

Recognising Resentment: Moral Emotions and the Burdens of Dealing with the Past

Self-confessed man of resentments that I am, I supposedly live in the bloody illusion that I can be compensated for my suffering through the freedom granted me by society to inflict injury in return. The horsewhip lacerated me; for that reason, even if I do not dare demand that the now defenceless thug be surrendered to my own whip-swinging hand, I want at least the vile satisfaction of knowing that my enemy is behind bars. Thereupon I would fancy that the contradiction of my madly twisted time-sense were resolved.

(Jean Amery, *At the Mind's Limits*)

"Do you see this boy? He is my grandson. And I will teach him to remember and to hate. I will teach him to kill!"

(Bosnian woman, Srebrenica, 1998)

We are forced to live together...Because of that we are all pretending to be nice and to love each other. But it is known that I hate them and they hate me. It will be like that forever.

(Mostar resident, 2001)

I don't understand this word "reconciliation." I can't reconcile with people, even if they are in prison...If a person comes to ask my forgiveness, I will pardon him after he has resuscitated the members of my family that he killed!

(Genocide survivor, Rwanda, 2002)

Authoritarian political regimes imprison, kidnap, spy, torture and kill, thus frustrating their victims of many aspects of a purposeful life. Government sponsored crimes can be placed on a continuum ranging from the milder forms of coercion - for example restrictions on the freedom of movement and speech, expropriation, denial of public services - all the way to genocide. Such actions are most of the times met with resentment, hatred and indignation.¹ Sometimes, these negative emotions mobilise the population to push for change. Once the regime has fallen, victimisers frequently become the target of the emotionally charged desire for justice. In other cases, the state's grip over society is so strong that atomisation and apathy ensue, while negative emotions surface only in the post-authoritarian phase, if at all.

Irrespective of whether violent manifestations of outrage or apathy characterise the transitional moment, the young democratic institutions need to concern themselves with what these reactions are symptoms of. Seriously engaging with public emotions and, at the same time, initiating a process of democratic emotional socialisation are two imperatives of transitional moments.

While dealing with high levels of resentment seems to be a more immediate task as it threatens to destabilise the order of the new regime, engaging with societal apathy is just as important. Apathy, as much as resentment and indignation, can endanger the good functioning of democratic institutions for it is often a marker of disillusionment with politics, distrust in public institutions or perceived powerlessness. These are all detrimental to the prospects of establishing democratic institutions and mechanisms of political accountability.²

¹ Resentment is the individual's emotional response when she faces an injustice to herself whereas indignation is the feeling that arises in the individual from witnessing an injustice done to another. For this distinction see, for example, John Rawls, *A Theory of Justice*, (Cambridge Mass: Harvard University Press, 1999).

² There is a vast literature in democratisation studies that bears testimony to the particularly negative impact that political apathy can have within societies making the transition from authoritarianism to democracy. For the importance of a vibrant civil society within consolidated democracies see Daniel Lerner, *The Passing of Traditional Society* (Glencoe: Glencoe, 1958), Robert Dahl, *Who Governs* (NY: Macmillan, 1961), Herbert McClosky, "Consensus and Ideology in American Politics," in *American Political Science Review* LVIII (June 1964), Harry Eckstein, *Division and Cohesion within a Democracy* (Princeton: Princeton University Press, 1965). For both enthusiastic and sceptical accounts of the potential of participatory citizenship in transitional contexts see Goran Ahrne, "Civil Society and Uncivil Organizations"

While acknowledging apathy as one of the two possible extreme affective attitudes that can characterise transitional moments, my project will be focusing on the outburst of negative moral feelings that can accompany the change from an authoritarian to a freer regime. I believe there are good reasons why any account of democratic transition needs to seriously engage with the reality of post-authoritarian public resentment and indignation. There are two types of arguments supporting the necessity of transitional justice processes. Prudentially, we need to take into considerations both the dangers and the opportunities that these negative emotions are related to. First, we need to institutionally orchestrate transitional justice mechanisms in a way that avoids major societal disruptions such as civil war or abusive extra-legal justice. The instrumentalisation of the victimisers for the sake of satisfying the victims' thirst for revenge should be avoided as much as possible under the harsh circumstances of transition. Procedurally rigorous processes need to be set up for the purpose of rectifying injustice without undermining the stability of the young democratic regime. Secondly, we need to understand that public expressions of moral outrage should not be seen only with suspicion, but also positively. Resentment has a bad reputation due to its association with blind vengeance and its tendency to emphasise the problems of the past to the detriment of a future orientation. However, taking the past seriously and engaging publicly with the victims' affective responses represents a first opportunity for the post-authoritarian elite to embark on the democratic socialisation process and for the citizens to participate politically. What people feel, how they feel and how they act on their feelings constitute essential problems for a young democratic regime. Creating democrats involves channelling, filtering, and moulding citizens' emotions in a way that teaches them the rules of the new political game. Appropriate affective responses are part of the political culture of any society and, in a democracy, certain rules for public emotional expression must be observed. There is a necessity that individuals and groups learn or remember how to take responsibility for what they want to do in the name of their violated sense of justice. As we shall see later on, an emphasis on rule of law standards within public juridical proceedings are a main avenue for the pedagogy of democratic citizenship.

The second argument for taking resentment and indignation seriously is a normative one. These feelings are a marker of an evaluative capacity to recognise injustice. As such, they qualify as legitimate objects of importance for any democratic order. Should a polity make the transition to democracy without opening a discussion about the legacies of the past and without taking the victims' claims seriously, its normative consistency would be endangered. One cannot at the same time proclaim the values of equal liberty for all citizens and silence some of them for stability or other political reasons. Dealing with the past thus becomes a normative necessity that disqualifies the imposition of amnesic policies. Transitional justice can be postponed for the sake of stability but cannot be done away with without violating the core of democratic values.³

In this paper I shall try to provide an account of the moral and social psychology of democratic transitional moments. In order to unpack the multiple dimensions of public emotional expression in the early stages of democratic transitions - in terms of both the obstacles and the opportunities it creates for the institutional entrenchment of democratic norms - we need to work on a precise conceptualisation of the individuals' sense of justice and of its relationship with feelings of resentment and indignation. What is it that makes these feelings an appropriate object of concern for any set of democratic institutions? What kind of emotional responses are they? What is it that makes them at the same time potentially dangerous and potentially beneficial for democracy?

and Piotr Sztompka, "Mistrusting Civility: Predicament of a Post-Communist Society," in Jeffrey C. Alexander (ed.), *Real Civil Societies* (New York: Macmillan, 1993); Dahrendorf (1994); Dumitru Sandu, *The Sociology of Transition* (Bucuresti: Staff, 1996); W. Misher and R. Rose, "Trust, Distrust and Scepticism", *Journal of Politics* vol. 59, no. 2, May 1997, pp. 418-451; Juan Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe* (New York: New York University Press, 1998); Iszvan Szelenyi, *Capitalism without Capitalists* (Bucuresti: Omega, 2001); Alina Mungiu-Pippidi, *Politics after Communism*, (Bucuresti: Humanitas, 2002); Naomi Roth Ariaza "Civil Society in Processes of Accountability" in Bassiouni (2002), pp. 97-114. I have dealt with such phenomenon in the context of Eastern European transitions to democracy in my Licenta Thesis, *Political Apathy: A Problem of Socialisation?*, submitted to the University of Bucharest, Political Science Department, July 2003.

³ One of the most relevant examples of a polity that has decided to postpone transitional justice processes till more favourable conditions emerged is Spain.

The sense of justice or, alternatively, the sense of injustice, has been the object of theorising in moral psychology,⁴ political theory,⁵ legal theory⁶, theology⁷ and anthropology⁸. For the sake of the broader purpose of my project - which is to advance towards a political theory of democratic transition - I shall start by engaging two of the most influential accounts of the sense of justice in liberal political theory, those offered by John Rawls and Judith Shklar⁹. Both theorists treat the reactive feelings of indignation and resentment as transient negative manifestations of a more enduring moral disposition to act on publicly recognised principles of justice, manifestations which can have a socially and politically corrective function within non-ideal circumstances. While acknowledging some of the useful theoretical conclusions of this literature, I shall try to show its insufficiency when it comes to accounting for very young democratic regimes. Because of their connecting the development of the sense of justice with the favourable conditions of a constitutional democracy and to democratic principles of justice, contemporary liberal theorists cannot account for the political realities that make the object of this project.

However, we must not give up so easily. There are two important theoretical elements that make these accounts appropriate as a starting point for analysing what it means to be morally resentful or indignant within transitional moments. The first element I will focus on is the weak constructivist position on emotions that these two authors seem to endorse. A weak constructivist views the principles guiding the sense of justice as coming from outside the individual, namely from a socially endorsed conception of justice. The biological is also given some weight, as the expression of moral emotions is linked to what makes us human.¹⁰ Secondly, the sense of justice is theorised as a durable disposition expressible in negative moral feelings. For both Rawls and Shklar, the experience of injustice is usually met with public expressions of outrage: resentment by those who directly experience it and indignation by witnesses.

At this point, two questions naturally emerge. First, where does the individuals' sense of justice get its content from when they have not been socialised under or benefited from a democratic regime? And second, is democracy bound to deny voice to the resentful claims of the victims of authoritarian regimes? Is there any way democracy can recognise the legitimacy of negative reactions towards the crimes of such regimes when these reactions are not expressed in democratic language? These questions will guide our inquiry throughout this paper. The view I hope to defend is that, while emotional claims by transitional justice victims are constitutively compatible with democratic principles of justice, the endorsement of regulative emotional rules needs to be institutionally stimulated, both as a matter of prudence and of democratic normative consistency. That is to say, while democracy recognises the appropriateness of such affective responses to government sponsored harms, the manner in which they are manifested publicly needs to become the object of institutional filtering so as to avoid the undermining democratic values. The weight of the unjust past cannot be ignored, yet how a society remembers and presses rectificatory claims makes proper object of institutional pedagogy.

The rest of the paper will be dedicated to answering these questions in a way that values the lessons derived from Rawls's and Shklar's accounts. The second section will try to clarify what exactly we mean when we talk about a weak constructionist view of emotions. I shall proceed by engaging with the recent literature in social and moral psychology. The hope is to discover the mechanisms through which socialisation partially constructs our affective register and instils us with publicly appropriate forms of emotional

⁴ Two useful collections of classic articles but also of the latest developments in the philosophy of moral emotions see, Stephen Leighton (Ed.), *Philosophy and the Emotions. A Reader*, (Broadview Press, 2003) and Robert C. Solomon, (Ed.), *What Is an Emotion?* (New York: Oxford University Press, 2003).

⁵ See John Rawls, "The Sense of Justice", in *The Philosophical Review*, vol. 72, no. 3, (Jul. 1963), pp. 281-305, and *A Theory of Justice*, (Cambridge Mass: Harvard University Press, 1999); *Political Liberalism*, (New York: Columbia University Press, 2005); Judith Shklar, *The Faces of Injustice*, (New Haven, Yale University Press, 1990).

