PUBLIC USE OF REASON IN A COMPARATIVE PERSPECTIVE: JOHN RAWLS AND JÜRGEN HABERMAS

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I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in Political Science and Public Administration.

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ABSTRACT

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This thesis analyzes public use of reason in a comparative perspective concerning John Rawls and Jürgen Habermas's approaches. Public reason is important in constitutional democracies to define the relations between the state and the citizens and their relations to each other. Rawls and Habermas are known to provide major concepts in deliberative democracy. Their interpretations of similar concepts and their evaluation of similar ideas brings them to a fruitful debate concerning the future of deliberative democracy in general.

In this thesis the idea of public reason is presented from the point of view of John Rawls. The philosophical roots of the idea of public reason are examined. Habermas's insights concerning public use of reason is analyzed. Finally the debate

between Rawls and Habermas concerning the idea of public reason is presented. This thesis aims to indicate the importance of public reason in the context of democratic thought. It also analyzes an important debate that might contribute to new developments in the future of theory of deliberative democracy. In conclusion this thesis argues that in a pluralistic society public use of reason enables us to reach a legitimate ground for deliberative democracy without lapsing into politics of interest and power politics.

Keywords: Public Reason, John Rawls, Jürgen Habermas, Deliberative Democracy, Political Liberalism, Overlapping Consensus, Discourse Ethics

ÖZET

KARŞILAŞTIRMALI BİR BAKIŞ AÇISIYLA KAMUSAL AKIL: JOHN RAWLS VE JÜRGEN HABERMAS

İsmail Aydil

Yüksek Lisans, Siyaset Bilimi ve Kamu Yönetimi Bölümü

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Bu tez kamusal akıl kavramını John Rawls ve Jürgen Habermas'ın yaklaşımlarıyla karşılaştırmalı olarak incelemektedir. Anayasal demokrasilerde kamusal alan, vatandaşlarla devlet arasındaki ilişkileri ve vatandaşların kendi aralarındaki ilişkileri belirlemesi açısından önemlidir. Rawls ve Habermas "müzakereci demokrasi" kuramına önemli kavramları kazandırmaları bağlamında tanınmaktadırlar. Benzer kavramları araştırmaları ve benzer düşünceleri yorumlamaları, müzakereci demokrasinin geleceği açısından önemli bir tartışmayı başlatmalarına neden olmuştur.

Bu tezde kamusal akıl kavramı John Rawls'un bakış açısından incelenmiştir. Ayrıca kamusal akıl kavramının felsefi kaynakları araştırılmıştır. Habermas'ın

kamusal aklın kullanımı hakkında yaptığı çalışmalar incelenmiştir. Son olarak Rawls ve Habermas arasında kamusal akıl çerçevesinde geçen tartışma sunulmuştur. Bu tez demokratik düşüncede kamusal aklın önemini göstermeyi amaçlamaktadır. Ayrıca müzakereci demokrasi kuramına gelecekte katkı sağlayabilecek önemli bir tartışmayı irdelemektedir. Sonuç olarak, kamusal akıl çoğulcu toplumda müzakereci demokrasinin çıkar ve güç ilişkilerinde şekillenen siyasal yapıya düşmeden meşru bir temelde yerleşmesini sağlamaktadır.

Anahtar Kelimeler: Kamusal Akıl, John Rawls, Jürgen Habermas, Müzakereci Demokrasi, Siyasal Liberalizm, Örtüşen Uzlaşma, Tartışım Etiği

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CHAPTER I

INTRODUCTION

Deliberative democracy aims at developing deliberative structures into more effective instruments in order to grasp the problems constitutional democracies have been entitled to deal with. These problems are around recent practices in the modern society. For instance democratic practices leave too much attention on self-interest, they contribute to social fragmentation, progress of inequalities, and eventually they end up ignoring poor, marginalized and powerless sections in the society. Deliberative democracy is believed to smoothen most of the discrepancies in contemporary democratic processes. Two prominent philosophers provided the theory of deliberative democracy with crucial insights: John Rawls and Jürgen Habermas.

In *Political Liberalism*, Rawls attempts to reconcile various comprehensive worldviews in society to come into terms with a single conception of justice. Thus a stable and effectively regulated constitutional democracy will be realized. Habermas tries to construct a theory of communication as a remedy to increasing technicality in modern society. For him, in democratic processes sincere commitment of individuals to the principles of democracy can be accomplished through communicatively regulated deliberative devices. Following Kant's insights in practical philosophy both Rawls and Habermas developed instruments to effectively

regulate deliberative processes. According to Rawls, the idea of public reason is one of the main ideas of political liberalism that prescribes the way in which society formulates its plans and makes its decisions. Habermas's discourse ethics aims at regulating the procedural conditions of deliberative processes. Although they share the similar starting point from Kant's moral theory, Rawls and Habermas come up with different strategies for deliberative processes. The differentiation is first, mainly the result of their conceived predecessors in political theory. For instance, Rawls is influenced from Rousseau and Mill whereas Habermas is influenced from linguistic philosophy. Second, the differences occur in Rawls and Habermas's positions in political theory where the former manifests his position as a liberal and the latter not. In order to grasp the theory of deliberative democracy it is essential to understand these interpretations from two leading philosophers concerning basic principles of deliberative processes.

This thesis examines the idea of public reason as a regulative device of deliberative processes in constitutional democracies. The idea of public reason is presented in detail in its relation to John Rawls's *Political Liberalism* and in the general context of political philosophy. In the context of different approaches between Rawls and Habermas, public reason becomes centrally important because it is the source of a debate between the two. Clarifying the idea of public reason in the debate between Rawls and Habermas is the basic aim of this thesis. In this sense, the thesis also analyzes the position of Habermas in relation to democratic theory and his conception of discourse ethics in comparison to public reason. This thesis intends to contribute to the theory of democracy by analyzing this important debate and its trajectories in the history of political thought.

In the second chapter, I evaluate John Rawls's approach to politics in general. I will first present the basic concepts, which will be used during the thesis. Rawls's intention in developing *A Theory of Justice* and *Political Liberalism* is analyzed. Main ideas in *Political Liberalism* are emphasized, such as the priority of right, the idea of overlapping consensus, and the idea of public reason. Then the idea of public reason is evaluated in detail. Public reason attributes a distinctive characteristic to political liberalism in relation to other liberalisms, in general – moral liberalism, economic liberalism, utilitarian liberalism. The emphasis on public reason indicates the importance of certain political values that differentiate itself from moral and utilitarian liberalism. The application of public reason is limited to the public discussions, held in the public forum for citizens. It is limited to the discussions in the legislative for the public officers and to the decisions of the judiciary. Public reason is limited to the issues of constitutional essentials and fundamental matters of justice. In this sense the limits are an important issue in dealing with the idea of public reason. Also, the conditions for reasoning in the public are studied. The conception of the public in Rawlsian terms is specifically important because of the meaning Rawls attributes to the public. Public reason is public (1) as the reason of citizens, (2) it is concerned with the good of the public and matters of fundamental justice, and (3) its content is public. There is a disagreement between Rawls and Habermas at this point which I elaborate in chapter five in detail. Finally, in the same chapter important aspects of political liberalism related with public reason are analyzed. These are the ideal of citizenship, non-public reasons and procedural versus substantive aspects in Rawls's approach.

In the third chapter, philosophical roots of the idea of public reason are evaluated. My main argument is that Rawls is influenced from Jean-Jacques

Rousseau, John Stuart Mill and Immanuel Kant in developing the idea of public reason. Public uses of reason should have its roots in the history of political philosophy. It is thus crucial to understand which aspects of Rawls's theory are influenced from these philosophers and which aspects are novel in his approach. It is also important to search for the philosophical roots since Habermas share the same starting point with Rawls from Kant's practical philosophy. Moreover it will help us to locate the idea of public reason in the general context of democratic theory. In this chapter, Rousseau's ideas on general will formation and citizenship are presented. Then, Mill's insights on liberty are analyzed in its priority and limits. Also his conception in evaluating priority of right is presented. Finally, Kant's concept of public uses of reason is analyzed, and the idea of categorical imperative is presented with a special emphasis.

In the fourth chapter Habermas's theory and his concept of discourse ethics is presented in detail. This chapter intends to point out Habermas's contributions to the theory of democracy in general and his ideas related to public uses of reason. Habermas's theory of communicative action is one of the most important contributions to social theory. Depending on communicative action, discourse ethics aims at defining principles of deliberation through discourse principle. Discourse ethics tries to construct an understanding of discourse principle in its application to normal life conditions and its relation to free will of the individuals. It does not provide a substantive definition of a moral conception but lays down rules of the game for a procedural understanding of democratic legitimacy. This point is the main point of controversy between discourse ethics and public reason. This chapter will help us to understand the arguments from the point of view of Habermas before we deal with the debate.

In the fifth chapter the debate between Rawls and Habermas is presented. Main points of disagreement are evaluated one by one with a special emphasis on public reason. The criticisms of both Rawls and Habermas against each other's arguments are analyzed in detail. In the first place the idea of original position and ideal discourse situation are compared. Both original position and ideal discourse situation are devices of representation. Original position is a situation in which persons decide to choose the principles of justice without knowing their social and natural status in the society. It is an abstract mental construction. In the ideal discourse situation participants are socialized in similar conditions so that they are capable of understanding and judging each other's truth claims. The ideal discourse situation defines a starting point before the deliberation starts in the public. Second, overlapping consensus and justification are evaluated. The condition that citizens of every reasonable comprehensive worldview accept a shared conception of justice is the fact of overlapping consensus. Habermas takes the point that overlapping consensus aims at the justification of Rawls's theory. On the contrary Rawls does not totally accept this argument. Third, private and public autonomy is compared. The conceptions of private and public as well as private and public autonomy are different in Rawls and Habermas. Rawls tries to limit public reason to escape from comprehensive argumentations whereas Habermas tries to include all in the public deliberation. Finally, procedural and substantive aspects of the debate are presented and discussed.

In this thesis I try to clarify premises of public use of reason. My argument is that understanding public use of reason is important because it defines a possible common ground in pluralistic society. Public use of reason gives us the possibility of going beyond private uses of reason. In other terms, public reason is a way to

overcome politics of interest. Moreover public use of reason enables us to found a legitimate ground for democracy against power politics. Public reason also makes it possible to go beyond liberal individualism. Through public use of reason liberal democracies are tried to be transformed into more participatory and deliberative practices by appealing to egalitarianism and publicness. Public reason makes it possible that justice can be considered at the center of a legitimate political structure against considerations for mere stability. By putting questions of justice at the center of political debates, public use of reason aims to sustain a legitimate and stable constitutional democracy.

