges this a crazy move. He opposes the idea that there cannot be one, two, or three *similar* practices of promising, but just one. And such a unique practice of promising can be associated, in certain societies, for example, with widespread error⁴¹. Thompson does not provide a direct argument for this, but he supports the thesis by showing the unsustainability of assuming Rawls' idea.

Were practices of promising to include different releasing clauses for different practices, some just some unjust, then the members of societies where the unjust practices are settled would

⁴⁰ Ibid., p. 185.

⁴¹ Ibid., p. 186.

face the following condition: they would clearly not be bound to actions that under the just practice would be considered either not promises or promises that the circumstances allow not to keep, but they would be entitled not to keep even those promises that would be considered obligatory under the just practice. Because a practice embodying a weird or absurd understanding of the rule “promises must be kept” is unjust as a whole and therefore it never binds.

In a sense, this is an extraordinary accusation. Given that Rawls strongly believes and overtly affirms that all the existing societies are unjust, in one way or another, it is like Thompson is accusing Rawls of saying that we have to feel free, as members of unjust societies, to do whatever we like. Our societies, after all, are not regulated by the principles we would choose in the original position, so it is just a chance that we are not killing each other, that we are paying taxes, that we are refraining from stealing from each other whatever we need, or not running the red light. Clearly, Rawls does not say anything like this and Thompson’s conviction that it follows from Rawls’ claim that unjust practices do not bind us that we can do whatever we like is a *non sequitur*.

I can see that even under unjust practices I can have personal moral obligations, starting with helping to establish just institutions, and how obligations that I have under a *just* system of cooperation do not exhaust all my duties. Yet, I cannot see how unjust institutions can make me free to do whatever.

To me it is not the same to say that a system in which I am *not* released from returning my money back if I promised, even if my baby is dying and I need that money to save her life, is an unjust system, and to say that, given that a system is unjust, then I can do everything that I want. Maybe, under an unjust system, it is my duty to try to ameliorate it; it can be my duty to try to change it or

to convince other people that it is crazy. Maybe I do have to keep some of my promises to not worsen the situation. The fact that unjust institutions do not produce institutional obligations does not mean that we do not have personal obligations. On the other side, principles for individuals are not the same as principles for institutions.

Thompson seems to believe that Rawls' distinguishing between principles for institutions and principles for individuals, as he does in TJ, is a way to patch up his inconsistent conception of social practices. He says, again in a footnote: "the account of the obligation of promises in *A Theory of Justice* [...] is meant to supply the deficiency. For there he systematically distinguishes between two readings of the proposition 'promises must be kept' and the necessity expressed in it. On one reading it formulates a mere 'constitutive rule' – something in the nature of a rule of a game [...]. On another reading it formulates a genuine moral principle, the Principle of Fidelity, and the necessity expresses in it is that of moral requirement."⁴²

But why the distinction between obligations that I have with respect to others with which we share a fair system of cooperation, that is, just practices, and those that I have independently from a system of cooperation has been such a bankruptcy is unclear. But if it is not a consequence of rejecting a certain system of rules that we can do whatever, being deprived of any reason for acting decently, what is the difference exactly between one single system of rules of promising, understood differently in various societies, and many different systems of rules of promising?

In considering the possibility that systems embodying different releasing rules are different, Thompson starts by noticing the ease

⁴² Ibid., p. 179, f. 17.

with which we can compare a practice of promising different from our own, as for example one in which all of our promises have to be kept, “come what may,” with the particularly rigid ways in which some members of our society follow *our* system of rules of promising. Regarding these particularly rigid members of our society, Thompson says, there is only one possible verdict: they are not grasping the practice.

But what about societies in which all the members behave and understand the rule as our ungrasping members? Generally, Thompson recognizes, in passing from considering the behaviors of the members of our society to those of members of different societies, we are tempted to transit “from quantity to quality,”⁴³ differently evaluating the two cases. It is not the case that the members of a different society do not correctly grasp the rule (namely, in the way we grasp it), they just see things in a completely different way. For Thompson, on the contrary, there is no reason to think that such a difference really stands⁴⁴.

But if the very same practice can be associated with widespread mistakes, how do we know when something is a genuine practice, maybe the “form of life” in people very different from us, and when instead is it a misunderstanding of some genuine practice?

Could we not say that infibulation, for example, is just a wrong application of the practice, let’s say, of protecting our families? And how do we know? How do we establish which fundamental principle of a practice is an application and, in some cases, a misapplication? I suspect that Thompson’s answer here would be that we have to look inside ourselves. And, in particular, in our self-understanding of the form of life we are the bearer of.

⁴³ Ibid., p. 186.

⁴⁴ Ibid., p. 186.

Even if I will not venture in reconstructing Thompson's idea of social practices, it can be added that, for Thompson, social practices have to be understood as our form of life, our second nature. And it is a mark of *our* form of life that we can become aware of it. To understand what we have to do is to understand who we are according to our own conception of ourselves as a particular form of life⁴⁵.

However, this completely leaves open the question of establishing whether our form of life is compatible with a different system of values or different cultures. Though Thompson insists that we are bearers of forms of life, he never clarifies who is the "we" in question; "we": the humanity, "we": the members of this community, "we": the bearers of such and such culture?

But this is not the real question because once we pose the question of who is the "we" in question, we can easily see how problems not only arise with respect to different cultures or communities, but with respect to each society too.

Remember that according to Thompson differences among societies are parallel to the different ways in which some particular members of our society can apply our own rules. We said of them that they simply do not grasp the rule. But is this really so? Imagine that we all agree that there should be some system of punishment in our society. However, according to some punishment includes the death penalty, meanwhile according to others the death penalty is nothing but state assassination. Clearly, someone is not grasping the practice of punishment. But what does it mean?

⁴⁵ *Ibid.*, p. 200. For the concept of form of life, see the first essay.

Why is there not a substantive disagreement? The reason, I think, is that practices are meant to bring a substance within morality which is not made of empirical considerations on what human beings are, what they need and what their deepest interests are, how they psychologically work and what we know of sociological laws, but through a sort of intellectual self-clarification passing through an understanding of our form of life.

But it is hard to see how this can help us to decide whether or not to have public instruction, a generous welfare state, minimum wage, restrictions on the strength of capitalism, prison regulation, and whatever else a just society, made of just practices, should require.