⁶ See Edmond Cahn, *The Sense of Injustice*, (New York: New York University Press, 1949). A more recent empirically driven treatment of the subject can be found in Markus Dirk Dubber, *The Sense of Justice: Empathy in Law and Punishment*, (New York: New York University Press, 2006).

⁷ See for example, Joseph Butler, LL.D., *Fifteen Sermons Preached at the Rolls Chapel and a Project upon the Nature of Virtue*, W.R. Matthews (Ed.), (London: G. Bell and Sons Ltd.: 1949).

⁸ See Clifford Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology*, (New York: Basic Books, 1983).

⁹ See footnote 5.

¹⁰ By contrast, a strong constructivist position would deny any role to the biological and would claim emotional responses are thoroughly the product of social construction. On the theoretical weaknesses of positions belonging to this class see Ian Hacking, *The Social Construction of What?*, (Cambridge Mass.: Harvard University Press, 1999).

expression. As we shall see, the internalisation of emotional rules, no less than of any other rules, constitutes us as members of a political and cultural community.¹¹

Next, I shall examine what a weak constructivist might have to say about the sense of justice. This moral disposition will be conceptualised formally, divorced from the favourable conditions of a consolidated liberal democracy. Attention will be paid to the way in which social norms contribute to the constitution and regulation of the feelings afferent to the sense of justice. Special emphasis will be placed on the negative emotions in which the sense of justice finds expression: resentment and indignation as affective responses to what the individual perceives as unjust treatment towards herself or the others.

The last section of this paper will provide an account of the constraints that a democratic, egalitarian theory of human worth would place on the expression of negative moral feelings within the context of transitional moments. The hope is to get an idea of the rules of emotional appropriateness that democracy needs to instil its citizens with, be they victims, witnesses or former victimisers. Voice cannot be given unconditionally, the material and normative reproduction of democracy dictates the establishment of institutional checks on the type, the manner and the duration of public emotional displays.

Let us now take a closer look at the recent liberal views of the sense of justice, its object, development, and legitimate forms of expression. Rawls's conception of the moral power to act on publicly embraced principles of justice and Shklar's deploring of the dormant state of this power within consolidated democracies will get us on the way towards a theory of emotions within the context of dramatic democratic shifts.

I. Liberal Democratic Accounts of the Sense of Justice and Their Limits

I. 1. Moral Powers and the Stability of Principles

John Rawls has authored one of the most famous theoretical articulations of the concept of the sense of justice as an enduring moral sentiment which finds expression in feelings of guilt, resentment and indignation. Although his account is tailored for the well-ordered society and only marginally deals with non-ideal conditions, I shall briefly examine his contribution in an attempt to see whether it can help us make sense of emotional reactions within the circumstances of a transition to democracy. I shall first delineate his ideas as they appear in his 1963 article "The Sense of Justice"¹² and his two famous books, *A Theory of Justice*¹³ and *Political Liberalism*.¹⁴ In view of our interest in the moral emotional eruptions usually accompanying major democratic shifts, I shall try to see what theoretical resources we can derive from the Rawlsian account.

A Theory of Justice sets to provide a normative account of the derivation of the principles of justice but also a descriptive moral psychology that would ensure the stability of this conception. I shall not go into the extensive debate over the role of moral sentiments in the derivation of principles in the Original Position.¹⁵ The sources of motivation of the parties are different under the Veil of Ignorance and in the post-derivation phase. What interests me for the purposes of this project is the afore mentioned descriptive moral psychology which is meant to ground the stability of the two principles outside of the Original Position, in both full and partial compliance situations.

Rawls's conception of the person is an essential ingredient of his ideal theory of social justice. Individuals are conceived of as endowed with two moral powers: the capacity for a conception of the good and the capacity for a sense of justice. Similarity in the possession of these capacities normatively grounds equality for Rawls. This assumption is compatible with his allowing for differences of degree between individuals when it comes to the exercise of the sense of justice. These differences, however, do not exclude

¹¹ As will become obvious, the account of socialization I shall introduce is framed by the categories worked through by Talcott Parsons in *The Social System*, (The Free Press of Glencoe, 1964).

¹² Rawls, 1963.

¹³ Rawls, 1999.

¹⁴ Rawls, 2005.

¹⁵ For arguments on the unacknowledged contamination of Rawls's rationalist normative theory by sentimentalist elements see Susan Moller Okin, "Reason and Feeling in Thinking about Justice," in *Ethics*, Vol. 99, No. 2, (Jan., 1989), pp. 229-249; Sharon Krause, "Desiring Justice: Motivation and Justification in Rawls and Habermas," in *Contemporary Political Theory*, Vol. 4, 2005, pp. 363-385; Michael L. Frazer, "John Rawls: Between Two Enlightenments", in *Political Theory*, Vol. 35, No. 6, (Dec., 2007), pp. 756-780.

anyone from the realm of justice. They do, however, entitle those with a more developed capacity to a special claim with regards to certain offices.¹⁶ But what exactly is the sense of justice?

Rawls conceptualises the sense of justice as a sentiment, a permanent governing disposition to act on the two principles of justice as they would have been agreed upon in the Original Position:

We develop a desire to apply and to act on the principles of justice once we realise how social arrangements answering to them have promoted our good and that of those with whom we are affiliated. In due course we come to appreciate the ideal of just human cooperation.¹⁷

The development of this desire and the sustained motivational force of the two principles are conditioned by one having repeatedly benefited from living within a fair scheme of cooperation. The stable disposition to act on recognised principles of justice is part of a thin theory of the good for the members of a well-ordered society: it is rational for individuals in the original position to want the members of their cooperative scheme to share in the possession of a sense of justice.¹⁸ Thus theorised, the sense of justice ensures the stability of the conception of justice. Within partial compliance theory, its manifestation in negative feelings of resentment and indignation signals correctable injustices and can contribute to the greater approximation of the principles in practice. Once acquired, this capacity moves the citizens to support the institutional arrangements they have drawn advantages from. In addition, it motivates them to set up just institutions or reform the existing ones if justice demands it.

By consistently acting on the sense of justice, we fulfil what Rawls identifies as the natural duty to support and further just institutions. Natural duties are duties which do not depend on one's consent and which would be acknowledged in the Original Position. Positive duties include duties to uphold justice, to mutual aid and mutual respect. The most relevant negative imperatives are those demanding that moral agents abstain from injuring or harming the innocent. These duties are owed to individuals as persons, not as members of a political community. The natural duty to uphold justice gets fulfilled once individuals develop a sense of justice and contribute their part to the maintenance of just institutional arrangements.¹⁹

Because of the need to provide the conception of justice as fairness with a stable basis within individuals' psychology, Rawls engages in a reconstruction of the emergence of the sense of justice, a reconstruction he claims owes its inspiration to both empiricist and rationalist accounts of moral development.²⁰ The basic idea is that of a gradual maturing process stimulated by positive interpersonal experiences. It is the manifest intention of others to act for our good - starting within the family and culminating in the political community of just principles - that enables the development of a sense of reciprocal justice as an acquired new motive. Rawls states that people's tendency to answer in kind is a *deep psychological fact* making human sociability possible.²¹ It is our primitive natural affects that ground our disposition to act on the two principles of justice and Rawls goes as far as to claim that

One may say, then, that a person who lacks a sense of justice and who would never act as justice requires except as self-interest and expediency prompt, not only is without ties of friendship, affection or mutual trust, but is incapable of resentment and indignation. Thus a person who lacks a sense of justice is also without certain natural attitudes and certain moral feelings of a particularly elementary kind. Put another way, one who lacks a sense of justice lacks certain fundamental attitudes and capacities included under the notion of humanity.²²

Though partially determined by a set of natural affects that make us human, the sense of justice gets its content from the publicly recognised conception of justice and becomes efficient once just institutions have been firmly established and recognised as such:

Since a well-ordered society endures over time, its conception of justice is presumably stable: that is, when institutions are just, (as defined by this conception), those taking part in these arrangements acquire the corresponding sense of justice and desire to do their part in maintaining them. One conception of justice is more stable than another if the sense of justice that it tends to generate is stronger and more likely to override disruptive inclinations and if the institutions it allows foster weaker impulses and temptations to act unjustly.

¹⁶ Rawls suggests that a greater skill and facility in applying the principles of justice and in constructing arguments in particular contexts is an asset for a judiciary office. Rawls, 1999, p. 505-506. See also Rawls, 2005, p. 80.

¹⁷ Rawls, 1999, p. 474; see also 480.

¹⁸ Rawls, 1999, p. 398.

¹⁹ Rawls, 1999, pp. 109-116.

²⁰ Rawls, 1963; Rawls 1999, pp. 458-476, 495.

²¹ Rawls, 1999, p. 494.

²² Rawls, 1963, p. 299.

The stability of a conception depends upon a stability of motives: the sense of justice that it cultivates and the aims that it encourages must normally win out against propensities towards injustice.²³

The hypothetical presentation of the development of this moral power can be seen as belonging to a weak constructionist perspective: both general natural maturing processes and the force of socialisation are given their due within an account of the way in which moral development might happen in a well-ordered society governed by the contract doctrine.²⁴

Rawls acknowledges the need to further elaborate on the motivational force of the two rationally derived principles in relation to the sense of justice as a moral sentiment. Within his conception of justice, he claims there are several sources of this force. First, the principles are chosen by rational persons as providing ways to advance human interests. Second, they are continuous with the love of mankind. Thirdly, on a Kantian reading, acting on the principles of justice manifests individuals' nature as free and equal beings. Lastly - and most importantly for my project - given the content of the principles of justice, feelings of guilt and resentment are aroused by injustices which offend one's sense of justice. In this sense, we can see that Rawls might have envisaged a regulative function for these emotional responses within partial compliance theory.²⁵ Encountering someone's resentment and indignation is correlated with the experience of guilt in the agent.

The main characteristics of the sense of justice remain relatively unchanged with the transition to *Political Liberalism*. Here Rawls shifts the locus of the two moral powers - the sense of justice and the capacity for a reasonable conception of the good - from the person to the citizen socialised within a particular political conception of justice for a democratic society. Rationality and reasonableness will be experienced as good by individuals as citizens and not as persons - this distinction being crucial for Rawls's attempt to shed the comprehensive philosophical elements of *A Theory of Justice*.