CHAPTER II

THE IDEA OF PUBLIC REASON IN POLITICAL LIBERALISM

John Rawls is one of the most influential theorists of our time. His influential work, *A Theory of Justice*, (1971) attracted great many attentions. It has the feature of being the most important theoretical framework in liberal theory against the utilitarian liberalism and prominent libertarian theories. *A Theory of Justice* intended to found a systematic framework against utilitarianism due to the fact that for Rawls, utilitarianism is weak to provide a basis for constitutional democracies. On this prospect, a more general idea of the social contract is envisioned in *A Theory of Justice*. Rawls tries to develop a specific conception of justice for constitutional democracies. (Rawls, 1999a: xi-xvi) His concern is how to find a basic conception that allows various comprehensive worldviews, sometimes even contradicting ones, to live together in peace and harmony. The concept of justice is a starting point in defining a conception that is acceptable by a plurality of worldviews.

In this chapter, I briefly present Rawls's political position in general and analyze his concept of public reason in detail. As a starting point, in the first part, I examine his basic concepts, including public reason. In the second part I evaluate Rawls's theory as a whole. I try to indicate his aim and the evolution of his ideas in political theory. How Rawls developed *A Theory of Justice* and how he revised it to

find a more general conception towards *Political Liberalism* is presented. The fundamental concepts of political liberalism are explained with the intention to indicate the importance of the idea of public reason. In the third part, the society as a fair system of cooperation is analyzed. Public conception of justice and basic principles are explained in relation to public reason. In the fourth part, three fundamental ideas of political liberalism are presented. Two basic principles of justice as fairness are mentioned here. The first fundamental idea is the priority of right. Related to the priority of right, second fundamental idea of political liberalism is the overlapping consensus. The third idea is the public reason. Although very long in content, previous parts are evaluated to bring the discussion to the idea of public reason. In analyzing the idea of public reason, first limits of public reason are presented. Second, aspects of reasoning in public are evaluated to understand the procedure of public reason. Third, the concept of public is analyzed in understanding the idea of public reason. After explaining public reason I turn to the related conceptions in political liberalism. For this in the fifth part, I presented the ideal of citizenship. This part indicates features of Rawlsian conception of citizen who is the sole reasoner in public. In the sixth part, nonpublic reasons are presented. Finally in the seventh part procedural and substantive aspects of public reason are analyzed. This part will help us to further the discussion on public reason in the coming chapters.

2.1. Basic Concepts of *Political Liberalism*

For a more complete understanding of Rawls's specific conception of justice and his later attempt in revising his conception in *Political Liberalism*, now I attempt to clarify his concepts in brief comments. There are basically nine concepts that are crucial to understand the ideas in political liberalism. Also some minor concepts are given briefly in relation to these major concepts. The concepts that are presented here are well-ordered society, justice as fairness, the original position, the reasonable and the rational, reasonable pluralism, civic citizenship, overlapping consensus, public reason and the background culture.

2.1.1. A Well-Ordered Society

According to Rawls, a definition for a conception of justice requires the definition of a conception of society. A society is a collectivity of persons who expect certain advantages from it. This collectivity should provide mutual advantages to operate effectively. The idea of mutually advantageous situation indicates a structure of mutual cooperation. The mutual advantage of persons in a society is the common good of society. However, every person has a personal interest which inevitably contrasts with the common good of society. In order to solve the discrepancies between individual interests and the common good, a set of principles is used, known as justice. In the Rawlsian terminology a well-ordered society is a society that is effectively regulated by a *public conception of justice*. Being regulated by a public conception of justice means that:

> … [I]t is a society in which [1] everyone accepts and knows that the others accept the same principles of justice, and [2] the basic social institutions generally satisfy and are generally known to satisfy these principles. (Rawls, 1999a: 4)

A public conception of justice indicates persons' commitment to leave their personal interests at the expense of a shared conception of justice. In other types of societies persons' conceptions of justice differs so that a common ground is not possible to be reached. When Rawls uses the concept of well-ordered society he means a society in which there is a general understanding of a political conception of justice. A well-ordered society is a society in which persons are assumed to accept the principles of justice and basic social institutions are assumed to satisfy the principles of justice.

2.1.2. Justice as Fairness

In *A Theory of Justice* Rawls develops a specific conception of justice that is called justice as fairness. Justice as fairness is a public conception of justice in a well-ordered society. The terms and conditions of justice are designed to construct the basic structure of society. Principles of justice are considered at the very basic level of founding a society.

> [Principles of justice] are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association. These principles are to regulate all further agreements; they specify the kinds of social cooperation that can be entered into and the forms of government that can be established. (Rawls, 1999a: 10)

Principles of justice as fairness define the principles of a fair system of cooperation.

These principles are:

> a. Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.
> b. Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be the greatest benefit of the least advantaged members of society. (Rawls, 1996: 6)

As fundamental principles of justice as fairness, these principles are to regulate basic institutions of society. The principles also provide values of political liberalism through a public conception of justice.

2.1.3. The Original Position

In *A theory of Justice*, Rawls attempts to find a general theory that replaces classical social contract theories. In social contract theories an abstract, hypothetical initial situation is conceptualized, which is the state of nature, and a contract is formed to construct the conditions of living together. Justice as fairness is founded upon the conception that a person does not enter a society through a contract but through accepting a particular conception of justice. Persons in an *initial position of equality* accept justice as fairness. Similar to the conception of state of nature in social contract theories, Rawls conceptualizes the original position. The original position states that: in the initial stage;

> … [N]o one knows his place in the society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. (Rawls, 1999a: 11)

Persons decide to choose the principles of justice without knowing their social and natural status in the society. This condition of not knowing essential personal features is called the *veil of ignorance*. Through the idea of original position Rawls aims at developing a society in which no one becomes advantaged or disadvantaged by chance. Consequently, the principles of justice they are going to decide do not favor any particular group or person in the society. It is because no one would know their respective status and their conception of good in the society properly before deciding a particular conception of justice.

2.1.4. Reasonable and Rational

The importance and centrality of reason in political theory is closely connected with liberalism. The rational person as such has the basic industry of reasoning in every matter of life. Rawls differentiates reasonable from rational in considering the conception of justice as fairness. Being rational does not necessarily mean being reasonable. Rational agents pursue their own interests intelligently. Reasonable agents in the society are concerned with the fact that they are living in a society with others in a fair system of cooperation. In this sense, reasonable agents consider the impact of their actions on others in the society while they pursue their own interests as rational agents. In the context of justice as fairness being reasonable has a specific importance.

> Persons are reasonable in one aspect when, among equals say, they are ready to propose principles and standards as fair terms of cooperation and to abide them willingly, given the assurance that others will likewise do so.

Those norms they view as reasonable for everyone to accept and therefore as justifiable to them; and they are ready to discuss the fair terms that others propose. (Rawls, 1996: 49)

Being reasonable is not out of a rational calculation of persons to conclude that they abide with the principles of justice as fairness as far as their rational interests are maximized when the common good is favored. Being reasonable confers a moral responsibility unlike being rational. In the public, reasonable agents are concerned with the fair terms of cooperation to contribute to justice as fairness. On the contrary, being rational does not presuppose a public condition. Being rational is considered at the individual level. Rationality is a condition for individual persons, whereas reasonableness presumes the existence of others.

2.1.5. Reasonable Pluralism

Democracy is a regime which includes people who adhere to different comprehensive worldviews. In constitutional democracies, this fact of pluralism of different worldviews is accepted as given. Although in democracies the existence of different and contending worldviews is part of the political culture, in a constitutional democracy founded on the principles of justice as fairness this pluralism should carry certain characteristics. The kind of pluralism justice as fairness operates in, is reasonable pluralism. In reasonable pluralism only those worldviews are accepted as part of the political system which reasonable citizens accept to endorse. In political liberalism comprehensive worldviews are considered as reasonable views as far as citizens who accept those views agree with the

principles of justice as fairness. Reasonable comprehensive doctrines invoke their followers to comply with the principles of a reasonable conception of justice. For the existence of different comprehensive worldviews in the society they have to be considered as reasonable worldviews. Justice as fairness in a well-ordered society is at the center of all different reasonable comprehensive worldviews and does not favor any of them.

2.1.6. Civic Citizenship

The political relation of citizens in a constitutional democracy is characterized around a civic friendship of citizens. Civic friendship is founded upon the principles of a shared conception of justice. The fact of reasonableness further strengthens the condition of civic friendship. Every citizen appreciates the civic limits for realizing a well-ordered society which is designed through a certain shared conception of justice. In a well-ordered society citizens have a duty of civility. This duty states that every citizen is ready to explain his commitment to one another on the principles of justice as fairness. This duty is the unofficial guarantee for a shared conception of justice to endure. The ideal of civic citizenship is developed around the duty of civility to realize civic friendship.

2.1.7. Overlapping Consensus

In the condition of reasonable pluralism a certain conception of justice is said to balance different comprehensive worldviews. The condition that citizens of every reasonable comprehensive worldview accept the shared conception of justice is the fact of overlapping consensus.

> Social unity is based on a consensus on the political conception; and stability is possible when the doctrines making up the consensus are affirmed by society's politically active citizens and the requirements of justice are not too much in conflict with citizens' essential interests as formed and encouraged by their social arrangements. (Rawls, 1996: 134)

Overlapping consensus is not a mere consensus on basic matters of justice but it requires the commitment of those who accept the fact of reasonable pluralism. Overlapping consensus aims at assuring stability among different comprehensive worldviews in the society. The term overlapping indicates that the political conception of justice is not against, ignorant or skeptical about various comprehensive doctrines but it is acceptable to all those views.

> We try, so far as we can, neither to assert nor to deny any particular comprehensive religious, philosophical or moral view, or its associated truth and the status of values. Since we assume each citizen to affirm some such view, we hope to make it possible for all to accept the political conception as true or reasonable from the standpoint of their own comprehensive view, whatever it may be. (Rawls, 1996: 150)

Overlapping consensus, in this sense, is not for reaching a consensus as it is a *modus vivendi*, but it tries to accomplish an idea for which various comprehensive doctrines might reasonably endorse to a political conception of justice. It is political in the sense that it takes only issues of basic justice and constitutional essentials into account in public deliberation.

2.1.8. Public Reason

Public reason is the reason of citizens in a constitutional regime who share a public conception of justice in a society as a fair system of cooperation. It is also the reason of the public in a condition of reasonable pluralism where the public conception of justice stands for providing a framework for overlapping consensus among various comprehensive worldviews.

> The idea of public reason specifies at the deepest level the basic moral and political values that are to determine a constitutional democratic government's relation to its citizens and their relation to one another. In short, it concerns how the political relation is to be understood. (Rawls, 2001: 132)

The relation among citizens is generally defined through the public conception of justice. Public reason is to effectively regulate the conditions in which citizens come together in the public forum to decide the principles of basic justice. Public reason in this sense is an integral part of political liberalism. In other words, it defines the procedural rules in which political liberalism operates. The idea of overlapping consensus indicates that citizens affirm public reason from inside their comprehensive worldviews.

