

The Perverse Normative Power of Self-Exceptions^{*}

Julia BARRAGÁN

ABSTRACT: One of the most disturbing problems of social decision making and indeed quite difficult to resolve is the need to reconcile individual rationality with that of society. While individual rationalizing rules indicate ways to maximize benefits without any restriction, the collective point of view tilts toward the limitation of individual maximization. This is the very core of the so-called Prisoner's Dilemma which is but a formal way of saying that there is good reason for every individual to defect on a bargain; the 'good reason', that generally takes the gentler form of a self-exception, is that if a player defects and his opponent does not, then the former profits. The purpose of this study is to show the highly erosive character of this self-exceptions and also to make evident its perverse normative power.

Keywords: Self-Exceptions, Prisoner's Dilemma, Cooperation, Normativity.

1 Introduction

From the point of view of the utilitarianism it is generally accepted that any transgression to the norms has a cost which should be assumed by the offenders. In the sphere of so-called private actions who produces a damage to other, should compensate him reimbursing the value equivalent at the cost derived from the offence. In the sphere of the so called public actions a new element appears: it is the social cost that the violation of certain norms brings about. In these cases, it is considered that the cost of the violation is not paid enough for the mere compensation; additionally it is necessary to adding the cost of the social disturbance associated to the violation.

In the case of the crimes, especially of those that are particularly repugnant to the collective sensibility, a high value is usually assigned to the social cost taking into account the erosive character that such actions have on the collective tissue, and the impact that they have on the credibility of the social relationships. The defence of the special sphere threatened by this type of crimes, is considered as an important social objective, and any lesion that it suffers is weighed and added at the individual cost of the transgression.

However, there is a certain type of transgressions that do not demand the same attitude when the social costs are evaluated. They are the so called self exceptions that are small offences, seemingly innocent (the violation of the order of priority in a queue, the brief parking in a forbidden place, the small deceit in the tax form), they however have a great normative power and also an immense capacity for eroding the public trust. In a general way the self exceptions individually considered do not show a dramatic profile and many times they could be presented as totally innocuous; however, many of the problems of social cohesion that affect to the contemporary society

^{*} The author acknowledges an important intellectual debt owed to J. Harsanyi (†), J. Griffin, J. Barcón, and E. Heymman. Also thanks R. Zimmerling for her comments and accurate revision. The adjective "perverse" in the heading has aptly been suggested by an anonymous referee.

are not but a transformation (not linear) of the innocent self exceptions. On the one hand they are able to diminish the efficiency of the community, by mean of the reduction in quantity and quality of the public resources; on the other hand, they also have a normative power (counter normativity) that makes them responsible for relatively important social costs that are not always considered in their exact weight.

When a member of the society violates a norm, a complex collective engagement is set in motion in order to restore the things to the previous balance; in order to achieve this goal the sanctions are used as a tool, to punish offenders in a degree that is directly proportional to the gravity of the violation. There are some cases of violation of the norms that specially grieve the society and are considered as true collective tragedies; among these the merciless murders, the acts of cruelty on people, or the acts of flagrant violation of the human condition are counted. Under these circumstances, it seemed that social answer tends to be deeper and more active, as such infringements constitute an authentic threat to the viability of the group. The authors of such violations, except for a few exceptions, also tend to accept the character of their behaviour; even when they manage to minimize the amount of the sanction by pleading attenuating circumstances or even when proffering a justificatory explanations, the idea that the social coexistence has been affected, in general is always present. This feeling is also shared by the rest society, even when this does not always mean assuming discriminatory attitudes or the drastic isolation of the offender.

There are other kinds of defiant behaviours which do not entail such a dramatic profile, and therefore do not constitute any superlative danger for collective existence but are also considered as disturbing the collective welfare. Although this category do not receive the same feeling of repulsion as in the previous case, such conducts are condemned without hesitation not only from the legal point of view but also at the social level; in this group are the violations that affect the property and the peaceful use of the goods. As in the previous case, the fact than an actor has committed a fault and continues to do so does not mean that he is unconscious of the distance between his conduct and the accepted normative marks of reference.

On the contrary, with the so-called self exceptions something particularly curious occurs. Generally, these are 'small' exceptions that, just like water flowing through rocks gets filtered in an overlapping manner, succeeds in percolating through the very basic soil foundation. In these cases, the actor is not only way apart from the legal or social order; he even dares to justify his attitude and to lend it legitimacy. He is almost proposing a new framework of legitimacy and consequently a new mark of normative reference. The most surprising aspect of these cases is that self-exception has a great power of seduction, and even those who do not practice it are inclined toward not openly condemning it, ending up tolerating it tacitly. In a general way this is due to the fact that we tend to underestimate the factor highly erosive that the self exceptions introduce in the collective relationships and its great normative power. This power mainly produces its negative effect on the use of common or public spaces and goods, and is able to undermine the collective trust. As these behaviours can affect the efficiency of the norms and institutions the consideration of the point has an important significance in the processes of legislation and design of public decision making. The

purpose of this paper is to show the highly erosive consequences for collective relations where self-exception tendencies are exhibited. Furthermore, the article tries to shed light on the great normative power which the insensible and unwitting consolidation of dis-social conducts may have on collective interests.