The basis of moral motivation in the citizen relies on a power to form a conception of the good and the capacity to acquire a conception of justice. Citizens will have a desire to act on the principles of justice when they believe the institutions they found are just and that others will do their part. From within their comprehensive doctrines, they will find the motivational sources to support the principles of the public conception of justice. This enables the development of social trust between the integrated members of the cooperative scheme. Trust stabilises with the enduring success of their joint efforts.²⁶ For this purpose, the satisfaction of the publicity condition is equally essential as it places the conception of justice in the public culture of the polity, thus enabling its educational role:

In this way citizens are made aware of and educated to this conception. They are presented with a way of regarding themselves that otherwise they would most likely never be able to entertain.²⁷

This last observation on the educational role of the conception of justice leads us back to the weak constructionist reading I alluded to before. It highlights once again the fact that the sense of justice depends for its orientation on the content of a conception of justice. The publicly recognised conception of justice is political and transmitted through socialisation and backed by the coercive apparatus of the state. By reference to the two principles chosen in the Original Position, the sense of justice defines its object and delimits its scope. This idea had already been articulated in his 1963 article and was reiterated in *A Theory of Justice*. The disposition to act justly is a moral psychological capacity which matures with age and which depends on some basic affects that are part of our sociable humanity. At the same time, it is also highly determined by the socialisation one is subjected to as part of the reproductive efforts of the community. This is the first theoretical element that I shall retain from the Rawlsian account of moral sentiments. It will later become clear how weak constructionism can be useful for finding the sources of the individual sense of justice outside a liberal democratic culture.

The second relevant aspect is that negative, cognitive feelings are expressions of the sense of justice. In experiencing wrongs - towards oneself or others - the individual's moral power gets expressed in more or less transient feelings of resentment and indignation. When one is the author of injustice, the experience of guilt is accompanied by the expectation of others' resentment or indignation. These are moral feelings by virtue of the fact that, in explaining one's experience of them, an individual has to make appeal to the moral

²³ Rawls, 1999, p. 454.

²⁴ Rawls, 1999, p. 495.

²⁵ Rawls, 1999, p. 476.

²⁶ Rawls, 2005, p. 86.

²⁷ Rawls, 2005, p. 71.

concept of justice and its associated principles, no matter what conception they belong to.²⁸ Although Rawls does not elaborate too much on this, it seems correct to assume that the principles of justice will dictate the appropriateness of the experience of negative moral feelings and of the actions they might motivate the individual to perform.

The question that emerges from this exposition is: What do these two theoretical conclusions in ideal theory mean for the exercise of the sense of justice under partial compliance conditions? How far can ideal theory go in accounting for and guiding political action in imperfectly just societies?

In an attempt to set the limits of tolerance towards injustices within partially just societies, Rawls's treatment of the sense of justice in non-ideal theoretical terms focuses on the issues of civil disobedience, militant action and conscientious refusal. Partial compliance theory covers those constitutional regimes based on a publicly recognised conception of justice but which are only nearly just.²⁹ The situations that entitle citizens to engage in any of the above mechanisms of political resistance are violations of the two principles that he imports from ideal theory as standards of evaluation:

Viewing the theory of justice as a whole, the ideal part presents a conception of a just society that we are to achieve if we can. Existing institutions are to be judged in the light of this conception and held to be unjust to the extent that they depart from it without sufficient reason.³⁰

and,

We must ascertain how the ideal conception of justice applies, if indeed it applies at all, to cases where rather than having to make adjustments to natural limitations, we are confronted with injustice. The discussion of these problems belongs to the partial compliance part of non-ideal theory. It includes, among other things, the theory of punishment and compensatory justice, just war and conscientious objection, civil disobedience and militant resistance.³¹

Now, what exactly does Rawls have to say about facing injustice? When engaging in forms of political resistance such as civil disobedience or conscientious refusal, citizens appeal to the publicly recognised conception of justice and to the sense of justice of the community in order to attract attention to the misbalanced sharing of burdens within their scheme of cooperation. There is in place a just constitution which publicly articulates the standards against which both the government's policies and the citizens' plans have to be measured. However, in practice, policies depart from the publicly recognised conception of justice and result in massively skewed distributions of primary goods within society. The sense of justice of those engaging in civil disobedience would negatively manifest itself in acting on the legitimate feelings of resentment and indignation towards the normative inconsistency of governmental actions. This scenario fits well with what some have called transitional justice within consolidated democracies.³² In order not to contradict the normative consistency of democratic standards, civil disobedience remains within the boundaries of fidelity to law:

It should also be noted that civil disobedience is a political act not only in the sense that it is addressed to the majority that holds political power, but also because it is an act guided and justified by political principles, that is, by principles of justice which regulate the constitution and social institutions generally. (...) one invokes the commonly shared conception of justice that underlies the political order. It is assumed that in a reasonably just democratic regime there is a public conception of justice by reference to which citizens regulate their political affairs and interpret the constitution.³³

This case can be easily accounted for by Rawls's theory of the sense of justice. Within imperfectly just societies, the principles generally work but there are some correctable deviations. However, he does consider the possibility of a more radical form of political resistance: militant action whereby individuals or groups think the basic structure itself is unjust or blatantly departs from the principles of justice. I suspect the reason Rawls only briefly introduces militant action is related to its falling outside of partial compliance theory. The main aim of militant action is to make the public aware of the need for a change when the basic

²⁸ Rawls, 1999, p. 481.

²⁹ Rawls, 1999, pp. 363-388.

³⁰ Rawls, 1999, p. 246.

³¹ Rawls, 1999, p. 351.

³² See David Dyzenhaus, *Calling Power to Account: Law, Reparations and the Chinese Canadian Head Tax Case* (University of Toronto Press, 2005); Mayo Moran, "Trouble in Paradise: Evil Law and Transitional Justice in Stable Constitutional Democracies", University of Toronto, Centre for Ethics, *Fellows Series*, February, 2007.

³³ Rawls, 1999, p. 365.

structure is guided by the wrong principles. Appeal to the citizens' sense of justice is not an option as their sense of justice is erroneous or ineffective.³⁴ Rawls claims that some situations justify the recourse to militant action but he does not provide an analysis of this form of political resistance. However, on the basis of his views of the forms of political resistance limited by fidelity to law, it seems plausible to infer what he would have to say about this rather extreme case of political resistance. Here, two scenarios can be distinguished.

In the first scenario, there was a publicly endorsed conception of justice but it had been discarded by partisan interests. Militant action is in this case a radical form of conscientious political resistance. Militants do not appeal to the community's sense of justice because it is considered too weak and without effect - otherwise it would have prevented the sliding away from the principles. The choice of this more disruptive form of resistance depends on the severity of the injustice, the possibilities for social trust and mobilisation, but also on the ideology moving the militant group. The once publicly endorsed conception of justice provides the militant with a vocabulary in which he can formulate his claims and by reference to which he can design political alternatives. This scenario corresponds to the case of polities which have experienced democracy at some point in their history, have temporarily slid into authoritarianism and are then trying to make a democratic come-back.³⁵

This is not the case in the second scenario, a scenario Rawls is most vague about. One can easily historically identify societies in which the publicly endorsed conception of justice is not inclusive in the sense that it places some categories of individuals outside the scope of the community's sense of justice. It is not that the citizens' sense of justice is without effect, but, the militant would say, it is plainly erroneous. The principles of justice and their adjacent duties do not apply to certain groups which are excluded from political membership. In some historical cases, there is an exclusion from humanity which then justifies the perpetration of atrocities against the members of these categories. This, of course, is an extreme case, yet not an implausible one.³⁶ In this second scenario, there is no formerly endorsed just constitution to which one could appeal in order to publicly defend demands for reform. This is the case in which the militant - should he be given the opportunity for political expression by the ruling forces - tries to prepare the way for radical change. Should these marginalised groups resist and challenge the inegalitarian principles at the basis of their society, principles they themselves have been coerced to abide by, what account can we give of their moral psychology? Given that they contest the very principles governing the basic structure, they cannot be thought to have successfully internalised the norms justifying their exclusion. Where does their sense of justice derive its content from when it manifests itself in violent resentment and indignation? What principles do the subordinated make reference to when they protest, or, once the change of regime takes place, when they demand reparation? How far can one be made to appropriate the rules justifying one's oppression? As we shall see by the end of this paper, there is a multitude of normative sources that the militant can make recourse to, ranging from imported political conceptions of justice to comprehensive visions of the good available within the lifeworld of their societies. The question that still remains is whether and to what extent these alternative normative sources and the emotionally charged actions they motivate are compatible with the theory of moral worth that democracy endorses.³⁷

The two scenarios I have introduced with regards to militant action in non-ideal theory come closest to the type of extraordinary constitutional moments with which this project is concerned: the transition from an oppressive regime to democracy. This is a radical case of a democratic normative shift which Rawls did not engage. In order to answer the questions we set for ourselves at the beginning of this paper, we need to go beyond the scope of his conceptualisation of the sense of justice. For now, let us keep in mind two essential theoretical elements that, as I will try to show later on, might help us fruitfully move beyond his account: the

³⁴ Rawls, 1999, p. 368.

³⁵ Eastern Europe after the fall of the Berlin Wall is considered to be full of such examples. However, sometimes the democratic experience is so far away in the distant past that its normative sources have dried and the members of this polity are as much at a loss for a political vocabulary of resistance as the members of the polities with no previous democratic experiments.

³⁶ The history of Black slavery in the United States, the apartheid regime in South Africa or the subordination of women qualify as examples of long term oppression and discrimination with major consequences for the well-being of the subordinated groups. Among more recent and short episodes of exclusion from humanity see the genocide in Rwanda or the ethnic cleansing in the former Yugoslavia.

³⁷ Jiwei Ci presents us with attempt to provide a formal account of the sense of justice, or as he calls it, the disposition to be just, which is neutral among reasonable substantive views of justice. By limiting his account of moral motivation to reasonable conceptions of justice, he can also only deal with the first of the two scenarios I introduced above, one in which injustice can be framed as a break of reciprocity against the background of a culture which at some point endorsed reasonable just rules. See Jiwei Ci, *Two Faces of Justice*, (Cambridge Mass.: Harvard University Press, 2006).

weak constructionism of the sense of justice and its negative manifestation in feelings of resentment and indignation. Before I turn to an examination of how these elements can help us explain the workings of the sense of justice in transition, let us first examine another - equally influential - account of this moral power: Judith Shklar's vehement defence of the duty to act against public instances of injustice.

I. 2. Civic Duties and Passive Injustice

One tends to become aware of one's sense of justice most dramatically when one experiences an injustice, be it against oneself or another human being. This is why the negative expression of this moral sentiment through feelings of resentment and indignation has got more attention than its positive manifestation, i.e. the desire to act on principles of justice and the feelings of self and other respect associated with it.³⁸ Of all their characteristics, it is the importance of the regulative function that negative moral emotions can perform publicly that constitutes the focus of Shklar's account. She is alarmed by the citizens' failure to act against injustice within a constitutional democracy as she considers proper indignation to be a marker of good citizenship.³⁹

The reason why her treatment of the sense of justice is relevant for this project is twofold. First, Shklar successfully defends the importance of indignation and resentment for the reproduction of democratic values. These reactive attitudes need not be feared as dangerous for democracy. On the contrary, under certain conditions, they have a major corrective force that pushes for a greater approximation of democratic values in practice. Under certain circumstances, they should be preferred to indifference and apathy as they can remind us of the perpetually imperfect process of democratic legitimation. That is why, as in the case of Rawls, her account is useful when one tries to understand instances of transitional justice within consolidated democracies. Secondly, in spite of the fact that her account of the sense of justice is limited to the political culture of constitutional democracy, there are some formal theoretical elements that will enable us to make sense of other political contexts. As I shall show in this section, she shares with Rawls a weak constructivism perspective of moral emotions and the view of a strong relationship between the sense of justice and the emotional experience of resentment and indignation. Lastly, given her sombre - and sober - view of the functioning of the sense of justice within consolidated democracies, we may be in a better position to foresee the problems of political socialisation within transitional contexts and to better imagine the role that institutions might play in stimulating the proper, balanced exercise of this politically essential disposition.