2.1.9. Background Culture

Background culture is developed in order to differentiate the true conception of public in political liberalism. Background culture is the culture of civil society. Nevertheless, the background culture is not out of the scope of legal political

system. (Rawls, 2001: 134) Public reason cannot interfere with the operation of background culture since background culture does not constitute a political conception in the society. Background culture is different from the public political culture. Background culture is not fully concerned with the private lives of persons, it is rather the social environment in the society. The associations that comprise the background culture are universities, religious institutions, professional groups and the like. (Rawls, 1996: 220-223)

Until this point basic concepts as tools of analysis are evaluated. In the coming section foundational ideas of political liberalism are going to be analyzed in detail. Rawls's intention in developing *A Theory of Justice* and *Political Liberalism* is presented. This section will enable us to move into the analysis of society as a fair system of cooperation and the basic ideas of political liberalism.

2.2. From *Theory* to *Political Liberalism*

The originality of John Rawls as a political philosopher lies in his conviction that his scholarly work is matured in a time span among scientific circles on the basis of deliberation for prospective ideas. Consequently, he revised his monumental work – *A Theory of Justice* – by considering many criticisms posed in time also with a change in his scope of analysis although he still aimed at the possibility of a just society as a fair system of cooperation among free and equal citizens of a constitutional democracy. For Rawls, liberal doctrines are constructed upon metaphysical bases. Thus they are considered as comprehensive worldviews. The metaphysical basis can be a moral regulative idea, or a conception such as nation or

utility. *A Theory of Justice* can be counted among the liberal tradition providing a comprehensive doctrine as opposed to utilitarian liberalism. *A Theory of Justice* is based upon a specific conception of justice. However, Rawls's main aim is to find a conception that enables various contending comprehensive worldviews to live together without appealing to a metaphysical conception. *A Theory of Justice* offers a conception of justice but it remains to be another comprehensive worldview. It is unlikely that others are willing to accept such a conception. In this sense, *A Theory of Justice* is revised to endorse the idea of citizenship as sharing the same commitment to justice as fairness. In his later work *Political Liberalism*, Rawls revised his ideas in *A Theory of Justice* towards providing a framework which does not entail a comprehensive worldview but an overlapping consensus among many different comprehensive doctrines.

> … [I]n the well ordered society of justice as fairness, citizens hold the same comprehensive doctrine, and this includes aspects of Kant's comprehensive liberalism, to which the principles of justice as fairness belong. (Rawls, 1996: xlii)

However, in a constitutional democratic society citizens should not be forced to adhere to a specific comprehensive view, be it the comprehensive view of justice as fairness.

According to Rawls the fact of reasonable pluralism suggests the existence of different and various comprehensive worldviews either religious or secular while citizens affirm the existence of this plurality. "Thus, a main aim of political liberalism is to show that the idea of the well-ordered society in *Theory* may be formulated so as to take account of the fact of reasonable pluralism." (Rawls, 1996: xliii) In *Political Liberalism* the idea of reasonable pluralism is contained in the main structure of the social set up. Unlike *A Theory of Justice, Political Liberalism*

is founded around a basic question. How is it possible to found a constitutional democratic regime in a society which is divided among various comprehensive worldviews? As a solution, the idea of justice as fairness in *Theory* is revised to form a political conception of justice in line with the idea of reasonable pluralism. (Beitz, 2000: 670-673)

Beyond the specific conception of the citizen in relation to a political conception of justice as fairness, which is elaborated in the first part of *Political Liberalism*, the structural concepts of the idea of reasonable pluralism are amongst the most important concepts. The ideas of overlapping consensus and public reason constitute the theoretical framework on which the idea of reasonable pluralism stands. The idea of overlapping consensus is to avoid a kind of consensual situation in relation to existing comprehensive doctrines. It is to find balance among various comprehensive worldviews along the lines of a public conception of justice. Indeed, overlapping consensus is located above the existing comprehensive doctrines within a regulative framework free from existing doctrines. As a result, the idea of overlapping consensus is acceptable to all of the views in connection with a *reasonable political conception of justice*. The problem at this point is how this political conception is decided? In a constitutional democracy matters of basic justice and constitutional essentials are left to legislative structures. In *Political Liberalism*, they are considered at the level of constitutional essentials with a conceptualization of reasonableness. Political liberalism on the one hand accepts the existence of a plurality of views in the society, on the other hand it develops an idea of civic citizenship. It is the responsibility of citizens in a democratic polity to contribute to the working of institutional processes of collective decision making

and implementing. The ideal of civic citizenship is grounded through public reason with a procedural context of decision-making at the very basic level.

The idea of public reason is not originally raised by Rawls in political theory. Rawls developed the concept of public reason as one of the fundamental ideas of *Political Liberalism* and as an integral part of it. Attempts to identify terms and conditions of citizens' relations with government and with each other comprise an important literature in the theories of democracy. The most important novelty in Rawls's understanding of the idea of public reason is that it is not founded upon a metaphysical conception. According to Rawls, the idea of public reason is assumed to solve his basic problem, which concerns the possibility of the existence of contending comprehensive worldviews living together.

2.3. Society as a Fair System of Cooperation

The legitimacy of constitutional democracies should be based on the concept of justice that could be accepted by all citizens. "Only a political conception of justice that all citizens might be reasonably expected to endorse can serve as a basis of public reason and justification." (Rawls, 1996: 137) In a constitutional democracy all citizens as reasonable, rational agents act in cooperation with each other. The way the rules of the game are going to be decided, in a way, is left to the procedural working of public reason. The idea of justice, as Rawls understood needs clarification in the sense that it is considered as one of the main ingredients in the construction of the constitutional democratic regime.

When Rawls talks about a political conception of justice, he also means the concept of justice as fairness. Justice as fairness draws the boundaries in the political society to realize the conditions of equality and freedom. On this path, citizens may endorse the idea of justice as fairness as a common ground for the realization of overlapping consensus, by leaving their comprehensive doctrines aside. The conceptualization of justice as fairness is not comprehensive for the fact that it handles basic political matters as practical matters. This political aspect of the idea of justice as a fair system of cooperation enables many different comprehensive worldviews to settle under the framework of overlapping consensus. "The aim of justice as fairness, then is practical: it presents itself as a conception of justice that may be shared by citizens as a basis of a reasoned, informed and willing political agreement." (Rawls, 1996: 9) Justice that does not depend on any comprehensive doctrine and specific worldview is attractive to almost all different views in the society to become the basis of political society. The idea of overlapping consensus is like a module in the society as a fair system of cooperation that can be practically inserted to any comprehensive doctrine.

2.4. Fundamental Ideas of Political Liberalism

Justice as fairness provides two basic principles to solve fundamental problems of constitutional democracies. They are to solve the problems of liberty and equality. These two principles are:

a. Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for

all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.
b. Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be the greatest benefit of the least advantaged members of society. (Rawls, 1996: 6)

As fundamental principles of justice as fairness, these principles are to regulate the basic institutions of the society. These principles also provide values of political liberalism through a public conception of justice.

Justice as fairness develops in society as a fair system of cooperation. In such a society, citizens are expected to endorse the shared public conception of justice. Terms and conditions of the development of the idea of society as a fair system of cooperation depend on the procedural requirements for the rules of the game. The cooperation is regulated by the rules adopted through democratic procedures. The social system inherently carries a specific notion of cooperation resembling to an idea of reciprocity. The idea of reciprocity states a reciprocal situation for citizens in accepting the terms of cooperation. "… [T]hese are terms that each participant may reasonably accept, provided that everyone else likewise accepts them." (Rawls, 1996: 16) Reciprocally advantageous situation of citizens in society guarantees the idea of justice as a fair system of cooperation. The rules and regulations for the construction of society within a reciprocally advantageous conditionality would require a procedural setup that enables the participation of citizens effectively.

Hence the idea of political legitimacy based on the criterion of reciprocity says: Our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions – were we to state them as government officials – are sufficient, and we also reasonably think that other citizens might also reasonably accept those reasons. (Rawls, 2001: 137)

One foremost primordial condition for the realization of this general goal is the constitutional democracy.

An effective constitutional democracy should guarantee basic rights and liberties of the individuals that are partaking in the decision making process. The first principle of political liberalism exactly states this condition as the founding principle of the general scheme. "Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties." (Rawls, 1996: 5) With the help of the difference principle, the first principle, equality principle, becomes available to all. It is the fair equality of opportunity in relation to all public offices and positions, and providing conditions that is available to the least advantaged section of the society. These last two principles are known as the difference principle in political liberalism. Upon these conditions the political conception of justice constitutes regulative principles of a constitutional democracy. The citizens in the constitutional democracy would comply with the basic principles of justice as fairness. The constitution in this vein is the major document not only in the sense of defining basic framework of the society as a fair system of cooperation, but also in its becoming.

As the basic document in a constitutional democracy, constitution provides the general rules for every citizen in the society. Deciding on the constitutional essentials require consideration of basic matters of justice for a well-ordered society. Application of public reason in deciding constitutional essentials and basic matters of justice is a priority in establishing a stable and effective political society. After a basic standing ground is established, other political matters are negotiable in a well-ordered way. "It is through these fixed procedures that people can express, even if they do not, their reasoned democratic will, and indeed without those procedures

they can have no such will." (Rawls, 1996: 232) Appearing at this point, public reason at first provides the procedural architecture of arranging constitutional essentials and basic matters of justice.

2.4.1. Priority of Right

In a fair system of cooperation, the idea of priority of right is an important aspect of society.

> The particular meaning of the priority of right is that comprehensive conceptions of the good are admissible, or can be pursued in society, only if their pursuit conforms to the political conception of justice. (Rawls, 1996: 176)

Citizens should comply with the priority of right in society as a fair system of cooperation over the goods for it is a required part of a shared public conception of justice. Still this priority remains in the context of practical matters of political system. "Political liberalism presents, then, a political conception of justice for the main institutions of political and social life, not for the whole life." (Rawls, 1996: 175) As a common ground among the citizens, this principle is to avoid undermining the fair system of cooperation for the sake of one specific comprehensive doctrine. At the same time it is devoted to regulate the institutional framework of the state which is not allowed to intervene in framing any of the reasonable worldviews.

> The priority of liberty implies in practice that a basic liberty can be limited or denied solely for the sake of one or more other basic liberties, and never (…) for reasons of public good or of perfectionist values. (Rawls, 1996: 295)

This seems to be one of the basic assumptions of political liberalism which claims to assure the plurality of different and sometimes contending worldviews. What is the main ground for this condition in society as a fair system of cooperation?

2.4.2. The Idea of Overlapping Consensus

Reasonable pluralism is desired for the political culture of a democratic society. Political liberalism tries to avoid comprehensive doctrines to influence political issues unreasonably. In this way it is compulsory to state the guidelines for identifying the conditions in which people come together to decide on initial terms of decision-making. Reaching a consensus is a priority for the terms which will construct a framework for stability. Putting the consensus as a priority would entail the impossibility of a single or comprehensive view to be consolidated as the sole political view in a society. "… no comprehensive doctrine is appropriate as a political conception for a constitutional regime." (Rawls, 1996: 135) An overlapping consensus on the political issues in a society makes the idea of political realm free from any particular view. Such a shared political view of a society is legitimate only in the eyes of its members. Then, one should ask how the members of the society balance the conditions of justice as fairness and constitutional essentials with their comprehensive worldviews?