As for introduction of the topic we use a parable referred to loads established to make possible a collective space, it should be remarked that self exceptions take on many different forms that go from behaviours of omission (not to assume the socially established loads as contribution to the community), to active behaviours (to transgress prohibitions that protect the collective goods). In spite of the great variety of forms these behaviours cause similar effects on the social tissue and also share a common structure.

2. *A brief history of disillusion*

The village is beautiful. It harmoniously lies in a protected and shady valley. Gracefully, sunny mountains shelter it, with its slopes having deep marks of nature's work wrought through several centuries. Vines grow while smoke can be seen ascending from some solid stone houses. The orchards always remain green. As for the villagers, they go through a blissful cycle of dreams of watering, pruning, harvests and musts.

The very old still remember how it was long ago the village patron saint's day. It was a feeling of what seemed like an admixture of pagan exhilaration with innocence and rustic merriment that lead everybody to the village square: men and women, old and young and children, all in their most adorned country dresses. They all live together in this unusual, but genuine serenity of rural life, devoid of ill feelings. From early in the morning, the square is meticulously cleaned; its pavement which has seen centuries shining in deep-wet grey. Like treasure hunters, children reverently and silently take it upon them to ensure that not a leaf or stick remain littered, and announce with joy the discovery of any. Several men and women are in charge of garlands. Women are engaged in trying to keep the multi-coloured papers for the garlands in the proper chromatic sequence without entangling them in the ropes that support them. They must handle them carefully. The men have their tasks on top of ladders, completing the supports, pillars, checking the quality of knots and other structures. Men and women exchange suggestions, orders and advice and the echoes of laughter often beam through the air; at times with the risk of a twist at the top of the ladder. Doors and windows of the housing surrounding the square are converted into objects of decorative delight. Garlands and braided paper compete with other items that offer a silhouette, along with bells, balloons and fruit hung around. When the tasks are finished participants leave the scene proudly, animatedly, turning back occasionally to look at the effect of their work on the square from different angles.

By mid-afternoon, one or two carts arrive carrying a big empty barrel and several booths. A number of young people, undoubtedly more than are required, also arrive and begin to set up the container right in the centre of the square, on a support which has been provided. With a feeling of fulfilment and indeed pride, they make sure that the big wooden cork adjusts correctly and whether the faucets open and close properly. Booths are set up appropriately. Once the young people finish their tasks, they

drive away in their carts, leaving in the afternoon the stele of their rather noisy celebration.

In a formal sense, the festivities start at the end of the day, although the preparations go on through-out the day. From near and far, families start to arrive, always following the same ritual. The women display trays with the sweet aroma of food in the booths, removing the immaculately white linen cloth spread over them. Examining the result with critical eyes, they put in last minute aesthetic touches. Meanwhile, the men from the various families go to the barrel, uncover it and ceremoniously begin to pour in several litres of their best wine contained in various vessels.

During the next hours, excitement grows fast, especially propelled and stimulated by the good food, good drink, sweet talks and songs. Above all, every participant feels a deep contentment that it was worth the while to have been together, sharing culinary secrets treasured by neighbouring families. They especially delight tasting in the air and the palate the marvel provided by the seemingly magic mix of the best the sun, the vineyards and the wine press can produce. Moreover, coming as it did all at once after the toil and hard labour of an entire year. They also feel satisfied that it made sense to have worked assiduously and contributed time, effort and goods in preparing for the celebrations, because the occasion repaid in multiples of dividends. It also helps them cherish the fact that nothing can be done well without the help of others: neither the cleaning nor the decoration or the making of the booths. Similarly, neither the process of preparing the food, nor the barrel nor the wine can match the spirit of the celebration. Very late at night, tired, but happy, the villagers return to their homes deeply enlivened and in some sense also in melancholy over the end of the event.

As the time passes, it becomes obvious that the village's festivity, though in a kind of parenthesis, constitutes a medium for putting away strife and grudges. It also serves as an escape valve through which several symbolic tensions within society are defused, as well as an excellent setting for re-enacting bonds of friendship and love.¹

Nobody recalls exactly how it happened, nor when everything started. Neither does anyone remember who was the first, but then something happened. Perhaps it was the villager who nursed a slight resentment because by his estimation his efforts toward the preparation of the party were not valued commensurately by others; in another sense, it could have been the work of someone who was once quite famous and well admired for his efficiency and sense of rationality in the management of resources; still yet, it could have been somebody who being ill had lost the pleasure of good wine; or yet still the machinations of a widow who for some time had lost the pleasure of the attention and good company of others; there is also the possibility of tracing it to someone who had resolved to leave the village and move to a different location.² Regardless of who it was and when it started, the fact of interest was that

¹ As promoters of the festivity in the village, social relations take the form of a full-pledged cooperative game. For formalized treatments of game theory, see, e. g., Luce/Raiffa 1957, Harsanyi 1977, Binmore 1994, 1998.

² This illustrates the most common reasons which lead social agents to abandon cooperative behavior: (A) They believe that the collective deal is not egalitarian. (B) They regard individual rationality as un-

someone, somewhere in time began to introduce sub-standard wine. Believing that this conduct would never be discovered in a barrel full of the excellent wine from others, year after year, this continued. As it would seem, the practice began to percolate among the people and with time assumed a more generalized dimension. Until one day, as the faucet was opened, it became apparent that what streamed out was virtually mere water.