Shklar defines injustice as the individual's failure to perform on her capacity to recognise injustices committed towards others. The central distinction for Shklar is that between injustice and misfortune. She criticises people's propensity to label injustices as misfortunes so that they can escape pangs of conscience when they do not feel compelled to act:

(...) the difference between misfortune and injustice frequently involves our willingness and our capacity to act or not to act on behalf of the victims. To blame or to absolve, to help, mitigate and compensate or just to turn away⁴⁰.

The main claim is that citizens ignore what their sense of injustice dictates whenever they refuse to (...) prevent acts of wrongdoing when they could and should do so (...) by passive injustice I (Shklar) do not mean our habitual indifference to the misery of others, but a far more limited and specifically civic failure to stop public and private acts of injustice (...) As citizens we are passively unjust when we do not report crimes, when we look the other way when we do see cheating and minor thefts, when we tolerate political corruption, and when we silently accept laws that we regard as unjust, unwise or cruel.⁴¹

Shklar limits her conception of passive injustice to people in their political role as citizens of a constitutional democracy. The cognitive capacity to identify injustice linked to major institutional abuses needs to be supplemented by a desire to act on one's assessments and ask for public accountability. This is not a matter of moral virtue, but of the positive duty of citizens to take victims seriously as a requirement of justice. She argues against falling into the temptation to neglect or ignore rather than to protect. This type of attitude, she says, is typical of the citizens of constitutional democracies who enjoy its benefits but do nothing to contribute to its preservation. Not acting on the sense of injustice represents a violation of what a minimal democratic ethos requires of the members of the political community. In contrast with the citizens of

³⁸ See, for example, Edmond Cahn, *The Sense of Injustice*, (Bloomington: Indiana University Press, 1949); Sir Patrick Devlin, *The Enforcement of Morals* (Oxford: Oxford University Press, 1965).

³⁹ Shklar, 1990.

⁴⁰ Shklar, p. 1.

⁴¹ Shklar, p. 5.

oppressive regimes, citizens of democracies always enjoy opportunities to act on their sense of injustice without fear of repercussions:

The possibility of such preventive civic activity is by far greater in a free society than in fear ridden and authoritarian ones, so I shall treat it as an aspect of the obligation of citizens of constitutional democracies only.⁴²

Shklar's attention is directed exclusively upon citizens' individual duties to act on their capacity to recognise the violation of other people's rights. She demands that they become indignant at the injustices that befall some members of the community and, although she does not elaborate on this, she intimates that it is only through collective pressure that institutional redress can be achieved.

Given her focus on the political culture of a constitutional democracy and the individual citizen as the main unit of interest, Shklar's account of the sense of injustice is only partially useful for our attempt to analyse dramatic democratic shifts. However, as in Rawls's case, Shklar has the resources to account for instances of transitional justice within consolidated democracies:

Most injustices occur continuously within the framework of an established polity with an operative system of law, in normal times. Often it is the people who are supposed to prevent injustice who, in their official capacity, commit the gravest acts of injustice, without much protest from the citizenry (...) it is not sufficient to look only at the causes of affliction; the self-understanding of victims must also be taken into account by a full theory of injustice. Moreover such a theory should concern itself with both formal and informal victims, both those who are legally or conventionally recognised as such and those who do not show up in even the best of social inventories of injustices. For there are many victims of injustice who fall entirely outside the reach of public rules. This is the case even though democratisation has now greatly expanded legal concern for the victims of crime.⁴³

Given that the rights repertoire and the relevant institutional channels are in place, such instances require the active pressure of citizens so as to realise the expansion of scope or content of rights. Only thus can the normative consistency requirements of liberal democracy be fulfilled. Citizens of mature democracies have been socialised within a public conception of justice that demands equal respect for all the members of the political community. They just sometimes fail to act on these principles, in spite of the existence of institutional avenues for action. Should citizens act on their sense of injustice, the existence of these avenues and the broader liberal political culture provide the supporting background for successful rectification.

The situation is different in transitional contexts given that the victims' sense of injustice seldom takes its content from democratic principles of justice, where there are no publicly endorsed sources that the discontent can appeal to in order to rectify unfair distributions of burdens.⁴⁴ In addition, the severity of political oppression, the moral effervescence of post-authoritarian moments and lack of favourable conditions for careful attribution of responsibility often may - and have - tempted victims of authoritarian regimes to instrumentalise victimisers for the satisfaction of their moral outrage. This is the first step towards engaging in acts which would pass as unjust under the newly embraced constitutional regime. While democracy can recognise the correctness of the emotional evaluation of the victimisers as guilty in view of the crimes they have committed, emotionally motivated actions need to be filtered through democratic norms. That is to say, within contexts of dramatic political shifts, the challenge is not to stimulate, but to temper the volitional element of the sense of justice, while nonetheless acknowledging the legitimacy of its evaluative verdict.⁴⁵ This is a normative requirement in the sense that democratic equality demands both that victims be heard and victimisers be treated fairly. In addition, if the new elites do not make sure institutional filters are in place to channel the legitimate feeling of moral outrage, a great opportunity to initiate socialisation for democracy would be missed.

It has become clear by now that Rawls and Shklar can provide us with some valuable theoretical insights about the structure, role and optimal intensity of moral emotions within democracies and polities that have had, at some point in their history, an experience with democracy that still has a strong imprint on public memory. However, in order to make sense of dramatic democratic shifts, we need to move beyond their accounts. Having reached the end of our excursus on the merits and limits of liberal views of the sense of

⁴² Shklar, p. 6.

⁴³ Shklar, p.15, 3x6.

⁴⁴ See the two scenarios I introduced at the end of the section on Rawls.

⁴⁵ As I mentioned before, depending on the seriousness of oppression, apathy rather than outrage can result. Finding the middle ground between violent expressions of emotion and apathy is the difficult task that lies ahead of post-authoritarian institutions.

justice, I shall now move on to a more in depth exploration of the two theoretical lessons we have derived so far. In the next two sections I shall try to clarify what it means to say that emotions in general - and the sense of justice in particular - are partially constructed by the norms that guide one's social and political context. We shall then be in a position to infer the type of emotional responses a democratic egalitarian theory of moral worth would sustain and promote within the citizenry.

II. A Weak Constructionist View of Emotional Socialisation

The conception of moral emotions I shall defend in this paper will be a weak constructionist one that, we have seen, both Rawls and Shklar endorse. The concern with the importance of emotions for social life is as old as philosophy itself. The debate has traditionally opposed cognitivists to those who emphasise the physiological dimension of emotional expression. The more recent literature in philosophy and psychology seems to be dominated by the former, although there still is a great deal of variation within their camp with regards to the exact relationship between judgement and feeling, belief and affect.⁴⁶ In spite of these differences, there is consensus on the function of emotions as evaluative dispositions conferring meaning to human experiences:

What is an emotion? An emotion is a judgement (or a set of judgements), something we do. An emotion is a (set of) judgement(s) which constitute our world, our surreality, and its "intentional objects." An emotion is a basic judgement about our Selves and our place in the world, the projection of the values and ideals, structures and mythologies, according to which we live and through which we experience our lives.⁴⁷

Cognitivists strongly disagree with those who portray emotions as purely irrational passions contaminating the higher parts of one's soul. On the contrary, they claim, emotions serve as a guide to human interaction and can thus motivate moral behaviour:

(...) precisely the role of emotion is to provide the creature – or as we might now get used to saying, the person – with an *orientation*, or an *attitude to the world*. If belief maps the world, and desire targets it, emotion tints or colours it: it enlivens it or darkens it as the case may be.⁴⁸

However,

(T)he aim of a cognitive theory of emotions is not to reduce the drama of emotion to cool, calm belief but to break down the insidious distinctions that render emotions stupid and degrading and eviscerate cognition.⁴⁹

Given the participation of belief in the morphology of emotion, the cognitivist position is sensitive to the role that socialisation can play in the history of an affective disposition. Among contemporary theorists of emotion, Ronald de Sousa's conception of the genesis and maturing of emotions within what he calls *paradigm scenarios* has injected some precision with regards to the mix of biological, psychological and cultural elements that enter the life of an affective disposition and inherently factor into the process of its socialisation:

A child is genetically programmed to respond in specific ways to the situational components of some paradigm scenarios. But what situational components can be identified depends on the child's stage of development. An essential part of education consists in identifying these responses, giving the child a name for them in the context of the scenario, and thus teaching it that it is experiencing a certain emotion. That is, in part, what is

⁴⁶ See, for example, Eroll Bedford, "Emotions and Statements about Them", in Solomon (2003); Robert C Solomon, *The Passions*, (Notre Dame: University of Notre Dame Press, 1983); Ronald de Sousa, *The Rationality of Emotion*, (Cambridge, Mass.: MIT Press, 1987); Martha Nussbaum, *Hiding from Humanity*, (Princeton: Princeton University Press, 2004).

⁴⁷ Robert C Solomon, "On Emotions as Judgements", in Leighton, 2003, p. 68.

⁴⁸ Richard Wollheim, *On the Emotions*, (New Haven: Yale University Press, 1999), p. 15.