According to Rawls, the only condition for the possibility of political liberalism passes through the realization of an overlapping consensus. This only happens when citizens of a regime are supposed to born and live a complete life in the same society. It is their own society from the first day so that they would accept

the existing political conditions as well. Related with this fact, a society based on a single comprehensive doctrine inevitably requires the use of coercion. This is the fact of oppression according to Rawls. (Rawls, 1996: 35-40) On the contrary, in a constitutional democracy the power of coercion is exercised under the name of citizens as *a collective body* over themselves. The construction of this collective body depends on the realization of the idea of overlapping consensus in which citizens reasonably endorse the plurality of views and the legitimate exercise of power over them by the state. The true meaning of public reason is realized if there is an overlapping consensus among reasonable comprehensive doctrines on the principles of basic justice and constitutional essentials. This point shows us how Rawls considers the overlapping consensus as not merely a *modus vivendi* but a shared conception of justice as fairness.

The coercive power of the state over individuals is inevitable. It is also the case in a constitutional democracy that citizens at the same time construct the conditions and limits for the exercise of this power. Nevertheless, there is a need for the basis of its legitimacy. The legitimate use of power depends on the constitutional essentials of the state. In a democratic society in which there is a plurality of different comprehensive views, how it would be possible to exercise power which is justifiable for every citizen, poses a central question. The citizens of such a society would set up constitutional essentials for the legitimate use of state power. The identification of practical political matters as distinct from matters of life assures the impartiality of the idea of overlapping consensus. Rawls tries to make available a political conception to be constructed for the affiliation of various citizens to the constitutional democracy. The only possible way for the citizens to accept a justifiable way of exercising the state power is through framing the political as it is

done through the principles of basic justice. This framework would define the general precepts on which public reason stands.

2.4.3. The Idea of Public Reason

The idea of public reason contributes to the idea of a well-ordered society by ensuring the measures for order and stability in a constitutional democracy. The aim of public reason is defined in terms of "a firm allegiance to a democratic society's political (moral) ideals and values." (Rawls, 2001: 146) The order and stability is the natural outcome of a just constitutional democracy. In a polity where the ideals of a constitutional democracy are exercised for the sake of civic peace and stability, the true political values would not be realized. In this kind of polity, first sincere opinions of citizens would not be voiced; second the consensus on which the polity stands would be quite vulnerable. It would be a mere *modus vivendi* rather than an overlapping consensus. An overlapping consensus is based on a shared conception of justice on political issues that every citizen is expected to endorse.

Public reason attributes a distinctive characteristic to political liberalism in relation to other liberalisms, in general – moral liberalism, economic liberalism, utilitarian liberalism. Political liberalism favors liberal principles like the priority of right, but its emphasis on public reason indicates the importance of political values that differentiates itself from moral and utilitarian liberalism. Public reason endorses a liberal, but also a political view of justice. It is liberal in the sense that it accepts the general founding principles of constitutional democracies, it is impartial and it provides tools to its members for them to exercise their rights. It is political because

it is concerned with the issues of basic justice and constitutional essentials which are also public. The idea of public reason contains the ways in which citizens exercise their basic rights and duties. For this basic purpose there are intrinsic values in their relation to the values of a liberal political conception. " – the values of public reason – fall under the guidelines for public inquiry, which make that inquiry free and public." (Rawls, 1996: 224)

The ways of reasoning for public inquiry include general beliefs in line with common sense and realities proposed by science. These two basic convictions for inquiry are found in any liberal doctrine. In addition, it is proposed that any publicly reasonable form of inquiry should be accepted valid for public inquiry. This inquiry is called the content of public reason. It is not a specifically defined procedural content. On the contrary, public reason has a moral content; nevertheless it is not possible to identify it within a comprehensive worldview. This amorphous characteristic of public reason enables it to be applicable for many different contexts.

> We agree that citizens share in political power as free and equal, and that as reasonable and rational they have a duty of civility to appeal to public reason, yet we differ as to which principles are the most reasonable basis of public justification. (Rawls, 1996: 226)

A difficulty arises at this point as how to assess any specific discussion to fell under the jurisdiction of public reasoning. The idea to limit public reason to identify the basic rights and duties and the basic matters of justice helps to identify this problem.

2.4.3.1. Limits of Public Reason

The application of public reason is limited to the public discussions, held in the public forum for citizens. It is limited to the discussions in the legislator for the public officers and to the decisions of the judiciary. Public reason is limited to the issues of constitutional essentials and fundamental matters of justice. Public reason should first identify the political environment in which the democratic action is observed. The main reason in limiting public reason is more than a matter of priority of values and issues. Public reason is not contained in every aspect of life; also it is not a condition every citizen should apply in every decision they take. "But the ideal of public reason does hold for citizens when they engage in political advocacy in the public forum." (Rawls, 1996: 215) The limits of public reason also constrain the use of it in terms of space and functionary. Public reason applies to whom has anything to do with the public, interpret constitution for enactment of laws and decide matters of basic justice.

The motivation to limit the public reason stems from the basic assumption that citizens should resort to an idea of public reason in deciding basic matters of justice. This idea should be under the framework of an overlapping consensus but not belong to a specific comprehensive view of any citizen. Citizens should be considering public reason related with certain issues so that their holistic conceptions of the world does not interfere with their reasoning. Limits of public reason ensure impartiality, which is also in compliance with the two basic principles of political liberalism. In everyday matters, people live in a world in accordance with their worldviews. They do not leave their comprehensive worldviews in the public as well. However, public reason is realized only when citizens consider the

inevitable plurality and existence of other comprehensive worldviews. Public reason is realized in any public forum where people are forced to argue within the considerations of constitutional democracy. Public, as a spatial constraint to public reason, assures plurality. (Charney, 1998: 98-99) The reason is that non-public issues will be out of the scope of political liberalism. Participants in the public discourse are not discriminated for non-public issues and reasonable plurality would be guaranteed.

2.4.3.2. Reasoning in Public

Limits on public reason do not mean that citizens would exclude reasoning from inside their comprehensive worldviews in the public forum. Rawls called this type of limit as the exclusive view. By contrast, reasoning stemming from comprehensive views may be included in the public reason as long as they contribute to the public reason, in a positive way. Rawls called this understanding as the inclusive view. Considering both views, the better one that fits into political liberalism is the inclusive view. However this situation should also be case-dependent, in the sense that sometimes including reasoning from inside comprehensive views in deciding basic matters of justice may influence the public reason negatively. Any idea that is acceptable to a specific doctrine, if brought before the public, might be unreasonable for a political issue and might harm the overlapping consensus. "… [T]he appropriate limits of public reason vary depending on historical and social conditions." (Rawls, 1996: 251) Consideration for including comprehensive reasoning in public reason depends on the political culture of the

society. Understanding the way any comprehensive view in the society supports the overlapping consensus would increase the level of social cooperation. "…[T]he best way to strengthen that ideal in such instances may be to explain in the public forum how one's comprehensive doctrine affirms the political values." (Rawls, 1996: 249) Rawls takes the adoption of inclusive views that can be understood as the transparency of comprehensive views in the society, under a conditional basis. It is the transparency of values to allow explanation of intrinsic qualities of every comprehensive doctrine publicly.

In *Political Liberalism*, Rawls is decisive about the transparency of comprehensive doctrines in society unlike in the *Theory*. The transparency situation for explanations of comprehensive views is conditional in this instance. Later he is convinced by the full transparency for the manifestation of particular views in their own reasoning frameworks. "… [T]he roots of democratic citizens' allegiance to their political conceptions lie in their respective comprehensive doctrines, both religious and non-religious." (Rawls, 2001: 153) The ideas of reasonable comprehensive doctrines should be transparent. To put in another way, they should be accessible by everyone. As a result, citizens' compliance to the idea of public reason would be strengthened. Second, he is clear on the point of public justification in his later work. Whatever the consistency of reasoning commands in any comprehensive worldview, there should be a basis of public justification in the proposals.

> Public justification is not simply valid reasoning, but argument addressed to others: it proceeds correctly from premises we accept and think others could reasonably accept to conclusions we think they could also reasonably accept. (Rawls, 2001: 155)

Justification is complete when others are taken into consideration in society. The reasonable pluralism requires this condition. After this point, reasoning would be complete.

Reasoning from inside the comprehensive doctrines, provided that they comply with the overlapping consensus, does not overrule the idea of public reason. There is an exception that grounding any political institution solely or any comprehensive view jeopardizes the impartiality of reasoning before the consolidation of a just society is fully realized. In other words, the political culture of a society is crucial for the full realization of the values of political liberalism.

> What we cannot do in public reason is to proceed directly from our comprehensive doctrine, or a part thereof, to one or several political principles and values, and the particular institutions they support. Instead, we are required first to work to the basic ideas of a complete political conception and from there to elaborate its principles and ideals, and to use the arguments they provide. (Rawls, 2001: 146)

The basic structure on which public reason stands should be completed beforehand in a mutually favorable political context.

2.4.3.3. The Conception of Public

The identification of public in a well-ordered society is important to locate the idea of public reason as a regulative framework of relations among the citizens.

> While a well ordered democratic society is not an association, it is not a community either, if we mean by a community a society governed by a shared comprehensive religious or philosophical doctrine. This fact is crucial for a well-ordered society's idea of public reason. To think of a democracy as a community (so defined) overlooks the limited scope of its public reason founded on a political conception of justice. (Rawls, 1996: 42)

Public reason is public in the sense that it has its own terms for the members of society to come together and discuss certain issues.

> Public reason, then, is public in three ways: as the reason of citizens as such, it is the reason of the public; its subject is the good of the public and matters of fundamental justice; and its nature and content is public… (Rawls, 1996: 213)

The citizens' reason is not an aggregate reason but it is the reason shared by them for living in a society. As reasonable agents, citizens have the capacity to consider others for a fair cooperation in the public. The idea of good as an aim for public is not metaphysical because it is mainly concerned with fundamentals of justice. The matters concerning the fundamentals of justice are in the domain of political justice, and they are decided through discussion in the public forum. The content is not far reaching to many issues but only on basic principles. This is not to impose any kind of comprehensive view on the public. (Charney, 1998: 99-103)

Public is the collective body of equal citizens. Citizens are free and equal with respect to their moral capacities which are "[T]he "capacity for a sense of justice and the capacity for a conception of the good." (Rawls, 1996: 34) In this way it is possible for them to conceive a collective body of which they are part. "Their having these powers to the requisite minimum degree to be fully cooperating members of society makes persons equal." (Rawls, 1996: 19) Reasonable persons assure the validity of public to be a collective body of equal citizens. Citizens as a collective body exercise final political and coercive power over one another. The only legitimate way to execute the decisions in a democratic society is through a source of power formed collectively by free and equal citizens. The process of forming the collective body of citizens is realized in the initial agreement reached

through the device of the original position. Persons in an initial position of equality accept justice as fairness.