Today, some people still remember that unfortunate night, and their perplexity is mixed with despair, disappointment and nervousness. But as expected, from the moment events turned sour, a number of explanations were tendered; each one at variance with others. Those ‘others’ being responsible for the failure of everybody’s party and thereby became black-spotted as enemies. The Village Festivity was over!

The ill-fated night when the rueful discovery occurred was naturally followed by a deep unhappiness. Imputations, pointed finger and denials were made towards another. What’s more, the village nearly became totally denigrated to a parley for the settlement of strife, enmity and open hostilities between individuals. Older people charged on younger ones, young ones accused the old for the state of affairs, etc. Some on their part talked continuously about old injustices which served to justify already unjustifiable situations and reasoning. Some people even maintained that the best thing to do was to leave everything as it already was. This meant that everyone should drink his own wine and arrange ways to have his own fun. But curiously, in spite of these developments, it was evident and undeniable that each and every one had a part to blame, although among each group of ‘talkers’, justifiable reasons for self-exoneration from the fraud could be heard. However, it was obvious from the fact of the continual sessions of ‘talking’ about the events, even if only for the sake of reciprocal recrimination, that there existed a strong will to turn back the road that led them to this rueful situation, even though for every one it was ‘the other’ who was primarily responsible for the undesirable state of affairs. Who knows, probably the first person was already dead or a long time ago had moved to live somewhere far away from the village. Probably he was living in a better village and drinking good wine.

3 *Everybody enjoys good wine*

The episode which occurred in the village happens quite frequently in the course of social interaction. Such behaviour patterns that end up in the very undesirable results we have seen also exist in our daily lives. Think, for instance, of the hurrying lady who parks her car ‘just for a second’ in front of a hydrant, convinced that she is not causing damage to anybody. Not too dissimilar is the gentleman who cuts down a tree – after all, “never mind, it is too old” – in order to create new space on the sidewalk to accommodate a new family car. No better still is the charming girl, smiling towards a queue of people waiting to be attended and asking for permission to make “a short enquiry” which ends up as a complex consultation that itself requires a “quick proce-

constrained in the realization of its own possibilities. (C) The profit on terms does not fulfill their expectations. (D) The scenario of the game is no longer interesting and will thus be changed.

dure”.³ All these varieties of attitudes have certain common elements. On the one hand, certain individuals exhibit the desire to receive benefits through “a small exception to the rule”. On the other hand, such an exception is deemed so small that it will not harm a world order in which all others are respectful. The person so exempted sincerely does not believe that he is inflicting a grievous injury on anyone else. The beneficiary of the exemption always has justificatory reasons to explain and justify his demeanour not only to himself but often even to others.

The consequences of these behavioural patterns are felt at two levels. On the one hand, such people make nothing to improve social efficiency. On the other hand, they create an environment for reciprocal misgivings that usually weakens the consistency of collective interests. Each of these consequences creates avenues through which special kinds of problems arise that, in turn, dictate specific approaches to a solution.

As it pertains to the first kind of problem, it is more or less evident that self-excepting behaviour on the part of the members of a society always carries some immediate consequences, mostly in the form of the diminution of the scope and quality of public welfare, as in the case of the village’s wine, or the impossibility of access to the hydrant at a time of emergency, or more still, the precarious impact of deforestation on a suburban setting. In all these instances, the collective will in its entirety and at the level of its constituent parts was sacrificed. This produces discomfort and disaffection. Some people maintain that flexibility for the sake of “small exceptions and transgressions” contributes to make such inconveniences more bearable. This goes on without noticing that the origin of these ones are found in other “small exceptions” before them.

The solution to these kind of problems, at first sight, seems more or less simple. It is conceivable that behaviour tending to harm collective resources should be punished with hard sanctions in order to reduce their occurrence to the bearest minimum. But to successfully attain this objective, sanctions need to satisfy two conditions. First of all, they must be severe enough to constitute a loss that surpasses the benefits eventually derivable from the ‘small exception or default’. Second, the probability that such sanctions are consistently and effectively applied to all defaulters must be high.

With

- e case in which some individual uses a ‘small exception default’
- U(e) utility derived by that individual in case e
- S legal sanctions for case e
- D(s) disutility produced by the established sanction for case e
- P(s) probability of the effective application of the established sanction for case e

the following relationship must hold:

$$U(e) < P(s) \cdot D(s) \quad (I)$$

³ Such situations constitute the background to the well-known Prisoners’ Dilemma. I have extensively analyzed it in Barragán 1989.

When a social group establishes sanctions in which a strong or hard punishment is foreseen for people using 'small exceptions or defaults', but the actual probability of the effective application of such sanctions is very low, the relationship indicated above will not be satisfied. This relation makes it evident that procedures which tend towards the application of norms are as important as the amount of the sanction.

Social practices may generate two kinds of deferring answers when confronting small exceptions or defaults. While some groups generally refuse to accept them and under certain circumstances may become excessively rigid and insensible, others tend to be extremely flexible, so exceptions become 'rules' with rather severe consequences for the long term social fabric. Societies in which the first kind of answer is prevalent usually offer an environment that can be easily foreseen. Where adequate measures are taken in order to avoid these small exceptions, people will rely on them. In groups where the social language is based on the second kind of answer, the probability of forecasting is very low and unexpected problems can surface at any moment. The solution to such problems would also tend to be unstable. Of course, it is only in groups which assume the first kind of social practice that the basic relationships make it possible to solve problems arising from small exceptions and defaults.