⁴⁹ Solomon, 2003, p. 175. One of the best defences of cognitivism comes from Richard Wollheim who looks at the place of thought in emotion by making a distinction between the role it plays in rational inquiry and in serving emotion:

When thought is denied a place in emotion, this is for the reason that to allow it in would be to intellectualise emotion in an unacceptable fashion. But this argument erroneously assumes that, inside emotion, thought will operate in the same way as it does inside, say, inquiry, and it overlooks the fact, considered in the first lecture, that thought is a merely instrumental disposition. Thought takes on an end from the outside. So, when thinking is made to serve inquiry, it serves the end that inquiry pursues: it aids in the construction, or purification, of some truth-oriented picture of the world. Equally, when thinking is recruited into the service of emotion, it helps to strengthen, or elaborate upon, some attitude that we have towards something in, or held to be in, the world. It follows that, if thinking intellectualises belief, there is no reason to conclude that it will intellectualise emotion. (Richard Wollheim, *On the Emotions*, (New Haven: Yale University Press, 1999), p. 117).

involved in learning to feel the right emotions, which, as Aristotle knew, is a central part of moral education (*Nicomachean Ethics*, II 2).⁵⁰

Building on De Sousa's contribution, the important role of socialisation - in terms of both its constitutive and regulative dimensions - has become the focus of the most recent developments in the social constructivist theory of emotions. This conception allows for a weak and a strong version, depending on the weight the biological bears on the development of emotions. In what follows I shall briefly present the constructivist thesis in its weaker version. As mentioned before, strong constructivism denies any importance to the natural, while weak constructivists portray an account of human emotion as partially determined biologically, but also very malleable to socialisation.⁵¹

The constructionist perspective of emotion is part of a larger theory of the social construction of human experience the most famous representative of which is George Herbert Mead.⁵² The weak variant admits, however, that while a lot of human emotional attitudes depend on training in accordance with a social norm, other attitudes are natural:

A social constructivist view of emotion does not envision a completely plastic organism, the proverbial blank slate on which experience can write unhindered. Homo sapiens is a biological species and millions of years of hominid evolution make some patterns of response easy to acquire and others difficult or almost impossible. But this being granted, it must also be recognised that the biological constraints on human behaviour are rather loose.⁵³

The naturalist thesis according to which social emotions are merely regulated biological responses is rejected as unnecessarily impoverishing our account of human experience.⁵⁴ Emotions are based on beliefs, judgements and desires which are partially the product of a social environment. The object of an emotion is made up of an instigation, a target and an objective. For example, in the case of resentment, the instigation is the experience of a wrong towards oneself, the target is the person who inflicted the wrong, while the objective is the punishment, or the correction of the wrong.⁵⁵ The individual's experience of a certain emotion is dependent on his having internalised the rules that are constitutive, regulative and heuristic for that particular emotion.⁵⁶ These rules themselves reflect the social norms guiding interaction within a particular community. In the case of moral emotions, rules reflect the theory of moral worth that a society or a sub-group within that society embraces.⁵⁷ Successful emotional socialisation will result in the formation of context appropriate emotions and their expression in culturally sensitive responses. With time, the individual learns to take responsibility for his emotional reactions in particular contexts and he can be held accountable for his affective performance. This is how he grows to enter a certain "transitory social role." By internalising the rules that define the role, one lives up to social expectations:

In order to perform a role adequately, an actor must not only know his own part, and the parts of others, but he must also understand how the various roles relate to the plot (and subplots) of the play. (...) In the case of social roles, the plot is the cultural system.⁵⁸

⁵⁰ De Sousa, "The Rationality of Emotion" in Leighton, 2003, p. 212.

⁵¹ In this expose I shall follow Claire Armon Jones, "The Social Functions of Emotion", in Rom Harre, (Ed.), *The Social Construction of Emotion*, (Oxford: Basil Blackwell, 1986), pp. 57-82 and "The Thesis of Constructionism" in Leighton 2003, pp. 181-203; James R Averill, "A Constructivist View of Emotion", in *Emotion: Theory, Research, and Experience*, Vol. I, Theories of Emotion, Robert Plutchik and Henry Kellerman (Eds), (New York: Academic Press, 1980), pp. 305-339 and "The Acquisition of Emotions during Adulthood," in Harre, 1987, pp. 98-118; Roger Scruton, "Emotion, Practical Knowledge and Common Culture" in Amelie Oksenberg Rorty (ed.), *Explaining Emotions*, (Berkley: University of California Press, 1980), pp. 519-536.

⁵² George Herbert Mead, *On Social Psychology. Selected Papers*, (Chicago: Chicago University Press, 1964).

⁵³ Averill, 1987, p. 101.

⁵⁴ Armon, 2003, pp. 186-188.

⁵⁵ Averill presents these three possible components of the object of an emotion but says that not all are present in all emotions. He exemplifies these components and the way in which the rules of emotion apply in his book length treatment of anger and its relationship with aggression. See James R. Averill, *Anger and Aggression: An Essay on Emotion*, (New York: Springer-Verlag, 1982).

⁵⁶ Averill, 1987, p. 106.

⁵⁷ Armon, 2003, p. 183.

⁵⁸ Averill, 1980, p. 314-315. The foundational work for role socialization in general can be found in Parsons, 1964. Here, the emphasis is, however, on a specific class of norm, those of emotional appropriateness.

This conclusion is warranted by the cognitivist premise that the capacity for moral judgement predates moral emotions and grounds them. An understanding of the publicly endorsed moral rules is a precondition for the development of moral sentiments. It is thus possible to subject emotional responses to rational critical appraisal depending on how accurately the individual evaluated the situation eliciting the emotional response and how appropriately he manifested it in behaviour. Thus, objectively,

If emotions are cognition based, then this allows that they can be subjected to rational persuasion and criticism. For example, agents can be reasoned out of their anger just because the emotion is based on attitudes which can themselves be critically appraised in respect of whether they form an accurate or reasonable construal of the situation. If the agent misinterprets the situation as an insult, then we expect and consider him able to relinquish his anger. This point is relevant to constructionism because it allows that emotions can be endorsed or condemned with respect to the social appropriateness of the attitudes by which the emotion is generated, and that agents can be held responsible for the possession or absence of those emotion attitudes which are socially required for a situation.⁵⁹

and subjectively,

It is important to stress continually the difference between the emotion itself as a judgement and our reflective judgements about our emotions (judgements about our judgements). My being angry is my making a judgement; my recognition that I am angry is a reflective judgement about my anger (as is my judgement that my anger is justified, that, on reflection, the other person deserves [or doesn't deserve] my wrath, etc.).⁶⁰

Due to the malleability of emotion in relation to reflective judgement, it becomes clear that emotions can and are meant to fulfil important functions for the reproduction of the collectivity,⁶¹ both in terms of limiting undesirable behaviour and encouraging the maintenance and wider endorsement of societal values:

(...) every emotion establishes a framework within which we commit ourselves – or refuse to commit ourselves – to our world and to other people. Every emotion lays down a set of standards, to which the world, other people, and most importantly, our Selves are expected to comply.⁶²

To the extent that educating the understanding and the activity that are part of emotion is possible, educating emotion by providing individuals with a sense of emotional appropriateness is possible. But how does socialisation proceed? How does an individual grow to inhabit the appropriate temporary roles that emotions are? How are affective rules internalised in order to allow for a good functioning of the individual within his group?

The core process at the basis of socialisation is that of internalisation of external – social, cultural, political - norms.⁶³ Social psychologists divide the sources of motivation into intrinsic and extrinsic. Intrinsic motivation has its source in the individual and is considered to guide the most autonomous activities, those undertaken for the pure sake of interest and not because of the consequences that ensue from them. By contrast, extrinsic motivation has its sources in external norms of behaviour, the individual acts only for the sake of sanctions, be they rewards or penalties.

When successful, internalisation of external norms ensures psychological integrity and social cohesion:

(...) internalisation is an active, natural process in which individuals attempt to transform socially sanctioned mores or requests into personally endorsed values and self regulations. (...) When the internalisation process functions optimally, people will identify with the importance of social regulation, assimilate them into their

⁵⁹ Armon, 2003, p. 191.

⁶⁰ Robert C Solomon, "A Subjective Theory of the Passions" in Leighton, 2003, p. 71. While constructivists allow for some degree of passivity of the emotion, when it comes to clear cases of non-natural attitudes, the claim is that we interpret our reactions as passive rather than active and this reproduces the common image of passions: "an emotion is a transitory social role (a socially constituted syndrome) that includes an individual's appraisal of the situation and that is interpreted as a passion rather than as an action." (Averill, 1980, p. 312).

⁶¹ Armon, 1986.

⁶² Solomon, 2003, "A Subjective Theory of the Passions" in Leighton, 2003, p. 79. For an interesting critique of Solomon's cognitivism, which however recognizes the adaptive function of emotions see Patricia S. Greenspan, "A Case of Mixed Feelings: Ambivalence and the Logic of Emotion," in Leighton 2003, pp. 91-116.

⁶³ See Deci and Ryan, 2000, p. 233-237.

integrated sense of the self, and thus fully accept them as their own. In this way they will become integrated intrapsychically but also socially.⁶⁴

Depending on how far the individual goes in appropriating the social norms, we move on a continuum from external regulation to introjection, identification and finally, integration.⁶⁵ As mentioned before, *external regulation* ensures compliance to social norms by means of external rewards and threats. Once these are removed, the individual has no other source of motivation to act on these norms. This is the most unstable and the most controlled regulatory process. *Introjection* goes a bit deeper than external regulation but it only amounts to a superficial endorsement of the rules by the individual. The threats and rewards are administered by the individual but are not stable. The introjected rules have not become part of the self. As the resulting behaviour is not self-determined, there is a high risk of instability and unpredictability. *Identification* moves us towards a self-determined regulatory mode. The individual identifies with the rule, she recognises the value underlying it and she accepts it as her own. This is not yet the most perfect form of internalisation as the behaviour is cultivated instrumentally. It is only with *integration* that the external norm is in harmony with all other aspects of the self which thus enters a condition of coherence. This is the form of internalisation which most fully expresses the individual's self-determination in the appropriation of the external source of motivation.

The degree to which the social norms are internalised within the individual's sense of the self depends on the relationship between the content of the norm to be internalised and its effect on the satisfaction of the individual's interest and needs. External motivation through sanction will keep her motivated, but this is an unstable basis for compliance as it might be either resisted or, in very severe cases, push the individual towards psychological pathology. Defence mechanisms are needed to deal with feeling torn between two commands: one dictated from the outside and one coming from one's own rebellious expectations, needs and interests, as determined by biology or by an alternative normative source that she considers authoritative. Depending on the seriousness of the deprivation, the individual may respond through "inappropriate emotions" of resentment internally or externally – in the latter case he would risk social sanction - or introject, compartmentalise, engage in rigid patterns of behaviour, substitute her needs, all at great psychological costs.

Therefore we can conclude that social norms are demands or expectations that the individual encounters immediately through sanctions or rewards - meant to encourage compliance - and mediately through a long process of norm internalisation at the end of which she experiences the norm as her own - this is what is often referred to as the "second nature".⁶⁶ Building on Aristotle, but admitting for variance within and among groups, constructivists believe that the individual learns *to feel the right emotion, on the right occasion, toward the right object and in the right degree*.⁶⁷ For the successfully socialised individual, personal and social norms coincide, there is no room for conflictual emotions. We now need to be a bit more precise about the types of rules that successfully socialised persons need to appropriate.