2.5. The Ideal of Citizenship

The task of legitimation is not vested solely on the state institutions. Rawls considered legitimacy in the mutual relationship of citizens among themselves with the state. Citizens have a responsibility in the mutual construction of a legitimate political environment.

> And since the exercise of a political power itself must be legitimate, the ideal of citizenship imposes a moral not a legal duty – the duty of civility – to be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason. (Rawls, 1996: 217)

The only possible way in which a healthy constitutional democracy works is through making citizens responsible for their political decisions. The limits are imposed over citizens by citizens themselves. Democratic ideal of citizenship requires sincere commitment to the ideal of public reason.

> As reasonable and rational and knowing that they affirm a diversity of reasonable religious and philosophical doctrines, they should be ready to explain the basis of their actions to one another in terms each could reasonably expect that others might endorse as consistent with their freedom and equality. (Rawls, 1996: 218)

The political environment should be in line with this basic promise. Indeed politics provide an environment in which citizens are actively involved as sincere partners. Public reason is an instrument in achieving the construction of this environment. The guiding principle for citizens arguing in a public forum would be their response

to any particular problem as if they are acting as legislators or public officials. This is part of the civic responsibility of citizenship as much as the ideal of public reason is realized.

Public reason encourages citizens to reason in public matters by considering others as committed to the same ideal. A feeling of doubt and skepticism with respect to truth supports this ideal and full commitment of citizens to an overlapping consensus.

> … [W]e should not appeal to the whole truth as we see it, even when it might be readily available. (Rawls, 1996: 218)
> Political liberalism views the insistence on the whole truth in politics as incompatible with democratic citizenship and the idea of legitimate law. (Rawls, 2001: 138)

On the contrary, Bruce Brower argues that skepticism on the various comprehensive views does not contribute to public reason.

> The net result is that although skepticism may be consistent with appeal to public reason, it creates problems for liberalism itself, and does not provide independent support for the publicity constraint. (Brower, 1994: 22)

According to Brower, skepticism should be backed by a desire to be reasonable. The desire to be reasonable as a motivation left alone to the general convictions of moral theory.

> … Rawls appeals to the burdens of reason, combined with the fact of pluralism (which Rawls believes is supported by the burdens of reason), in order to articulate a form of skepticism directed not at the truth of moral claims, but at the possibility of rational consensus on moral justification. (Brower, 1994: 21)

The point Brower raised is quite logical but he is not clear in his claim that the weight of desire to be reasonable should be heavier. In this sense, public reason is affiliated more with the civic responsibility of citizens than Rawls presupposed.

However, Brower interpreted the element of skepticism in terms of Kantian constructivism rather than in terms for the construction of overlapping consensus.

> Political constructivism does not criticize, then religious, philosophical, or metaphysical accounts of the truth of moral judgments and of their validity. Reasonableness is its standard of correctness, and given its political aims, it need not go beyond that. (Rawls, 1996: 127)

Skepticism in analyzing public reason is merely a part of reasoning in the public – a tool – than a moral principle in political liberalism. For Brower (1994) skepticism was in the basic precepts of moral conception. Rawls assumes that commitment to both reasonable comprehensive doctrines, and to the rights and duties of a just political regime would entail resurgence of ideal limits to the public reason, in an overlapping consensus. Limits on public reason in relation to overlapping consensus refer to the procedural limitations for the reasonable argumentation of citizens in public forum without harming overlapping consensus. Brower did not carefully assessed Rawls's position.

2.6. Non-public Reasons

Public Reason is conceptualized around reasonableness of the agents at one point and it refers to the public that constitutes the idea of reasonableness at another. However, there is only one public and there are non-public reasons as such. The idea of public reason should be differentiated from the reasons of the parts which are agents in the public. "… [T]here are many nonpublic reasons and but one public reason." (Rawls, 1996: 220) Also it is crucial to note that public reason is not the reason of public as an entity. A well-ordered democratic society; "…has no final

ends and aims in the way what persons or associations do." (Rawls, 1996: 41) Public reason is limited to the public sphere, as Rawls understands. It is a way to ensure sincerity of citizens in their arguments. In other spheres of social life, namely background culture and nonpublic reasons, the freedom of thought and speech, freedom of association and other basic liberties allow discursive formations from the views of comprehensive arguments. "The idea of public reason does not apply to the background culture with its many forms of non-public reason nor to media of any kind." (Rawls, 2001: 134) It is because public reason does not apply to private or non-public reasons. Rights of individuals should be secured through legal measures in constitutional democracies. If public reason were left to regulate private matters of individuals it would serve to establish a comprehensive doctrine. The attempt of Rawls is in line with his argument of the political justice. The ideas of political justice and society as a fair system of cooperation should embrace the public sphere but refrain from private conscience and non-public reasons.

Power of non-public reasons over their participants in the constitutional democratic society is accepted and public reason does not interfere with this power. However the first basic principle of justice as fairness indicates that associations in the background culture should respect the rights of individuals. Public reason interferes in a situation where basic rights and liberties of a person is violated by non-public reasons. Any association in the background culture acknowledges a shared conception of justice. Accordingly, non-public reasons are ready to accept fair terms of cooperation in line with the principles of basic justice.

2.7. Procedural versus Substantive Aspects

It is helpful to distinguish between the procedural and substantive aspects of the idea of public reason due to the fact that many controversial issues arise at this point. Public reason is neither totally procedural nor totally substantive but it contains aspects of each.

> They [political liberalisms] are required to specify the religious liberties and freedoms of artistic expression of equal citizens, as well as substantive ideas of fairness involving fair opportunity and ensuring adequate all-purpose means, and much else. (Rawls, 2001: 141)

Political liberalism is partially a substantive principle. For my usage of procedural is to indicate the weight of liberalism that was used in terms of the liberal principles of a constitutional democratic system. In the above quotation Rawls implicitly mentions this differentiation and sketches out the importance of proceduralism as legalism throughout his texts.

Public reason as a procedural complement in the general framework of political liberalism is manifest in its affiliation to the Supreme Court. "… [I]n a constitutional regime with the judicial review, public reason is the reason of its supreme court." (Rawls, 1996: 231) In the general context of constitutional essentials public reason is to realize the procedure for deciding the settlements of an inquiry. Once the constitutional essentials are decided through public reason, it is easy to analyze the lower legal arrangements for their validity. Public reason in this sense is a legal requirement. It is procedural to the extent it is legal. Other than the content of public reason, which is political, it is the procedure that the terms and conditions of a particular discussion were held on a certain ground. The idea of

public reason allows citizens to reach different solutions to an identical problem. In other words, there can be few reasonable answers for any question.

In a situation where reasonable arguments are to settle on the same ground the idea of public reason operates as a mediating procedural instrument, although it has substantive aspects. The very basic idea itself operates reasonably. "A vote can be held on a fundamental question as on any other; and if the question is debated by appeal to political values and citizens vote their sincere opinion, the ideal is sustained." (Rawls, 1996: 241) An appeal to the political values alone indicates the sustenance of the idea of public reason as a substantive idea. In addition, the procedure of voting among the reasonable opinions provides a procedural case for the solution of the debate. It is worth to conclude that procedural principles of reasonableness and being political create a vacuum in which no comprehensive doctrine dominates the public. Substantive aspects of public reason are an attempt to solve the problems of liberty and equality through two basic principles of equality and difference in political liberalism.

2.8. Concluding Remarks

The idea of public reason constitutes the aspects and rules of reasoning in the public forum in a well-ordered constitutional democracy. In the general framework of political liberalism, public reason is to solve the paradox between accommodating a shared understanding in the basic principles of justice and constitutional essentials, on the one hand and the inevitable plurality of conflicting comprehensive doctrines in society on the other. It first seems to be a merely procedural, legal principle.

However, public reason is understood to have a substantive characteristic that includes a form of civic responsibility. In this sense it is part of the republican ideal. Public reason defines the conditions of a social contract theory. Its moral responsibility over citizens as a civic friendship is similar to Rousseau's conception of the Social Contract. Public reason's attempt to find a framework that regulates basic matters of justice indicates the roots of Kantian constructivism. Rawls's concern for the priority of right and his concern for liberty resembles to a kind of liberal understanding of liberty developed by J. S. Mill.

Public reason is not only to settle down the disagreements in society or to decide the general rules of political conduct. It is a process in which a constitutional democracy develops further for better conditions and mutual respect. In the process regulated by public reason every citizen is expected to gain capacities akin to democratic citizenship in time.

> Citizens learn and profit from debate and argument, and when their arguments follow public reason, they instruct society's political culture and deepen their understanding of one another even when agreement can not be reached. (Rawls, 2001: 171)

Public reason is not exercised once and for all but open to public discussion all the time. Let me now turn to the foundations of public use of reason in political theory.

CHAPTER III

PHILOSOPHICAL ROOTS OF THE IDEA OF PUBLIC REASON

In the general framework of theories of democracy, Rawls stands for the realization of a project, known as the deliberative democracy. Deliberative democracy calls for effective deliberation in public in modern societies. The automatic functioning of the voting process does not solve apathy and indifference in citizens. The project of deliberative politics is not only a novel proposal but it also proposes reevaluation of existing democratic principles. Accordingly, it turns back to original formulations of basic principles in the theory. It is crucial to understand the contributions of preceding philosophers and their intentions so that the process of reevaluation of democratic and deliberative principles may become complete. It is possible to trace basic concepts in Rawls's *Political Liberalism* to their original philosophical roots. Three outstanding thinkers stand as the foundational figures in the development of Rawlsian theory; Rousseau, Mill and Kant.

In the analysis of public reason, I intend to understand Rawls's approach to the problem of identifying terms and conditions of citizens' relations with government and with each other within a plurality of different worldviews. Rawls tries to develop a conception of public reasoning to regulate the procedure in which all the citizens may actually express their own points of view. My first question is how did scholars of democracy react to the same problem. If Rawls is influenced from Rousseau, Mill and Kant in general, there should be reflections of public

reason in these philosophers' thoughts. Not necessarily using the same concept of public reason as Rawls does, Rousseau, Mill and Kant searched for solving the problem of identifying terms and conditions of citizens' relations with government and with each other. It should be noted that the basic problems of Rousseau, Mill, Kant and also Rawls are different. Rousseau tries to develop the foundations of a truly legitimate government in which everyone can participate in the realization of general will. Mill tries to find a way out of tyranny of majority. Kant adopts Rousseau's concerns to a more elaborate philosophical inquiry. He tries to develop a universal moral conception for the general functioning of society. Rawls on the other hand tries to find a general theory that responds to the problem of finding a basic conception that allows various comprehensive worldviews, and even contradicting ones, to coexist in peace and harmony in the specific context of constitutional democracies.