In spite of the apparent simplicity of the relationships already treated, to put them into practice presupposes a number of difficulties which seem significant. In our example, villagers prove this when some time after the unfortunate night people are calm enough to think of a possible way out. After long and complicated discussions, a plethora of ideas are pondered and the villagers eventually agree that the origin of the problem was the lack of control in the quality of individual contributions. In order to correct this deficiency, they agree on establishing a random verification of the wine by three tasters. Of course, they must be the best experts in the area, and have the responsibility to accept or refuse the wine before it is poured into the barrel. At random, three out of ten contributors are thus tested. In cases where there is a rejection, in addition to the social reproof that generates, sanctions are imposed on the culprits who obviously wanted to defraud the common interest and obtain undue advantages.

Then the first problem that arises is the standards for electing tasters with the best senses for smelling and tasting. Since it is assumed that such experts must be very good, their superiority vis-à-vis other eligible candidates can only be based on rather vague criteria. By and large, three names are eventually elected by the majority.

In spite of its ostensible simplicity, the task is hard to accomplish. The attribute of being excellent tasters does not mean that they are completely inflexible, intolerant and of impeccable sentiments. Besides, they have a good level of information about the generality of village life. They are therefore challenged with the task of rejecting wine of inferior quality, imposing sanctions on, say, a good peer who has just gone through a year of difficulties. How can they reject, for instance, a new neighbour's wine, when he has come to the festival full of spirit and expectancy, or even for the first time?... But then the cases multiply, and the criteria how to handle such conditions, and people begin to speak quite loudly about discriminations and favouritism. The way out is thought to be guardians, or putting checks on the tasters and making them responsible for their decisions. New sets of sanctions are then established, this

time for the tasters who may be found to have compromised the honourable discharge of their duties. All these measures, on the short run, contribute to the improvement of the quality of the wine, as compared with the unfortunate night when things turned sour. Yet still, the village festival cannot recover the lost spirit of a collective and cooperative enterprise. Some people are, no doubt, in a good mood, but others largely act under the coercive threat of sanctions threatening them. In pouring good wine, they feel obliged to comply and not motivated by the wish to share in communal gaiety. Thus, they try not to go the extra mile in overdoing their generosity. Many of them are skeptical whether some neighbour may not have been less pious and thereby obtained a personal advantage. There is also the suspicion that, say, friendship or family relations with the tasters may bias the random selection of families for wine verification.

From what happens in our fictitious village, it could be inferred that to keep relation (I) as impartially effective as possible in a collectively desirable sense, it is essential to put in place the force and sanction that is applicable and appropriate. This supposes a continuous task of monitoring all aspects that have the tendency of being vulnerable. On the other hand, it is clear that even if such measures make the intention of fraud against public welfare almost unprofitable, they can at best deliver a higher quantity and quality of public benefit, but they can not assure, nor promote the standards of cooperative behaviour among group members. As will be explained in greater details below, this in itself constitutes another set of problems.

4 Good wine alone is not enough

By itself, the system of sanctions is incapable of promoting cooperation in a social environment, because relations generated under this framework are evaluated exclusively by computing profits and losses. In such a context, it is natural that individuals contribute wine with the minimum quality; just good enough to take the hurdle of being tasted. Nor does it seem strange that some people, psychologically speaking, even take the risk of contributing wine of a very bad quality, hoping that it will escape the scrutiny of the tasters. For instance, it will not be surprising if someone deliberately contributes wine of poor quality in the belief that his charm, charisma, prestige or even age may make the umpires consider any likely incrimination as a 'small exception'. As explained above, it is natural for this to happen because any of such behavioural paradigms increases individual utility⁴

It must be noted here that the solution based on the appropriate application of the system of sanctions besides promoting specific collective interests also has the potential of making evident a real general interest for stimulating behaviour based on mutual trust. From this point of view, sanctions, besides discouraging fraudulent behav-

⁴ Several authors, such as Harsanyi, maintain that cooperation is promoted only through a modification, by means of punishments, of the profit/loss system of the players. It turns out, however, that punishments alone are not a sufficient warrant for the inviolability of agreements when the calculus of the potential disutility versus the potential utility of punishments provides reasons for agreements to be violated. On this, cf., e. g., C. S. Nino 1991.

our through the calculation of benefits and losses as expressed in (I), make public a normative message in favour of long-run profits that are able to promote a constructive and stable way of life. But such a message lacks the necessary autonomy and specificity to restore by itself the language lost in our village.

The villagers in our story feel that recuperating the quality of the wine constitutes an important goal and that to its attainment the system of sanctions has contributed a lot, but at the same time they perceive that its essential objective is deeper and consists in restoring the language that has almost been lost. That language had been possible in its moment, starting from some basic rules, such as respecting acquired engagements, mutual trust, and equity in treating individual group members.

The dissatisfaction among the villagers, in spite of a great improvement in the quality of the wine, makes it clearly evident that two kinds of problems are always generated when individual interests are maximized at the expense of collective interests. First, there is a reduction in the quantity and quality of public services which at the same time has a corollary effect in the overall efficiency of all social action. On the other hand, as already mentioned, such patterns of behaviour at first create within the collectivity a feeling of frustration, but afterwards such defiant conduct is incorporated insensibly into the repertoire of accepted norms of the whole. They end up constituting their own social language. From the example of our fictitious village, which we have amply considered, it may be deduced that solving the first problem does not mean a palliation for the second one.