The rules that need to be internalised are classified by the constructivist as constitutive, regulative and heuristic.⁶⁸ Constitutive rules cover the appropriateness of the emotion's object, e.g. one cannot be angry at the moon. Regulative rules determine how emotions should be experienced and expressed, internally, and if the conditions are favourable, externally, i.e. behaviourally.⁶⁹ Regulative rules cover the type and intensity of behavioural responses that express the emotion as well as the time span and progression of emotional events. Last but not least, heuristic rules belong to the art of finely tuning one's emotional manifestations and constitute the object of adult emotional development. These rules obviously correspond to the two components of emotion, the cognitive and the volitional. Problems with the education of emotions can be explained by reference to violations of these rules.⁷⁰

⁶⁴ R.M. Ryan, J.P. Connell and E.L. Deci, "A Motivational Analysis of Self-Determination and Self-regulation in Education," in C. Ames and R.E. Ames, (Eds.), *Research on Motivation in education: The Classroom Milieu*, (New York: Academic, 1985), pp. 13-51.

⁶⁵ Deci and Ryan, 2000, p. 237. My presentation of the four modes of self-regulation closely follows their account which obviously heavily relies on Parsons (1964).

⁶⁶ Averill, 1980, p. 329.

⁶⁷ Scruton, 1980, p. 522.

⁶⁸ In what follows I shall follow Averill's typology of rules regarding emotions. See Averill, 1987, p. 106-109.

⁶⁹ The distinction between the internal and the external experience of emotion has been excellently presented in Wollheim, 1999, p. 115, 128.

⁷⁰ Imperfect internalisation of constitutive rules is labelled neurotic, violation of regulative rules results in delinquency (broadly defined), while incomplete appropriation of heuristic rules makes one socially inept. Averill, 1986, p. 109.

In what follows I shall use the analytical tools provided by the social constructivist in order to give an account of one's sense of justice and its negative expression in feelings of moral resentment and indignation. The hope is that, by the end of next section, we will have understood what it means to feel resentful inside and outside one's political community in a way that sheds light on instances of democratic transition. My general claim shall be that while democracy can recognise the constitutive validity of authentic transitional reactive emotions, work needs to be done to stimulate the endorsement of rights-friendly regulative and heuristic rules. In order for the social and political benefits of resentment to become apparent, a balance between violent outbursts of moral hatred and apathy needs to be found in the proper expression of resentment. But first let us turn to how we get to feel what we feel morally.

III. Constituting and Regulating Resentment and Indignation

In moral psychology, the generally agreed upon starting point for a discussion of negative moral emotions is Strawson's article on *Freedom and Resentment*.⁷¹ There he lists resentment among the reactive attitudes one is liable to simply by virtue of interacting with others. He does not, however, think resentment can have moral character; he restricts the class of moral responses to indignation and disapprobation.

Dissatisfied with Strawson's conflation of all emotions with reactive attitudes and with his restrictions on the class of moral sentiments, Jay Wallace embarks on a book long criticism of Strawson's account of what it means to hold someone accountable.⁷² For Wallace, guilt, resentment and indignation are moral reactive attitudes when connected with moral obligations as a special case of expectations:

I propose that reactive emotions be classified as moral when they are connected with moral obligations (...). More precisely, we should count reactive emotions as moral when they are linked with obligations for which the agent is herself able to provide moral justifications; these justifications identify reasons that explain the agent's own efforts to comply with the obligations in question, and they provide moral terms that the agent is prepared to use to justify such compliance on the part of others, whom the agent holds to the obligations. When they are linked to obligations of this kind, it is natural to treat reactive emotions as moral sentiments, since their explanation essentially requires moral beliefs, namely beliefs about the violation of what the agent herself correctly regards as moral obligations. The explanatory role of such moral beliefs gives these emotional states a distinctively moral content. And in fact we commonly do regard resentment, indignation and guilt to be moral emotions when they are incited by beliefs about the violation of moral obligations.⁷³

The stance of holding someone morally accountable features blame and moral sanction as responses. The expression of the moral emotions of resentment, indignation and guilt, Wallace thinks, performs an important function within the moral community:

In expressing these emotions then we are not just venting feelings of anger and hatred, in the service of an antecedent desire to inflict harm for its own sake; we are demonstrating our commitment to certain moral standards, as regulative of social life. Once this point is grasped, blame and moral sanction can be seen to have a positive, perhaps irreplaceable contribution to make to the constitution and maintenance of moral communities; by giving voice to the reactive emotions, these responses help to articulate, and thereby to affirm and deepen, our commitment to a set of common moral obligations.⁷⁴

By basing the moral reactive attitudes on moral belief and by acknowledging the social function that these reactive emotions accomplish, Wallace opens his account to the weak constructionist thesis. He claims that moral reactive attitudes make sense wherever the moral notions of obligation, right and wrong are in place. Given that these notions are specific to a certain cultural and historical context, he thinks other moral emotions, such as shame and anger provide the regulatory framework outside of these contexts. This conclusion could be reinterpreted if we articulated the relationship between reactive attitudes and the local moral order. Reactive emotions in response to the violations of one's moral expectations differ depending on how these expectations have been shaped by the local theory of moral worth and by how far the individual has internalised the norms of this theory. Once we understand this, we can easily explain variability not necessarily in terms of the absence of some emotions in some cultures but in terms of the types of

⁷¹ P.F. Strawson, *Freedom and Resentment*, (Oxford: Oxford University Press, 1962).

⁷² Jay Wallace, *Responsibility and the Moral Sentiments*, (Cambridge Mass.: Harvard University Press: 1994).

⁷³ Wallace, 1994, p. 36.

⁷⁴ Wallace, 1994, p. 69.

circumstances that render resentment, indignation, guilt, anger and shame appropriate in different cultural and political contexts.

In view of this observation, I shall conceptualise the sense of justice as being a complex moral disposition to act on the principles of justice defining the conception of human worth that sets the general parameters for a community's socialisation projects. It is an enduring sentiment, characterised by relative stability. By contrast, feelings are temporary mental states that sometimes express a long term disposition.⁷⁵ Resentment and indignation are the negative feelings in which the sense of justice as a durable disposition finds expression. Being a moral sentiment, the sense of justice presupposes the centrality of the self and its relationship to the world and it has two components: a cognitive/evaluative component and a motivational/action orienting one.⁷⁶ This moral disposition provides the individual with the capacity to recognise breaches of her moral expectations, as defined by the theory of moral worth she had been socialised in. This is expressed in feelings of resentment and indignation. The volitional dimension gets actualised through the development of a desire to act on these evaluative feelings in the form of moral sanctioning and punishment.⁷⁷

Resentment and indignation are the negative emotional responses triggered by the offence of the sense of justice. As such, they belong to that class of emotions identified by theorists like Scruton as having a universal object: particular injustices which give rise to resentful responses are thought to be instances of injustice as a universal category within a particular community:

Such emotions seem to abstract not only from the particularity of their object but also from that of their subject: it is only accidentally I who am feeling this indignation – the call to indignation might have been addressed to and taken up by another. The emotion is, as it were, impersonal. Learning its proper exercise involves acquiring conceptions of justice, appropriateness, and right which propose themselves as universally valid, and which remove the object of emotion from the sphere of any merely personal resentment of dislike. One might say, therefore, that the education of these universalised emotions is an essential part of moral development.⁷⁸

If we continue to work along constructionist lines, wrongful acts are deviations from the rules that hold together the fabric of the individual's relevant community. Through the socialisation of moral emotions, such wrongs are meant to be identified and met with disapproval, given they are based on correct evaluations of the facts. Resentment and indignation in response to a wrong, like all universal emotions, are highly educable through the power of experience and exemplarity:

It is not difficult to see how one might educate such "universalised" feelings. Having shown a man what is contemptible in one instance of cowardice, and having brought him to feel contempt towards it, one will necessarily have brought him to feel contempt on like occasions. In educating such emotions one is educating a man's values, and providing him with a sense of what is appropriate not just here and now but universally.⁷⁹

The sense of justice is of extreme political importance. Not all instances that arouse the sense of justice are politically relevant. However, the frustration of those moral expectations that are related to one's status as a member of the political community - or lack thereof - are most of the times the object of negative affective reactions. Public institutions such as the education system and criminal law socialise citizens towards the development of some basic set of attitudes that ensure the maintenance and reproduction of the political community and its systems. It is essential for the proper functioning of institutions that the majority of individuals have internalised the constitutive, regulative and heuristic rules limiting behavioural expressions of emotions. These rules are usually reflections of the wider societal culture and, in a stable polity they are endorsed by citizens from within their comprehensive doctrines.⁸⁰ The training of both the cognitive and the volitional aspects of a politically relevant moral emotion places the individual in the position to function as a full member of the political community and to identify those areas where correction of injustices is required.

⁷⁵ The distinction between sentiments and feelings is widely shared in the moral psychology referred to in this paper. For a clear account of this difference see John Rawls. Rawls, 1999, p. 479.

⁷⁶ This is a point of agreement for cognitivist accounts of emotions.

⁷⁷ On the relationship between the intentionality of emotion and desire, see Wollheim, 1999, p. 15.

⁷⁸ Scruton, 1980, p. 525.

⁷⁹ Scruton, 1980, p. 526. To these universal emotions, Scruton opposes *particular* emotions such as love and grief, whose objects are concrete and unique, not merely instantiations of a general category.

⁸⁰ See Rawls, 1999 and 2005. For an elaborate theoretical account on the relationship between law and the morality of the community see Ronald Dworkin, *Law's Empire*, (Oxford: Hart Publishing, 1998).

What counts as injustice will vary from one collectivity to the other. Observing constitutive rules of resentment or indignation would mean reacting resentfully or indignantly only to those circumstances which are seen as unjust according to the moral code of the relevant community. Regulative rules would prescribe what can be done in the name of these attitudes, for how long, and with what intensity. Last but not least, heuristic norms would point to the refined ways in which one could express the emotion while at the same time staying true to its underlying social norm.

In order to get a better idea of the theoretical conclusions that have so far emerged, let me introduce a schematic representation of the dimensions along which we have been theorising the sense of justice, whatever its principled content. To recapitulate, the relevant group’s theory of moral worth⁸¹ gives the sense of justice its guiding principles. It stipulates who the subjects of justice are i.e. who is owed duties of justice and who is outside the scope of justice. Depending on the position the individual objectively occupies on the scale of human worth, the group entitles her to feel different moral emotions. For example, it would be appropriate for any woman living in a 21st Century Canada to be morally outraged should she be denied a right to property. A slave owner in the nineteenth century United States would be angered by a slave’s resentful answer to white maltreatment. The individual’s system of expectations and emotional responses is defined by her place in the ranking. Socialisation stabilises her expectations over time. Experiences within one’s social environment reinforce one’s sense of the self and its position with regards to others.

Let us now look at a schematic representation of the multiple dimensions of the sense of justice, in terms of the relationship of the individual to himself and to others as expressible in positive and negative moral emotions.

	A. Self to Self	B. Self to Others
1. Positively (The Sense of Justice)	Attachment to the principles of justice one considers authoritative translates into a sense of the self and correlative expectations of predictable treatment from the others. One develops a sense of entitlement/desert as a subject of justice, whatever justice requires. This usually gets expressed in a sense of self-respect. Other positive feelings	Attachment to the principles of justice one considers authoritative translates into a sense of others as subjects of justice and of the correlative duties. Who counts as belonging to the realm of the subjects of justice and the variety of duties owed to them is defined by the recognised theory of moral worth.