My research question in this chapter is focused on the sources of Rawlsian public reason in the thoughts of Rousseau, Mill and Kant. For this purpose, I examined the basic texts of these thinkers from the point of view of their approaches to public reasoning. In the first part, I analyzed Rousseau's view on the formation of general will. In the second part, Mill's conception of liberty is analyzed. In the third part, I evaluated Kant's point of view and tried to understand his conceptualization of public uses of reason. I attempted to develop basic arguments in every part and provide three different concluding remarks. This section helps us to map the idea of public reason in Rawls's theory of constitutional democracy.

3.1. Rousseau on General Will

The conception of general will in democratic theory is at the center of most of the political and philosophical debates. Rousseau is perhaps the most important thinker in evaluating the conception of general will in a democratic polity. In this sense, Rawls seems to have been influenced from Rousseau mostly in his considerations for the problems concerning general will formation. (Rawls, 1996: xxxix; Rawls, 2001: 4) *Political Liberalism* is concerned with founding a just society through adopting the principles of a representative democratic polity. In order to achieve this end, a conception of justice for which everybody is expected to endorse is tried to be developed. Public reason is the main idea on the way to achieve this end. The connection for Rousseau in Rawls arises at this moment. Public reason is an instrument that defines procedural principles on the way to general will formation. It is essential to search for the roots of public reason for grasping to what extent it is influenced by Rousseau's conception of general will.

In *Political Liberalism* Rawls is concerned with the principles of equality which are associated with republicanism as well as principles of political liberties which are associated with liberal democratic ideals.

> … [A] conflict within the tradition of democratic thought itself, between the tradition associated with Locke, which gives greater weight to what Constant called "the liberties of the moderns", freedom of thought and conscience, certain basic rights of the person and of property, and the rule of law, and the tradition associated with Rousseau, which gives greater weight to what Constant called "the liberties of the ancients", the equal political liberties and the values of public life. (Rawls, 1996; 5)

The emphasis on other regarding citizens as reasonable citizens, and the moral obligations for citizens in deliberative processes are the main republican themes in *Political Liberalism*. Rousseau is also considered as a republican thinker who favors

freedom of ancients over the freedom of moderns[1]. In other words, republican ideals such as the moral duty for citizenship is favored over liberal democratic ideals. Rousseau as a republican thinker might have strong influence on Rawls in this connection. We should ask how far Rawls differentiates from Rousseau's conception of a democratic polity.

In the following section, first Rousseau's conceptions of general will and common good are analyzed. His major works of *On Social Contract or Principles of Social Right* (SC) and *Discourse on Political Economy* (DPE) are taken as the main texts for analysis. General will formation as a process is evaluated. Similarities and contrasts between Rousseau and Rawls's conceptions are presented. In this way, the place of public reason in relation to general will formation is understood. Second, Rousseau's conception of citizenship is analyzed. Citizen in a democratic polity with moral duties is presented with reference to Rawlsian understanding.

3.1.1. General Will and the Common Good

Perhaps for some it is desirable that man would be in absolute freedom. However for Rousseau, it is almost impossible for man to be absolutely free and be social at the same time. Rousseau's noble savage who is not bounded with the concerns of social life shows us the conditions for absolute freedom. "Man is born free, and everywhere he is in chains." (SC: 85) What if man would live free and be social at the same time in modern society?

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[1] For more on freedom of ancients and freedom of moderns see Benjamin Constant, 1988 *Political Writings*, (ed.) Biancamara Fontana Cambridge: Cambridge University Press.

A person's giving up his rights to no one but to the whole community is plausible and seems to be the only way of a political society for Rousseau. The collectivity of citizens as a sovereign body under equal conditions and the supremacy of law comprise a framework for the body politic. Being the sole source of legitimacy for the sovereign authority in a republic, individual interests are different than the interest of the sovereign as a collectivity of citizens. This point as the contradiction among private interests and collective interests is one of the most basic problems that Rousseau was dealing with. Formation of the collective will versus the particular wills can pertain to the same structure of body politic. Then how is this accomplished according to Rousseau?

The general will is constituted in accordance with the common good. Common good is different from particular wills in every moment so that it might be quite contrary to them. The conception of general will presumes a collectivity. It is the unanimous nature of general will that makes the collectivity of wills to be 'the general will'. Consequently exclusion of some is harmful to the idea of unanimity in this process. General will also indicates that sovereignty which represents this will is indivisible. Every citizen is sovereign according to Rousseau for the true realization of the general will. Citizens, as the subjects of the body politic, own sovereign rights. "Each subject cheerfully obeys laws which he helped enact in his capacity as a citizen. He takes the general will for his own will and esteems public opinion." (Cook, 1975: 123) In line with this idea, it is not good for a large body politic be formed since the legislative which determines the sovereign general will can easily be abused by the sovereign power which could be representative government. Rousseau has a specific definition of legitimate body politic for the general will to be unanimous. "Populate the territory evenly, extend the same rights everywhere,

bring forth abundance and life in every location; in this way, the state will become all at once the strongest and best governed possible." (SC: 142) The unanimity rule is essential in the realization of the general will. In this way the general will is formed but what the general will is remains to be answered.

3.1.1.1. General Will Formation

General will formation is strictly limited to the understanding that it is neither the sum of all wills nor any particular will, including that of the government.

> There is often a great difference between the will of all and the general will; the latter looks only to the common interest; the former looks to the private interest and is only a sum of particular wills, but take away from these same wills the pluses and minuses that cancel each other out, and the general will remains the sum of the differences. (SC: 101)

The source of the general will is the common good and the only authority in this decision is the legislator, i.e. citizens, which is different from the executive, of government which controls the power. (SC: 118) As a difficult process, general will formation requires the unanimity vote at this level as well. The general will in the last instance appears in the public. How do the particular wills come to the public and how is general will formed?

General will is realized after public deliberation. Results of deliberation are presupposed to be in favor of the common good.

> If the people, engaged in deliberation, were adequately informed, and if no means existed by which the citizens could communicate one with another, from the great number of small differences the general will would result, and the decisions reached would always be good. (SC, 102)

Will of groups in this process however does not result in the will of the whole. Will of groups remain as particular wills with respect to the state and the whole. In this sense it is crucial that every citizen voices his own argument in the process of deliberation. Controlling interest groups in society enables state to single out particular wills and helps to realize the general will through evaluating individual opinion.

3.1.1.2. Public Reason and General Will Formation

Similar to Rousseau, when Rawls speaks about the state, he is speaking about the will of citizens. For Rawls, and in general for liberal theory, citizens relate to the state for their equal share of coercive political power, which is inevitable but at the same time must be controlled. (Honig, 1993: 100-104; Rawls, 1969: 176-178) They exercise this power through voting. Rousseau would share the basic point that citizens relate to the state for their equal share in the exercise of legitimate political coercion but he would insist on the unanimity of the legislature in this decision. If general will appears in the public properly, it would be the basis of this monopoly of power because it is the source of sovereignty. The government uses the power and depends on the sovereign authority, which is inalienable and is composed of the people. "What then is government? An intermediary body established between the subjects and the sovereign for their mutual dealings, charged with the execution of the laws and with the maintenance of liberty, both civic and political." (SC: 118) Rousseau deals with the idea that general will appears in the public as to define the law and regulate almost every aspect of the political life. (Starobinski, 1962: 228-

232) For Rawls this basis is regulated through the ideal of public reason. Consequently, public reason functions like general will. Are they referring to the same thing?

Public reason is for the decision of the matters of basic justice and constitutional essentials. It does not cover all of the political matters unlike general will. It is moreover a procedural ideal. (Rawls, 1996: 212-254) In this sense it is obvious that public reason and general will are not identical. A similar point in Rawls and Rousseau related with the general will and public reason is the point that every citizen should speak from his own point and not others' or with respect to any particular will. "It is important, therefore, in order to have a clear enunciation of the general will, that there be no partial association in the state and that each citizen speak only for himself." (SC: 101) Particular wills of citizens as well as particular wills of associations that citizens might belong to should be excluded from the public discussion. Nevertheless, Rawls should not be considered as appealing to excluding some sections of the society because exclusion should happen against the ones who does not endorse justice as a fair system of cooperation.

> As reasonable and rational, and knowing that they affirm a diversity of reasonable religious and philosophical doctrines, they should be ready to explain the basis of their actions to one another in terms each could reasonably expect that others might endorse as consistent with their freedom and equality. (Rawls; 1996, 218)

The idea of public reason requires a commitment from the citizens of the body politic to work properly and it depends on the principle that everyone speaks in accordance with his own understanding having in mind others to endorse the same ideal. Not every reason is public and not every doctrine is reasonable. Thus citizens should leave their commitments to their comprehensive doctrines when bringing

anything to the public. The citizens' reason is not an aggregate reason but it is the reason shared by them for living in a society. As reasonable agents, citizens have the capacity to consider others for a fair cooperation in the public. Public is the collective body of equal citizens. Citizens are free and equal with respect to their moral capacities which are the "capacity for a sense of justice and the capacity for a conception of the good." (Rawls, 1996: 34) However, there is only one public, but multiple non-public reasons as such, the idea of public reason should be differentiated from the reasons of the parts which are agents in the public. In other spheres of social life, namely background culture and nonpublic reasons, the freedom of thought and speech, freedom of association and other basic liberties allow discursive formations to be displayed by the views of comprehensive arguments.

The category of public is conceptualized after economic reasons in Rousseau. The category of public is concerned with the common good.

> The first thing the founder of a republic should do after the establishment of laws is to find sufficient assets to support the magistrates and other officers and all public expenditures. These resources are called *oerarium* or *fisc*, if they are in the form of money, or *public domain*, if they are in the form of land, and the latter is far preferable to the former … (DPE: 77)

Rawls's conception of public does not resemble Rousseau's understanding in the context of democratic thought.[2] It is because Rawls is concerned with the priority of right whereas for Rousseau common good is prior to any other interest in society.

For Rousseau, anything that comes into public should not prescribe opinion of a particular group or association. Every individual must speak for himself. Only after every citizen deliberates for himself in the public, the differences between

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[2] For a more elaborate discussion on Rawls's alternative in democratic theory to Rousseau's conception in terms of egalitarian measures see Weithman, pp. 315-317.

people is understood and the will of all comes into the play. (SC: 101-109) Harmony of self-interested men living in the society is not desirable for Rousseau. People who are seemingly serving the interest of the common good indeed serve for their own interests for fame and glory. Thus a genuine ethical conception should suggest an ideal through which people are serving the interests of common good not for selfishly satisfying personal interests. This is achieved through extending the *love of self* to the love of fellow men.

> In the *Social Contract*, [Rousseau] describes a community in which genuine morality is made possible for all citizens by carefully designed laws and mores. In *Emile* the stress is laid on virtue, an individual achievement made possible by independence from society; in the *Social Contract*, the language shifts to that of morality instead, shared patterns of action that rest on healthy integration of individuals within society. (Keohane, 1978: 471)

The kind of society that is depicted in the *Social Contract* enables individuals to develop the capacity to love their fellow men.