As a matter of fact, a solution founded on the development of an articulated system of sanctions only pays marginal attention to the latter problem. No doubt it attacks the first problem with a high degree of efficiency. However, its worth is extremely weak and indeed not directed at a steady solution to the more fundamental problem of recasting a new social language. For this reason, it is unlikely that a long term improvement in the quantity and quality of public welfare may be achieved merely by resorting to a system of controls backed by sanctions. From the individual point of view, there are always people who are disposed to overrun controls and sanctions, with the expectation of getting additional benefits⁵. On the contrary, it is highly probable that such consequences as experimented in our village from the time of that unfortunate night will occur repeatedly, despite the watchful eyes of the tasters. As is well-known, because of the vulnerability implied by the inherent imperfection of human beings and human systems, controls can always be mocked and sanctions cleverly evaded. The construction of a language of cooperation is a much harder and slower task than establishing a system of control accompanied by the corresponding sanctions. But clearly the language of cooperation is the only reward mechanism capable of reinforcing the stability of relation (I). As a consequence, the language of coopera-

⁵ It must be noted that the probability of diminishing the effects of a sanction is relatively high, especially if the procedural warranties accepted in most Western countries are taken into account. To compensate for this probability, a given sanction would have to be endowed with such great power that only a few people would justify its application. This would also be a source of harmful consequences for those who are at a disadvantage in using procedural resources.

tion is also the only viable mediating condition to maintain the quality and efficiency of social welfare in the long term.

The language of social cooperation, just like any other language, should not be constructed as a simple medium or vehicle for expressing reality or ideas which are independent of proper communication. Rather, it should be seen as a constructive and advisory element of what has been expressed. From this perspective, it is not necessary to wait for the existence of a previous and concisely developed society founded on the basis of social cooperation to apply the language of cooperation. Instead, the formation and conscious application of such a language of cooperation will contribute in a parallel manner to the construction of the social basis of cooperation.

To propel the construction process of such a language, all that is needed is a primary element common to all human beings and human society – the existence of expectation. In fact, if there is something always present in men even in their lowest evolutionary stages it is their ability to foresee the possible occurrence of certain events. Even in cases where man is far from being able to formalize this, he is always capable of constructing a vision of possible situations and of estimating their likelihood. Both the images and the evolution of language are intrinsically related to the system of expectations and to the transformation to which it is subjected during the processes of development.

Together with expectation, language is modified through interaction and exchange and gradually incorporates diverse elements that have been at the origin of communication itself. In their dynamic features, language and communication are not just media of expression, but factors inducing the transformation of various processes. Exchange serves to activate the understanding of existing problems, to stimulate the construction of new problems and to generate modifications in shared systems of expectation⁶

In the case of our village, it is not strange, therefore, that after the unfortunate night, in this particular manner collective expectations are directed at the search for a platform on which the problem can be solved. Since everybody remembers that many years ago, before the disagreeable experience, the taste of the wine drunk during the festival was good, it is not surprising that interactions and exchanges revolve around that issue. And interactions then produce a transformation in expectations. The villagers not only hope that a good wine can be consumed at the festival, they also reactivate the expectation of making the village a place of joy during the day of its patron saint.

5 *The language of cooperation*

The language of cooperation that seems to have existed at some time in our village and which is also associated with the fresh expectation of attaining more worth than just a good wine, at first is characterized by the existence of a collective disposition of the members. This is rooted in their desire to use joint strategies to solve common problems, considering that such measures can make individual efforts more useful for

⁶ See Whitney 1989 and Hattiangadi 1987.

public welfare than if applied in isolation. In the second place, members of the collectivity expect from the use of such joint strategies the accrual of individual utilities which can be considered equitable, in line with one's contributions and, of course, needs. Finally, they recognize that the deployment of joint strategies means working towards the attainment of the highest benefits they can all contribute to, but also resigning some individual utility, since part of these benefits may be kept in the public wealth. In other words, the expectation of obtaining maximum dividends at the individual level is expressed within the context of the language of cooperation with the expectation of reaping maximum benefits for the social collectivity and, of course, reasonable and equitable individual benefits.

All this sounds extremely attractive, but the older villagers certainly have the experience that such expectations are not completely new. On the contrary, they have existed for many years even when the festival was a collective enterprise and the wine was excellent. That shows that the existence of expectations alone is not a sufficient guarantee that the language of cooperation is incorporated once and for ever into a system of communication that is accepted by all members of the group⁷.

Up to this point, to continue further in the search of 'something more than a good wine' it would not only be useful, but necessary to take an inventory of some of the factors which conspire against the expectation of considering the festival a desirable collective enterprise. After all, that is what culminated in the denigration not only of the wine but of the festival itself.

The first identifiable factor is that, for several reasons, the mutual benefit produced by the collectivity became marginal, to the extent that it was rarely desired. The younger generation probably could not fully appreciate the fun offered by the festival in the same manner as the elders. For instance, very close to the village, a techno disco strongly calls to a more noisy and exuberant entertainment. The young people therefore seem to have thought that their time was better invested and expended in those places than in such Patron Festivals. At the same time, new meeting places such as clubs and resorts offer wider and more captivating opportunities for adventure, dialogue and interaction. Naturally, without much mutual benefit to be derived, it was difficult to maintain the language of cooperation and even more difficult to rebuild it.