⁸¹ I borrow the concept of “a theory of human worth” from Jean Hampton, “An Expressive Theory of Punishment” in Wesley Cragg (Ed.), *Retributivism and Its Critics*, (Stuttgart: Franz Steiner, 1992).

	associated with this dimension of the sense of justice can include pride, group loyalty, patriotism, etc.	This usually gets expressed in attitudes of respect and can be expressed through feelings of solidarity, community, trust, civic friendship, etc.
2. Negatively (The Sense of Injustice)	A capacity to recognise injustice to the self in the form of the frustration of moral expectations legitimated by the principles of justice one considers authoritative. This usually gets manifested in feelings of resentment/moral hatred.	A capacity to recognise injustice to others as the violation of their expectations legitimated by the principles of justice one considers authoritative. This capacity usually gets manifested in feelings of indignation/moral hatred.

Let me now go over the four positions in the table and try to clarify what a formal account of the sense of justice can contribute to our understanding of social, political and emotional phenomena. The table represents the perspectives of the individual on herself and the others as recipients of justice in relation to both positive and negative experiences. Once I have elaborated on the four cells, I shall examine the potential normative sources individuals can make appeal to in formulating rectificatory claims within transitional justice contexts.

Cell A1 corresponds to the individual's sense of the self in relation to the position she has been ascribed by the theory of human worth she has successfully internalised. Depending on the position the individual sees herself as occupying in terms of her value, she develops a set of expectations of treatment by the others. Provided her expectations are stable and generally fulfilled, her sense of self-respect is stable over time. In the case of a non-egalitarian theory of human worth, even the individuals at the bottom of the hierarchy can develop such a sense of self-respect - and even pride - given that what an outsider might consider oppressive treatment is predictable and does not push the biological limits of socialisation. What from a liberal point of view might seem a violation could be accepted as just deserts by a person socialised to believe that justice require that she be treated unequally.⁸² Societies based on inequality have their own conception of justice which shapes the individual's patterns of expectations. It is possible that a person learns to believe she deserves the type of treatment she generally receives. The development of pride and self-respect is not necessarily precluded by unequal treatment. As long as there is agreement between the rules one has internalised and the behaviour of others - be they social actors or institutions - the stability of the sense of the self and of the social and political institutions is ensured.

Cell B 1 covers the type of attitudes an individual forms towards the others according to the theory of moral worth that colours the world for her. She forms dispositions to respect the others and a desire to consistently act on the principles of justice and the duties they prescribe. However, different attitudes are deemed appropriate depending on the others' relative position in the scale of moral value. I do not exclude the possibility that some might fall outside the category covered by the sense of justice and hence are owed no duty at all. The scope of the sense of justice on this dimension is limited by one's conception of human worth and the limits of one's relevant group. Any collectivity which relegates human beings to the sub-human realm by virtue of a certain physical or cultural feature denies these individuals coverage under their sense of justice.

Cell A2 covers the cases in which the individual experiences threats to her sense of the self through violation or frustration of legitimate expectations regarding the self as a subject of justice. If the individual has successfully internalised the norms of a certain theory of human worth, she will feel resentment whenever the moral expectations of treatment get frustrated at the hands of other individuals or state institutions. Resentment is formed in response to attacks on one's sense of the self as viewed from within the theory of human value one endorses. Based on the assessment of the situation as unjust, the individual forms desires to morally sanction the perpetrator and correct the wrong. Through the perpetration of the injustice, her sense of the self has been threatened. Through punishment, she wants to reaffirm its value.

Cell B2 corresponds to the feelings an individual forms as a third party when she witnesses a moral wrong committed against another human being. Should the victim be treated in a way that does not correspond to her moral rank, a third party might experience feelings of moral outrage at witnessing a transgressor's acts. This is the feeling Shklar would have liked to have a stronger motivational force for

⁸² See Hampton on the subjective experience of harm. Hampton, 1992.

democrats, but which, in transitional moments, can erupt in scape-goatism if it does not get tempered by publicly orchestrated processes of transitional justice. A *via media aurea* needs to be found in the expression of both resentment and indignation for these feelings to perform a positive rectificatory function within a democracy. I shall come back to this point in the last section of the paper.

The formal account of the sense of justice gets us closer to answering the two guiding questions of this paper. Our first question referred to the normative resources a victim can rely on under an authoritarian regime when voicing her claims, inwardly or outwardly. Alternative normative sources will be examined in order to show the diversity of anti-oppressive positions victims can take.

Emotional expressions that usually demand a solution in transitional moments can easily be interpreted as results of a tension between the individual's expectations - as defined by the publicly proclaimed conception of justice, by his comprehensive doctrine or by an alternative, borrowed political conception that he finds authoritative - and the abusive practices of the government. Let us try to examine alternative scenarios.

Should the publicly recognised conception of justice recognise the individual as a subject of rights and a citizen of the political community while treatment by state officials or rival groups deny her this status, one is likely to experience injustice emotionally. Authoritarian regimes have had public, written constitutions, but they never had actual force, they were mere empty documents. The tension between what is publicly declared to be the case and the actual treatment of citizens by the state organs leads to tension in the individual who can only be motivated to abide extrinsically, through rewards or punishments. The valid, yet unobserved, constitutions can serve as normative sources for the individual's expression of his evaluative emotions.

Exposure to an alternative political conception that resonates with the citizens' needs and interest can also act as a catalyst for resistance and change. Sometimes, this borrowed conception is only partially understood and gets distorted in being used for reformist purposes. A variant of this scenario is when a prior experience with democratic institutions in the not too remote past of the polity serves as an important referent for the individual's sense of justice. There is a vast literature on how important a prior experience with democracy is, both in terms of the prospects of returning to democracy and in the success of re-democratisation efforts. Both these variables - prior experience with democracy and exposure to an alien political culture - serve as useful explanatory tools for 20th Century transitions to democracy in Eastern Europe, but not only there.

The comprehensive visions of the good that citizens endorse can also provide them with the normative language to communicate reactive attitudes. Religious or philosophical moral codes are obvious examples. The Civil Rights movement in the United States is a case of transitional justice within an established democracy that counts as legitimate on Rawls's inclusive view of public reason and nicely illustrates this scenario.

Lastly, there are contexts in which a readily available alternative normative language is not present or it is not widely shared within the oppressed. In such cases, the victims formulate their claims in negative terms. If one looks at public protests during or in the immediate aftermath of transition in Latin America or Eastern Europe, demands were almost exclusively made non-constructively: "No more Communism," "Down with the Dictator," "Keep the military away."

As we have seen, the language of protest depends from one polity to the other. The sense of justice gets its content from different contextual sources which individuals find authoritative and which they have successfully internalised: religion, moral codes, a failed experience with democracy which preceded the unjust regime, a reactively imagined future, or, quite often, a borrowed democratic language with no or feeble roots within the polity. With the exception of the special class of the "converted", most authoritarian regimes have to rely on extrinsically motivating their populations. In the case of a transition to democracy, these claims, no matter what language they are expressed in, refer to harms that can easily be traced back to violations democracies would want to prevent or correct. After the fall of the regime, citizens are freed from fear and they can now affirm their need to form stable expectations towards one another and towards the institutions. Some of these expectations take the form of legitimate demands for rectificatory measures by the state. However, given their vehemence, there is always potential for abuses towards real or supposed victimisers. The first difficulty the young democracy has to face is dealing with the powerful moral feelings of victims and resisters in a way that does not instrumentalise anyone for the sake of satisfying moral anger. It is a normative imperative that democracy recognises the constitutive appropriateness of the victims' emotional claims while at the same time preventing victimisers from slipping outside of the democratic sense of justice.

Should the change of regime towards democracy come about through elite negotiations or outside intervention and not through popular resistance, the problem of a democracy without democrats is even more stringent. Citizens could not resist due to the pervasive oppression which disabled the formation of a minimal level of social trust. Only trust enables resistance. This does not mean that resentment was not felt during the reign of oppression. It might have been aroused internally, but, due to climate of fear maintained by the regime, it was not given voice outwardly.⁸³ Alternatively, long years of political and social subordination might end up in political apathy and disillusionment that replace the expression of negative moral feelings.

Another possible explanation for why in some contexts resentment or indignation do not get expressed - before or after the transitional moment - has to do with the virtues hailed by the comprehensive doctrines the oppressed subscribe to, whatever their sources. Should this view praise detachment from potential sources of suffering, strength of character and restraint of emotion, then, given sufficient commitment, one might be able to control resentment. Should one's worldview maintain that the sense of dignity is not diminishable, one might believe that resentment would be irrational. In some of the most extreme cases of oppression where the individual is brought on the verge of annihilation, the capacity for resentment can be lost.⁸⁴ In cases of historical injustice where oppressors excluded large categories of people from full human status, victims may have internalised the oppressive rules. In such cases, they would consider the others' attitudes towards them as deserved and not as a reason for resentful feelings. This is the case of women's subordination, of racial and ethnic historical oppression, such as that of African Americans in the United States and of the Aboriginal peoples in North America and Oceania.⁸⁵

These are some potential explanations of why sometimes resentment is not present in transitional moments. Indignation by third parties as witnesses to injustice is also more likely to surface in the post-authoritarian moment, be it because of safer circumstances or of a newly discovered moral up-rightness.⁸⁶

⁸³ For the difference between internal and external experience of emotions see Wollheim, 1999, pp. 114-115.

⁸⁴ Social psychology provides us with a vast literature on basic human needs and the ways in which their frustration can lead to psychological pathology. This literature claims to identify those particular needs whose satisfaction or frustration is essential for the good functioning of a human being. Among the seminal texts in human needs theory see: H. A. Murray, *Explorations in Personality*, (New York, Oxford University Press, 1938); A. H., Maslow, *Toward a Psychology of Being*, (New York: Van Nostrand, 1968) and *Motivation and Personality*, (New York: Harper and Row, 1987); K.Lederer et al., *Human Needs: A Contribution to the Current Debate*, (Cambridge: Oelgeschlager, 1980); E.L. Deci and R.M. Ryan, "The Dynamics of Self-determination in Personality and Development," in R.Schwartz (ed.) *Self-related Cognition in Anxiety and Motivation*, (Hillsdale, NJ: Erlbaum, 1985); Ervin Staub, *The Roots of Evil: The Origins of Genocide and Other Group Violence*, (Cambridge: Cambridge University Press: 1989); J Burton (Ed.), *Conflict: Human Needs Theory*, (New York: St. Martin's Press, 1990); I.L. McCann and L.A. Pearlman, *Psychological Trauma and the Adult Survivor: Theory, Therapy, Transformation*, (New York, Brunner Mazel, 1990); S. Epstein, "Cognitive Experiential Self-Theory", in M Lewis and J.M Haviland, *Handbook of Emotions*, (New York: The Guilford Press, 1990); R.F. Baumeister, *Escaping the Self*, (New York: Basic Books, 1991); L.A. Pearlman and K.W. Saakvitne, *Trauma and the Therapist: Counter Transference and Vicarious Traumatization in Psychotherapy with Incest Survivors*, (New York: W.W. Norton, 1995); L.E. Stevens and S.T. Fiske, "Motivation and Cognition in Social Life: A Social Survival Perspective," in *Social Cognition*, 13, (1995), pp. 189-214; Edward L. Deci and Richard M. Ryan, "The 'What' and the 'Why' of Goal Pursuits: Human Needs and the Self-determination of Behaviour" in *Psychological Inquiry*, Vol. 11, No.4, (2000), pp. 227-268 (this whole issue of *Psychological Inquiry* is dedicated to the state of the needs debate in social psychology); Ervin Staub, *The Psychology of Good and Evil. Why Children, Adults and Groups Help and Harm Others*, (Cambridge: Cambridge University Press, 2003).