> Existing societies … mistakenly suppose that we can simply leave men alone to pursue their own narrow interests within the framework of a set of laws and regulations imposed upon them by a will that is quite alien to their own, and then expect men to behave in socially useful and harmonious ways. Rousseau's whole point is that something quiet different, and far more drastic, is required. A public must be created to give substance to the common interest, and each member of that public must be taught to will his own good within that public good. (Keohane, 477)

The general will indicates also the will of the persons each which is thus transformed into a public conception. The moral point of view in Rousseau's thought considers general will to bring in a shared ethical conception that transcends particular wills. Accordingly, the society is in accord with a genuine ethical principle.

Rawls's consideration for limiting the public reason is closely related with his aim to avoid any comprehensive doctrine to dominate public and private spheres.

Rousseau's concern is different than this. His concern is arriving at a principle that every citizen should respect. Nonetheless, it might not be necessarily in line with the particular wills of the citizens. Rawls tries to avoid Rousseau's kind of general will formation since it might bring a comprehensive ideal that shrinks basic rights and liberties of the individual. The thin line that Rousseau tries to preserve between freedom and democratic sovereignty forces him to found his ideal for a small body politic, even at a level of a town or city. Rawls's concern is contemporary in the sense that he has a consideration for large democratic polities comprising millions of population living in large territories. His consideration in this sense leads him to construct his theory on representative voting as a procedural element which is mostly the case for modern democracies. In other words, unlike Rousseau's considerations for extended participation, Rawls focuses on deliberative aspects which would contribute to the voting processes. In this sense Rawls considers contemporary limits on constitutional democracies.

3.1.2. Citizenship

An important similarity between Rousseau and Rawls arises in the definition of citizenship. Both thinkers compelled to drive at an understanding of citizen with moral responsibilities. This basic republican tendency is the most explicit element in Rawls that takes its roots from Rousseau.

> Whereas public reason with its duty of civility gives a view about voting on fundamental questions in some ways reminiscent of Rousseau's Social Contract. He saw voting as ideally expressing our opinion as to which of the alternatives best advances the common good. (Rawls, 1996: 220)

Voting would enable citizens to understand the general will and to revise particularities accordingly. Both for Rousseau and for Rawls, citizens should consider others while acting in the public. Other regarding acts that is being reasonable for Rawls, is essential for Rousseau, too. Unanimity vote brings difference to the will of all which is majority. The marginal difference reflected in the will of one against the will of all assures realization of the general will. (SC: 152) Rawls proposes that unanimity vote is not essential because it is not practical. Moreover, public reason supposedly would act like a referee among comprehensive worldviews so that no particular will would dominate the government. Public reason helps to consolidate general will because first, it depends on the priority of right, second it depends on the overlapping consensus. The relation among citizens is generally defined through the public conception of justice. Public reason is to effectively regulate the conditions in which citizens come together in the public forum to decide the principles of basic justice.

For Rousseau the state should contribute to the development of individual. The institution of state helps individual to flourish his civic abilities. This evolutionary view for citizens in Rousseau is somewhat similar to Rawls's evolutionary view. According to Rousseau after a social contract, a state that is formed in line with the principles of general will, might contribute to human civic abilities and the development of certain virtues. Although state is formed out of a necessity to contract, it is possible in time that the state turns into a center for civic endowments and a platform for human perfection.

3.1.3. Concluding Remarks: Rousseau and Rawls

In the general context of democratic theory, Rousseau's conception of the body politic inspired most of his followers to pursue a specific aim that is the realization of a will which is different from any particular wills and the sum of all wills. Rawls's idea of public reason with some of its characteristics can be traced back to Rousseau's original conceptualizations. These are, the things that can be brought before the public, moral obligations of the citizenry and the revision of the democratic voting principle. However, differences are large to indicate a novelty in Rawls's conceptualization. Rawls brings substantive arguments in *Political Liberalism* that go further from Rousseau's conceptualization of general will. The priority of basic rights and liberties defines the first substantive condition. This condition avoids the formation of a general will that is against common good. Rousseau does not provide an answer to the problem of how to check the general will formation. Deliberation is assumed to provide the best result for the realization of the general will. Rawls is rather concerned with the procedure and substance of deliberative processes in which the general will is realized.

In the democratic theory, the problem to avoid particular wills to become general will is assured through the acceptance of individual freedom as prior to anything else. Mill's contribution in his attempt to eliminate tyranny of majority is remarkable in this sense. Rawls tends to regard priority of rights and freedoms in democratic theory as basic principles. Public reason will be complete to realize the general will after the moment that every body accept two basic principles of *Political Liberalism.* Consequently, Rawls goes one step further from Rousseau to provide a procedural basis for general will formation. Rousseau provides answers to the problem concerning general will formation under the framework of pure

republicanism, which is not necessarily liberal. Rawls goes beyond that point by applying liberal principles and rights into this pure republican approach. The priority of rights and liberties has its reflections in the thoughts of J. S. Mill. Obviously, Rawls is influenced from Mill in considering the idea of liberty that is centrally important in Rawls's general theory.

3.2. J. S. Mill on Liberty

The idea of the priority of basic rights and liberties in political liberalism is directly related to the concept of justice as fairness. This priority is the basic principle that the foundation of political liberalism is based upon. It is prior first, to every other principle, foremost the second principle of political liberalism, which is the difference principle. Second, it is prior to every other human value and conceptions of good. This characteristic of political liberalism has its reflection in liberal thought which can be traced back to the writings of John Stuart Mill.

It is important to lay down Rawls's consideration for liberty. It is the most basic principle in his thought that make up political liberalism to sketch the place of liberty, prior to every other good and value. "The priority of liberty implies in practice that a basic liberty can be limited or denied solely for the sake of one or more other basic liberties, and never, as I have said, for reasons of public good or of perfectionist values." (Rawls; 1996, 295) The concern of Rawls for pointing out this principle is the question of how to limit liberty in a liberal polity. This concern as a theoretical question was also the concern of John Stuart Mill. What was the research question for Mill in 19th century context?

In the following pages, the conception of liberty in Mill's political philosophy is analyzed. First, the priority of liberty is evaluated in Mill's thought. Related to the conception of priority of liberty, second the limits of liberty are analyzed. The conception of liberty in Mill's thought has the intention to promote human development. Finally, hierarchy of rights is analyzed in Mill's understanding of liberty. In this part, the regulatory scheme which is meant the practical application of basic rights and liberties is evaluated. Then the procedure and the conception of individual are analyzed respectively.

3.2.1. Priority of Liberty

In *On Liberty*, Mill searched for the limits of liberty. In the introductory part of *On Liberty*, he pointed out his aim as to find "the nature and limits of the power which can be legitimately exercised by society over the individual". (Mill, 1991: 23) He traced the roots of the problem of liberty to the contemporary understanding of the concept in his time. "By liberty, was meant protection against the tyranny of the political rulers." (Mill, 1991: 23) In this phrase Mill implicitly refers to Rousseau and Locke. In the general framework of liberal thought, Mill's view on liberty was unique in the sense of his approach to consider it as the foremost important concept.

> Society can and does execute its own mandates: and if it issues wrong mandates, instead of right, or any mandates at all in things with which it ought not to meddle, it practices a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself. Protection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of prevailing opinion and feeling; against the tendency of society to impose, by other means than civil

penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formation, of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of is own. (Mill, 1991: 25)

Society finds it rules in relation to individuals. However this sometimes leads to unnecessary limitations imposed on individual liberty. Limitations on liberty should be paid attention since an important question is at hand in the shaping up of a polity. Limitations are needed but there should be a basis of the limitations over individual freedom.

There is a limit to the legitimate interference of collective opinion with individual independence: and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism. (Mill, 1991: 26)

How is it then possible to limit liberty at the same time protecting it as prior to everything else?

Liberty principle avoids any conception of a higher order law or morality to impose acts over individuals depending only on particular conceptions of good. It prevents authority to decide any conception of good for the citizens under the claim for citizens' own good. In a democratic polity the majority principle might be considered to decide the conception of good for individual citizens as well. Mill intends to focus on majority rule with reference to liberty. The tendency for the tyranny of majority in democratic representative governments should be prevented for the realization and protection of individual liberties.

The priority of liberty of thought and discussion over other rights and goods is essential for Mill. Freedom of thought and discussion is a value in itself for Mill in the sense that it would enable individuals to develop their human capacities.

> It still remains to speak one of the principal causes which make diversity of opinion advantageous, and will continue to do so until mankind should have entered a stage of intellectual advancement which at present seems at an incalculable distance. (Mill, 1991: 63)

There is an essential character of Mill's understanding of basic liberty that is founded upon the idea of utility. However it is also debatable for the idea of liberty in Mill's conception to ground it solely on moral basis. His concern for liberty should be more than utilitarian. "… Mill's notion of harm needs to be understood in connection with his defense of individuality and self-development." (Ten, 1991: 230) Mill's views on Liberty are different from Bentham's conception of utility. Mill is concerned more on the universalistic conception of liberty. His sole concern is obviously not the utility in itself but a more primordial concept. "The observance of these rules is necessary in order to preserve peace among human beings. The obligations of justice are more stringent than other moral obligations, and they are correlated with moral rights." (Ten, 1991: 231) This interpretation of Mill enables us to indicate a shift from a conception of a comprehensive liberal doctrine to a more refined view on liberty. Consequently, it is possible to extract Mill's view on liberty as an end in itself.

The priority of rights and liberties is advantageous for what it brings to human development, morally and intellectually in Mill's thought. In a similar way Rawls's understanding regarding the priority of rights and liberties contribute to the moral powers of citizens. Moreover, Rawls is concerned with the institutional scheme that elaborates the application of this priority. The acceptance of priority in the list of rights and liberties is basic in the application of them as a general scheme. "It is enough that the general form and content of basic liberties can be outlined and the grounds of their priority understood. The further specification of the liberties is

left to the constitutional, legislative and judicial stages." (Rawls, 1996: 298) The level of decision of what rights and liberties account for basic and some others are not left to the principle of moral development. It is suggested that the rights which directly contribute to the moral development of citizens that cultivate their two basic moral powers are basic rights and liberties. These two basic moral powers are for Rawls, the capacity for a sense of justice and the capacity for a conception of the good. This understanding is in line with the liberal understanding of liberties, as directly pointed out in Mill's text, but a new breadth is proposed by Rawls. Apart from right to live, basic rights and liberties, Mill is appealing to the liberty of conscience, liberty of thought and feeling, freedom of opinion, liberty of tastes and pursuits, freedom to unite[3]. (Mill, 1991: 31) The point is that Mill also considers these rights as contributing to moral development.