Another factor which appears to be somewhat related to the first, but is itself more profound, is the equitable allocation of desirable mutual benefits. It is evident that such festivals produce a higher benefit in recreation for the elderly, but the question is who invests the time and resources needed for its success. Of course, it is the younger ones. Furthermore, we must also mention the case of small families which appears to have been accorded little attention. They consume less than they contribute, whereas larger families contribute less than they consume. Of course, these biases that affect equity in the distribution and allocation of benefits are inadvertently affecting and

⁷ In *The Evolution of Cooperation*, (1984) and *The Complexity of Cooperation. Agent-based Model of Competition and Collaboration*, (1997) Axelrod makes the success of cooperative language depend on the linear application of a TIT FOR TAT strategy. Gauthier (1986) and (1997) holds a similar view. However, to make their models applicable, both authors take recourse to formal outside restrictions that render the models insensitive to the actual conflicts of interests.

modifying the expectations of different groups and members of the collectivity. At a point, as would be expected, some eventually reason that it is not worth their while to continue with the language of cooperation.

A last important factor concerns those who carefully compute the value of their contribution in terms of real market conditions. After weighing this, they decide to replace it with a less costly contribution. Hence, these people enjoy a reasonable wine brought by others to the festival, but deep down carry a healthy smile of self-fulfilment about their smart attitude. As virtually all the villagers are somehow smart, sooner or later, one after the other, they start succumbing to the same temptation of making their own cost-benefit analysis in the same market terms. This factor in a way also conspires against the language of cooperation, as villagers end up, individually, applying the same destroying and divisive strategy, instead of using a common strategy which tends to strengthen the language of cooperation.

These characteristic elements that conspire against the creation of cooperative communication could help us to establish which factors are capable of favouring the formation and development of the language of cooperation. These are:

- i there must be a general expectation of efficiency as it relates to the generation and management of common-pool resources;
- ii there must also be a general expectation of promoting a society based on the use of joint strategies which may be useful in reaching the highest collective dividends;
- iii common goods and services as well as benefits which are generated through these joint efforts or strategies should be equitably allocated;
- iv the use of individual strategies which appear fraudulent to society's joint strategy should be eliminated.

Conditions (iii) and (iv) tend to receive their most important enforcement from normative values legally based. Although for such norms to fulfil satisfactorily their corrective mission, it would be necessary from the outset to resolve certain not always trivial problems. As a matter of fact, it will be necessary to consider what constitutes an equitable allocation or distribution under many different social circumstances and when it could be categorically stated that an individual approach or strategy constitutes a fraudulent intent against the joint strategy. From this point of view, the strength of (iii) and (iv) cannot come from a positive normative point of view that only supports its strength by the power of sanctions, but, conversely, from a system of regulations oriented and tailored towards the attainment of equitable solutions and directed at the stimulation of joint strategies⁸. Regarding the production of social benefits, perhaps a body of norms with a strong and solid system of sanctions could be enough. But if the intention and aspiration is to construct and develop a language of cooperation, positive regulations must be made considered as means to transmit unequivocal normative values.

⁸ See Barragán 1989 for a broader analysis of this topic.

Conditions (i) and (ii) are closely related to social practice. On the one hand, expectations are usually derived from collective experience, but on the other, they also come from the reflections made by the group about such experiences. Within the framework of social practice, solving a problem implies not just the material activities that make the solution possible, but the intellectual rationalization of the problem and the chosen solution. In the process of tackling problems as well as in the development of actions and the moral deliberation towards solving it, the system of social expectations is bound to undergo transformations. However, once a solution is arrived at, new expectations emerge which modify the whole preexisting system. It is for this reason that expectations cannot be considered as purely static, nor as simply transitory, but as definitely evolutionary. This is all the more so as they are built on the basis of preceding expectations which have matured in the process of social practice and the consequent reflections.

6 Regulatory frameworks for the language of cooperation

As already discussed, conditions i), ii), iii), and iv) constitute a set that may very well serve as the best framework for the regulation of the language of cooperation. As much as regulations could be analysed, it is important to note that they cannot have a universal nature, since their content is strongly linked to the conditions prevailing in each specific social group at a certain point in the time. This means that they can only be considered as a general framework that might serve to orient the sense of transformation, but not to establish the hard rules that govern or lead them.

Considering the case of our village, according to the memory of the older people the organization of the festival, at least initially, was informed by expectations that completely satisfied conditions i) and ii). Thus, all the old people hoped that the provision of public goods and benefits were efficiently managed and considered such activities as related to a joint enterprise. On the basis of such expectations, they patterned their behaviour, which implied arriving punctually in order to finish up the various activities and assignments, such as decorative tasks, associated with participation in the festival. Driven principally by those expectations, they all committed themselves to preparing, in the best possible way, the meals to be consumed, and endeavoured to contribute wine of the best quality.