⁸⁵ For an overview of themes in the victimology literature see, for example, HJ Schneider (Ed) *The Victim in International Perspective*, (Berlin: de Gruyter, 1982) and Adam Crawford and Jo Goodey (Eds.), *Integrating a Victim Perspective in Within Criminal Justice*, (Aldershot: Ashgate, 2000). Also, see Dillon's account of anomalous emotions due to socially inflicted damages to one's basal self-esteem: Robin S. Dillon, "Self-Respect: Moral, Emotional, Political", in *Ethics*, Vol. 107, No.2, (January, 1997), pp. 226-249. Barry D. Adam is one of the most vehement defenders of a social-psychological approach to inferiorisation that starts with the analysis of the psychological strategies individuals employ in order to cope with oppression. See Barry D. Adam, "Inferiorisation and *Self-Esteem*" in *Social Psychology*, Vol. 41, No.1, (March, 1978), pp. 47-53.

⁸⁶ The responsibility of by-standers to injustices is one of the major themes in transitional justice literature. For some insightful analysis see Norman Geras, *The Contract of Mutual Indifference: Political Philosophy After the Holocaust*, (London: Verso, 1998); Fabrice Virgili, *Shorn Women: Gender and Punishment in Liberation France*, (New York: Berg, 2002); also Staub, 2003.

With the return of conditions of safety, most individuals' reactive feelings come to the fore and ask for recognition.

Our second programmatic question was concerned with the post-authoritarian moment and the compatibility between the principles giving content to moral outrage and democratic values of equal concern for all under the law. What type of situations appropriately constitutes resentment and indignation according to the egalitarian theory of moral worth of a democracy? How must one act on these emotions in keeping with the newly proclaimed commitment to the values a democracy presupposes? An account of the limits democracy places on public expressions of emotion make the object of the last section of this paper.

V. Taking Responsibility for Resentment: Liberal Democracy and its Affective Rules

The authors who can help us start setting up realistic goals for transition are Jean Hampton and Jeffrie Murphy and their book on the moral and psychological dimensions of forgiveness and mercy.⁸⁷ The two theorists enter into a dialogue over cognitive moral emotions and their legitimacy. Both recognise the role of the social environment in the constitution of emotions and the functions emotions perform in the preservation of social norms. A community's theory of moral worth is supposed to provide the background for the expression of moral emotions. It decides debates over what it means for a human being to have worth, it establishes how worth is to be determined and how human beings should be ranked in a scale of human value. It must also have the means to adjudicate whether and how one can lose one's position in the ranking.

The endorsement of an egalitarian theory of human worth dictates that resentment and indignation serve as forms of defence for specifically personal values of the self:

I (Murphy) am in short suggesting that the primary value defended by the passion of resentment is self-respect, that proper self-respect is essentially tied to the passion of resentment, and that a person who does not resent moral injuries done to him is almost necessarily a person lacking in self-respect. (...) If I count morally as much as anyone else (as surely I do), a failure to resent moral injuries done to me is a failure to care about the moral value incarnate in my own person (that I am, in Kantian language, an end in myself) and thus a failure to care about the very rules of morality.⁸⁸

Murphy's emphasis on the need to defend the value of self respect publicly against the attacks of the responsible wrongdoer reveals an interesting reading of the Kantian view of dignity, one which allows for an intense subjective feeling of attack against one's equal status as a moral person through moral injuries.⁸⁹ Hampton's account is not much different. She claims resentment is felt by the victim of an injury and that punishment is seen as the way to reassert the victim's and the victimiser's equal moral worth.⁹⁰ This is what makes for an appropriate expression of resentment or indignation within the bounds of an egalitarian theory of moral value: resentment should be based on a correct assessment of the denial of moral equality and its expression should be regulated against self-righteous, over-moralising and over dramatising responses that would deny the victimiser equal moral personhood.⁹¹ Malicious and spiteful hatred, self-righteously claiming a superior rank for the victim over the victimiser, should be avoided at all costs:

A retributivist's commitment to punishment is not merely a commitment to taking hubristic wrongdoers down a peg or two; it is also a commitment to asserting moral truth in the face of its denial. If I have equal value to that of my assailant, then that must be made manifest after I have been victimised. By victimising me, the wrongdoer has declared himself elevated with respect to me, acting as a superior who is permitted to use me for his purposes. A false moral claim has been made. Morality has been denied.⁹²

However,

This aim means that the punisher must not do anything that could be interpreted as an attempt not merely to deny wrongdoers' claim to superiority but also to degrade them, that is, cause them in some way to lose value. Sometimes a crime is ghastly in the way in which it portrays the victim as vastly lower than the criminal or in

⁸⁷ Jeffrie G Murphy and Jean Hampton, *Forgiveness and Mercy*, (New York: Cambridge University Press, 1988).

⁸⁸ Jeffrie Murphy, "The Retributive Emotions" in Murphy and Hampton, 1988, p. 16-18.

⁸⁹ For an illuminating account of the complementarity of two views of human dignity – one deontological and one that allows for the role of recognition – see Leah Soroko, "Adjudicating Human Dignity: Towards a Critical Framework," paper presented at the *Law and Society Association Annual Conference*, Humboldt University, Berlin, July 2007.

⁹⁰ I will rely again on Amery for a personal account of the need to reassert moral truth:

My resentments are here in order that the crime become a moral reality for the criminal, in order that he be swept into the truth of his atrocity. (Amery, 1980, p. 70).

⁹¹ A similar point is made by Dillon, 1997, p. 230, 234.

⁹² Jean Hampton, "The Retributive Idea", in Murphy and Hampton, 1988, p. 125.

the way it seems to reduce him almost to a bestial level, for example, mutilation, torture, enslavement. (...) One cannot see the punishment as reasserting the moral facts if it involves doing something to the wrongdoer that either makes him or represents him to be degraded below the level of human beings generally.⁹³

The instigation for resentment is moral injury; the target is the victimiser, the objective is punishment. Within a society regulated by a theory of equal moral worth, any act denying equal status to an individual entitles her to resentment and third parties to indignation. Her expectations of equal respect have been betrayed and she desires a reaffirmation of her moral worth. This reaffirmation is, however, subject to limitations by regulative rules: punishment cannot take forms that would demean the victimiser. Private, extra-legal justice would be the most blatant form that a violation of equal respect could take.

The mechanism for ensuring compliance with both constitutive and regulative rules within societies embracing moral egalitarianism is that of public institutions, among which a criminal law system entrenching the principles of the rule of law is the most visible. This mechanism recognises the legitimacy of the victims' evaluative emotions while at the same time channelling, filtering and educating them in conformity with the demands of equal concern for persons. This is what democracies do. The pedagogical role that courts and trials play in stimulating the endorsement of both constitutive and regulative rules of emotions is part of democratic socialisation. Legal protection of the victimiser, as well as due attention to the victims' moral negative emotions are the way in which society shows concern for all its members equally.

What does this all mean for the relationship between the moral resentment and indignation that accompany transitional justice claims and the moral egalitarianism of democracy? At this point it seems safe to conclude that the moral injuries that authoritarian regimes are known to inflict on their victims would count as legitimate objects of resentment and indignation from a democratic point of view, no matter the language rectificatory claims are expressed in. Crimes ranging from expropriation to starvation, kidnapping, imprisonment, forced labour, torture, mass killings and ultimately genocide, can all be re-formulated in the language of denying equal respect that democracies recognise. Constitutive rules of emotion are observed when people morally hate their true victimisers. All these crimes constitute proper instigation for resentment and indignation. However, due to contextual factors, the targets of moral disapproval, i.e. the perpetrators, are sometimes difficult to identify and responsibility is hard to establish. Attribution of guilt needs a lot of caution in order to avoid scape-goatism.⁹⁴ In addition, once the target has been correctly identified, the regulative rules of morally egalitarian societies try to ensure no abuses are committed when resentment and indignation try to achieve their objective, namely punishing those responsible for the injuries. Victims of former authoritarian regimes are proper objects of concern for democracy. However, in order to maintain its normative consistency, the claims of victims should not give victimisers proper grounds for resentment.

We can therefore see that, irrespective of how the change came about, the question the new elites have to answer is: How can we give these legitimate feelings of moral resentment their due without at the same time undermining the normative basis of democracy? How can we stimulate the development of a disposition to consistently act on the principles of justice that liberal constitutional democracy is based on? These questions will form the subject of the following paper. At this point I would like to emphasise that, within transitional moments not only preventing, but - if failing to prevent - rectifying injustices is a duty that the very concept of democracy places on us. Democracies' elites would act inconsistently if they were to, on the one hand institutionalize their commitment to equal respect in a Constitution, and, on the other, omit to give both victims and victimizers the opportunity to voice their claims. Not addressing the violations of the past would be the expression of an institutional failure to act on the values of the democratic ethos.⁹⁵ The commitment to equal respect requires that we address the injustices perpetrated against victims in particular and against the society in general, in the form of a double enfranchising: general through the democratic constitution making and special through transitional justice institutional mechanisms. With Shklar, I believe that preventing injustice - but also correcting it - is not a matter of character or of supererogation. Supplementing Shklar, I would like to claim that opening the discussion about past abuses is a requirement that flows naturally from the basic endorsement of the egalitarian theory of human worth that democracy is committed to. But it is with institutions, and not with the citizens of a young democracy that our hopes can

⁹³ Hampton, 1988, p. 136.

⁹⁴ Human needs theorists have seen scapegoatism as a possible consequences of destructive mechanisms to satisfy basic human needs. See Staub, 2003, p. 55.

⁹⁵ Elie Weisel writes:

To forget would not only be dangerous but offensive; to forget the dead would be akin to killing them a second time. (Weisel, 2006, p. xv).

rest, as the political culture of the formerly authoritarian regime is not ready to meet the formal democratic constitution half way. And it just might be that we will have to wait for a generation or two before emotional regulative rules are integrated by the majority of citizens.