Everything seemed to be alright and if we believed in the spontaneous evolution of expectations, joint strategies and the language of cooperation, will emerge and get success in a natural way; but things happened in a very different form. Many explanations could be given as to why a group that naturally spoke the language of cooperation without even being confronted with problems of syntax, left it off, until it finally disappeared. Undoubtedly, the hardest responsibility could be attributed to conditions iii) and iv) which were not present to normatively support the expectations. But there are also some people who suggest other explanations, such as those based on the so-called negative consequences of the transition from community to society. However, none of these explanations can, on their own, account for such complex phenomena as replacing a language with another.

If we consider what happened in the village, the thesis which could be developed is that linearly cumulative character of achievements in matters of social language themselves shows an inherent weakness, since the active exercise of a language of cooperation where conditions i) and ii) are completely enforced can inadvertently end up in a language of non-cooperation. The same behaviour can be observed in stages of inverse conditions, as it was in the genesis of a common language in the post-war era in Europe. In fact, few stages can be identified where conditions i) and ii) were more lacking than in Europe after the Second World War. Especially the condition of using joint strategies to manage collective affairs seemed unthinkable – for instance, as unthinkable as in the case of the relationship between France and Germany, who had maintained a tradition of antagonism in the just ended bellicose drama. However, only a few years passed before both conditions were present in the European Treaty on Coal and Steel, signed in April 1951. What appears most significant and can be observed here is that conditions iii) and iv) were established, tending to reinforce normatively the strategies developed according to i) and ii).

In both cases, the village and the European Union seem to have demonstrated that the conditions which make possible a language of cooperation are not produced and developed in a mechanical and linear manner. Rather, they are a complex product of practice and the use of strategies within each social group, tackling problems of production and distribution of social benefit.

If we go back to the example of our village, we can see better how these four conditions work, and the relations among them. The first thing to see is that the four conditions are interdependent and the absence of any one of them produces direct effect on the others. Second, all of them are historical and therefore provisional, having to be permanently updated, in view of the evolution undergone by the collectivity and their ethical marks of reference.

For instance, if expectations of efficient management (however efficiency might be defined) are absent, conditions ii), iii) and iv) do not make sense. This would be the case if the villagers did not accord importance to how good the festival was. Likewise, if expectations of dealing with problems through the use of joint strategies did not exist, iii) and iv) would not be enough to keep the language alive. This would be the case that led to the result of a better wine, but did not produce the restoration of the language of cooperation. Finally, if iii) and iv) are absent, i) and ii) will not be long before they disappear. This is the stage that followed that unfortunate night.

The second interesting aspect is related to the content of each condition, which in the process of change needs to be permanently updated to keep the language alive. In the example of the village, it was hoped that the whole paraphernalia of the festival could be found useful to produce fun, in the manner considered to be social entertainment by the village standards. Naturally, in the course of time and the modification of internal and external social conditions, the content of the expectations experienced changes. In spite of nostalgic opinions, for the young a good discotheque with powerful loudspeakers and dazzling laser light seemed to be more useful in producing fun than a festival in honour of a Patron Saint. No matter how rules and sanctions were established, it gave the impression that new generations had perhaps assumed

more enthusiastically other forms of collective interests which by their estimation could more relevantly satisfy their present preferences. This makes clear that the definition of what might be called efficient is not of an unequivocal nature. Rather, it entails the resolution of conflicts among diverse antagonistic conceptions. Likewise, given the narrow association between conditions i) and ii), in many cases two joint strategies, both pursuing efficient resolutions, are in conflict⁹

If this point is analysed at a level beyond the village, it could be seen that sometime in the course of human history collective strategies were sought for granting a good life, where 'good life' is understood as a peaceful death. Fundamentally, this conformed to the fact that a great part of the lives of people were spent awaiting eventual death. But today, medical and health care has greatly increased the lifespan. Collective strategies are therefore directed at giving a good standard of living in a very different sense as in former days. As a matter of fact, today it may not really be fair to strongly sanction an individual's behaviour that tends not to participate in collective strategies towards the improvement of the standard of living, in a sense as in the former days.

Regarding the content of condition iii), the controversies about what is equitable and in what manner it may become effective are well-known issues in the field of legal and political philosophy. As there are great differences in individual circumstances, it is also much debated how to tackle these problems and in what circumstances they can still be useful in solving general problems in an impartial manner. Here, the idea is that what may be more suitable to some circumstances may not be reasonable for others. These difficulties are heightened by virtue of the natural evolution suffered by expectations about the management and distribution of public goods, discussed earlier.

With regard to the content of condition iv), the behavioural patterns considered as fraudulent in relation to the joint strategies tend to create some perplexing results. This is due to the fact that in some cases it is easy to characterize such behaviour, but in other instances, the line of demarcation between what can be qualified as fraud and what may be deemed merely the optimal protection of individual interest is hard to draw.

7 Conclusions

One of the most disturbing problems, and indeed quite difficult to resolve, is the need to harmonize individual rationality with that of the collectivity. While the rules of individual rationality indicate ways of maximizing utility without any restriction, the collective point of view tilts towards the limitation of individual maximization in order to reach better social profits.

Where a tension exists between these two approaches to rationality, and the solution favours individual rationality without restrictions, a perceptible effect is immediately produced. This is the diminution of efficiency and of the quality in the over-all process of social production. This normally has a major devastating effect on collective well-being and is often regarded as the only, or the main, cause of society's prob-

⁹ The difficulties in integrating individual utility functions to a collective utility function are analyzed in Scalón 1991, Griffin 1991, and Barragán 1991. See also Griffin et al. 1993 and Binmore 1994 y 1998

lems. Hence, collective efforts are directed to resolve it. However, there are a number of more hidden side-effects. They are deeper and more permanent in character, and get entrenched in a substantive manner into the fabric of social existence, ending up as part of the moral language. While the first effect, which may be called manifest, affects the accrument of social benefits, the second one projects itself in a negative way and is highly erosive on the trustworthiness and credibility of the rules of language. This constitutes the central backbone of any collective existence.

The correction of the first effect can be carried out in a successful manner through the right regulations which by means of sanctions can diminish the benefits derivable from non-restricted individual maximization. These sets of sanctions can also produce messages of normative worth towards the preference for restricted maximization. However, such rather diffusive messages do not have influence on the collective language in an appreciable manner.

To correct the second effect of non-restricted individual maximization, the process is slower and more complex. In the first place, it is necessary to keep an update on the types of relations that exist among individual preferences and the collective goal, which allows social objectives to have a reflection on individual utility. In the second place, it is necessary consistently to stimulate joint strategies which are relevant for collective life. This serves not only the purpose of producing higher dividends from the joint strategies, but as an enforcement of the social fabric. The main mechanism for reaching this goal is to develop impartial procedures for the allocation of social goods and services, and the concern about equitable ingredients which can be useful in the resolution of conflicts arising from divergent preferences. The mechanism can be regarded complete only when it can eliminate the instinctive attitude that from time to time arises, to defraud the common good or to indulge in conducts which disregard accepted agreements.

As could be seen, the process of constructing and reinforcing the language of cooperation is a task that includes a dense plot of strategies. It also aims at putting in place a culture of a coherent collective will, with a relevant ethics. This task may be considered too complex and minimalist, but it is important to recall that it is the only efficient mechanism to return the village to its real festivity, much more than merely a place where good wine is consumed. Still more important, it is necessary to take into consideration that without being able to put the village back in festivity, the good wine will remain good for only a short while.

BIBLIOGRAPHY

- Axelrod, R. (1984), *The Evolution of Cooperation*, New York: Basic Books.
 — (1997), *The Complexity of Cooperation. Agent-based Model of Competition and Collaboration*, Princeton, N. J.: Princeton University Press.
 Barragán, J. (1989), “Las Reglas de la Cooperación”, *DOXA* 6, 329-384.
 — (1997), “Decisiones Normativas y Costos de Transacción”, *Revista del Banco Central de Venezuela*, Volumen XI, número 1.
 — (1998), “Ethical Issues in Public Decision Making”, *Rechtstheorie* 29.

- Bicchieri, Ch., Jeffrey, R. and Skyrms, B. (eds.) (1997), *The Dynamics of Norms*, Cambridge: Cambridge University Press.
- Binmore, K. (1994), *Playing Fair*, Cambridge, Mass.: MIT Press.
- (1998), *Just Playing*, Cambridge, Mass.: MIT Press.
- Binmore, K. and Samuelson, J. (1994), “An Economist’s Perspective on the Evolution of Norms”, *Journal of Institutional and Theoretical Economics* 150.
- Gauthier, D. (1986), *Morals By Agreement*, Oxford: Oxford University Press.
- (1994), “Assure and Threaten”, *Ethics* 107.
- Griffin, J. (1991), “Against the Taste Model”, *Interpersonal Comparisons of Well-Being*, Cambridge: Cambridge University Press.
- Harsanyi, J. (1977), *Rational Behavior and Bargaining Equilibrium in Games and Social Situations*, Cambridge: Cambridge University Press.
- (1994), “A new Theory of Equilibrium Selection for Games with Complete Information”, *Games and Economic Behavior*.
- Harsanyi J., Barragán, J., Barcon, J., Griffin, J. (1993), *Ética y Política en la Decisión Pública*, Caracas: Angria.
- Hattiangadi, J. N. (1987), *How is Language Possible?*, Chicago: Open Court.
- Luce, D. and Raiffa, H. (1957), *Games and Decisions*, John Wiley.
- Nino, C. S. (1991), “Consecuencialismo, Debate Ético y Jurídico”, *Telos* 1.
- Scanlon, T. M. (1991), “The basis of interpersonal comparisons”, *Interpersonal Comparisons of Well-Being*, Cambridge: Cambridge University Press.
- Whitney, W. D. (1898), *The Life and Growth of Language*, D. Appleton.

Julia BARRAGÁN currently coordinates the Permanent Program of Postdoctoral Studies in the Universidad Central de Venezuela; she also presides over the Venezuelan Law and Economics Association, Venezuelan Chapter of the Latin American Law and Economics Association where she has also been chairwoman. Her academic activity centred in teaching and research work in the area of the normative decision making has been developed in many American and European universities. Among her numerous books it can be mentioned “Ethics and Politics in Public Decision Making” with John Harsanyi and James Griffin as co-authors, “Methodological Hypothesis” and “How the laws are build.” She is author of more than a hundred of articles published in many international scientific reviews.

Address: Centro de Investigaciones Postdoctorales, Universidad Central de Venezuela, Avenida Suapure Quinta Cuesta Arriba, Colinas de Bello Monte, Caracas, Venezuela. E-mail: jbarraga@reacciun.ve