> Nobody denies that people should be so taught and trained in youth, as to know and benefit by the ascertained results of human experience. But it is the privilege and proper condition of a human being, arrived at the maturity of his faculties, to use and interpret experience in his own way. … He who chooses his plan [of life] for himself, employs all his faculties. He must use observation to see, reasoning and judgment to foresee, activity to gather materials for decision, discrimination to decide, and when he has decided, firmness and self-control to hold to his deliberate decision. (Mill, 1991: 74)

The moral powers that should be cultivated in equal citizens as fully cooperating members of the society are related to the first two principles of political liberalism as a general scheme. As Rawls comments in a similar fashion:

> These two powers are the capacity for a sense of right and justice (the capacity to honor fair terms of cooperation and thus to be reasonable), and the capacity for a conception of the good (and thus to be rational). (Rawls; 1996, 302)

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[3] Freedom to unite is freedom of association.

The identification of moral powers that is thought to contribute to the general scheme of society is evaluated analytically in Rawls's conception. The idea of human development in Mill's conception is the contribution of liberty to the maturity of human experience. Freedom helps individuality to develop capacities for self-recognition and capacities to interpret the world around without appealing to any external mandate like religion, customs and so. (Mill, 1991: 72-76) In this sense, experience has a central role for the human development. "But it is the privilege and proper condition of a human being, arrived at the maturity of his faculties, to use and interpret experience in his own way." (Mill, 1991: 74) Rawls's assumption to consider human development at two very basic levels as concrete principles and Mill's general observance of human development as equated to individual freedom are similar points that should be noted to indicate Rawls's influence from Mill.

3.2.2. Limits of Liberty

The question of limiting liberty lies in between guaranteeing liberty and the necessity of government. The tension between government and liberty is at the core of the problem. Regulating an effective government and assuring liberty is the prerequisite to guarantee the individual liberty. "… [T]he practical question, where to place the limit – how to make the fitting adjustment between individual independence and social control – is a subject on which nearly everything remains to be done." (Mill, 1991: 26) In a democratic polity the need to limit the powers of government for the sake of individual liberty is important to assure the integrity of individual liberties. However, the fact of oppression, mentally or physically might

still arise at the expense of individual freedom. According to Mill, the rule of majority as such should be prevented from interfering into individual liberty. For Rawls also the tyranny of majority needs to be prevented. Constitutional democracy is favored by Rawls in the sense that it brings institutional measures to prevent tyranny of majority. The rightful procedure to guarantee basic rights and liberties of individuals in a democratic scheme is essentially important here. (Rawls, 1996: 421-424) The first principle of *Political Liberalism* stresses priority of rights over the good with a basic concern to avoid tyranny of majority that is the rule of a particular conception of good or comprehensive view over the others in a pluralistic constitutional democracy. Mill's idea in limiting particular conceptions of good at the expense of individual liberties seems to be an inspiring arguments on the Rawlsian idea of priority of rights. There seems to be a shared concern to avoid tyranny of majority in both Mill and Rawls. At first being influenced from Rousseau, Rawls develops a republican conception. Second, Rawls applies the conception of priority of right, influenced from Mill, to move from Rousseau with a specific liberal concern.

The concern for priority of rights over the good is emphasized in Mill's *On Liberty* and it also appears in *Political Liberalism* as a basic liberal precept. "The particular meaning of the priority of right is that comprehensive conceptions of the good are admissible, or can be pursued in society, only if their pursuit conforms to the political conception of justice." (Rawls, 1996: 176) Citizens should comply with the priority of right in society as a fair system of cooperation over the goods for it is a required part of a shared public conception of justice. Mill and Rawls share a point in assuming the priority of right which prevents any doctrine or worldview to limit the individual liberty.

> Strange that [believers of a particular doctrine] should imagine that they are not assuming infallibility when they acknowledge that some particular principle or doctrine should be forbidden to be questioned because it is so certain, that is, because they are certain that it is certain. To call any proposition certain, while there is any one who would deny its certainty if permitted, but who is not permitted, is to assume that we ourselves, and those who agree with us, are the judges of certainty, and judges without hearing the other side. (Mill, 1991: 41)

Truth claims of any doctrine should be put aside and every opinion should be bestowed right to be heard. "In justice as fairness the priority of right means that the principles of political justice impose limits on permissible ways of life; and hence the claims citizens make to pursue ends that transgress those limits have no weight." (Rawls, 1996: 174)

Mill's obvious argument concerning the limits of liberty is the difficult limitation of the idea of liberty. The only condition for limiting one's liberty is the condition that one harms other's liberty in physical terms. "That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will is to prevent harm to others." (Mill, 1991: 30) In the conceptualization of physical harm, Mill considered utility as the primary principle. Harming one means giving that person physical pain which means to incapacitate that person from utility. Although argumentation through the principle of harm is essentially utilitarian it is important to indicate that protection of liberty is the crucial concept. The basic idea in limiting one's liberty is to ensure the liberty of another person. It is important to note that Mill's appeal to utilitarianism affected his line of thought to a great extent. "I regard utility as the ultimate appeal on all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being." (Mill, 1991: 31) There are two crucial points at this instance, the priority of liberty and the realization of a utilitarian ideal.

These two are related but distinct at the same time. It is possible then to single out the idea of liberty as a prior concept to utility in Mill's theory. This can be validated through Mill's conceptualization of liberties, in three aspects in a free society; liberty of thought and discussion, liberty of tastes and pursuits, freedom to unite[4]. Guaranteeing these liberties at the most basic level contributes to the foundation of a free society.

> No society in which these liberties are not, on the whole, respected is free, whatever may be its form of government; and none is completely free in which they do not exist absolute and unqualified. The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. (Mill, 1991: 33)

For Mill the liberty of thought and discussion, of the person is the most basic liberty that should be respected by the polity and other members of the society. He elaborates this ideal by considering the content of ideas and thoughts and their free expression. Briefly, the content of any idea and thought that is being expressed in society does not jeopardize the idea of freedom. Every individual is free to express his ideas and thoughts unconditionally. The limit on this argument arises at the point if one harms or intends to harm any other individual. "The threshold is that the individual's conduct harm others or affects prejudicially the interests of others." (Ten, 1991: 215)

3.2.3. Hierarchy of Rights

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[4] Originally Mill used the concept as freedom to unite. He means freedom of association in this particular matter.

The freedom of thought and discussion is one of the basic rights and liberties in political liberalism of Rawls too. There is a hierarchy of rights in Rawlsian thought.

> Whenever we enlarge the list of basic liberties we risk weakening the protection of the most essential ones and recreating within the scheme of liberties the indeterminate and unguided balancing problems we had hoped to avoid by a suitably circumscribed notion of priority. (Rawls, 1996: 296)

A similar hierarchy is observable in Mill. "The non-essential interests of numerous individuals can never outweigh the essential interests in liberty and autonomy of a single individual." (Ten, 1991: 235) The protection of basic rights and liberties is meant to provide a basic scheme of social organization in both Rawls and Mill.

Other than effective government, Rawls is also concerned with the regulation of free deliberative context. This context is provided through constituting basic rights and liberties. The constitution of these liberties is not enough for Rawls but the regulation of them are required at the same time. "Without the general acceptance of reasonable procedures of inquiry and precepts of debate, freedom of speech can not serve its purpose." (Rawls, 1996: 296) These regulations are provided through the scheme of political liberalism. The problem at this point is prevention of the trespassing of basic rights and liberties by the polity. The general scheme of political liberalism that is designed not to interfere every single aspect of life but only the political aspects would guarantee the protection of basic rights and liberties.

> Political liberalism, then, aims for a political conception of justice as a freestanding view. It offers no specific metaphysical or epistemological doctrine beyond what is implied by the political conception itself. As an account of political values, a free-standing political conception does not deny there being other values apply, say, to the personal, the familial, and the associational; … (Rawls, 1996: 10)

Through the procedure outlined in line with the political conception of justice no one is entitled to accept any other comprehensive doctrine. For Rawls, assuring basic rights and liberties is the most basic principle of political liberalism. It is similar to Mill's point that, the guarantee of basic rights and liberties assure the existence of free society. According to Mill:

> For laws to be valid and effective, they must be publicly promulgated through recognized procedures. This is a requirement of the rule of law. In a democracy this publicity requirement extends further, to government procedures for making and applying laws. They are to be publicly open; also, legislative procedures are to be informed by civic debate and criticism, and allow for the airing of grievances. (Freeman, 1992: 13)

The difference principle of justice as fairness indicates the availability of rights to the individuals. It states that each person has an equal claim to a fully adequate scheme of equal basic rights and liberties. This point is one of the basic differences between Rawls and Mill. Mill is concerned to find the conditions of the legitimate power which can be exercised by society over the individual. However, such liberal conception does not deal with the availability of rights to every section of the society as Rawls's conception attempts to do.

There is another common point which is related to the procedure of consolidating rights in the democratic processes. For Mill, the point of procedure is important in assuring basic rights and liberties of individuals. However, defining the procedure in the democratic processes is left to the experience. "… [I]t is fit to take notice of those who say, that the free expression of all opinions should be permitted, on condition that the manner be temperate, and do not pass the bounds of fair discussion." (Mill, 1991: 70) The boundaries of free discussion are not fixed but depend on the experience. One of the accomplishments of the Rawlsian project is improving deliberative conditions in the democratic processes. The idea of public

reason defines the process in which this deliberation and fair terms of discussion

take place. The procedure of public reason can be explained as follows:

> The idea of public reason has a definitive structure, and if one or more of its aspects are ignored it can seem implausible, as it does when applied to the background culture. It has five different aspects: (1) the fundamental political questions to which it applies; (2) the persons to whom it applies (government officials and candidates for public office); (3) its content as given by a family of reasonable political conceptions of justice; (4) the application of these conceptions in discussions of coercive norms to be enacted in the form of legitimate law for a democratic people; and (5) citizens' checking that the principles derived from their conceptions of justice satisfy the criterion of reciprocity. (Rawls, 2001: 133)

The experience is a second step in political liberalism. After the conditions of the

procedure are concretized in the public reason concerning basic matters of justice

and constitutional essentials, the ongoing procedure is decided through normal

democratic processes. As Rawls adds:

> I have already remarked that the scheme of basic liberties is not specified in full detail by considerations available in the original position. It is enough that the general form and content of the basic liberties can be outlined and the grounds of their priority understood. The further specification of the liberties is left to the constitutional, legislative and judicial stages. But in outlining this general form and content we must indicate the special role and central range of application of the basic liberties sufficiently clearly to guide the process of further specification at later stages. (Rawls, 1996: 298)

3.2.4. Concluding Remarks: Mill and Rawls

Political liberalism tries to accomplish a polity which does not rely on any

comprehensive philosophical or religious doctrine but on a shared conception

political justice in an overlapping consensus while plurality of conflicting interests

and worldviews coexists. Several liberal doctrines are said to be proposing a

comprehensive doctrine, thus are not compatible with political liberalism. Mill's conception of a liberal society can also be considered under this view, for Rawls. "This full autonomy of political life must be distinguished from the ethical values of autonomy and individuality, which may apply to the whole of life, both social and individual, as expressed by the comprehensive liberalisms of Kant and Mill." (Rawls, 1996: 78) The idea of liberty in Rawls does not embrace an idea of autonomy of the individual that is founded on a moral basis. It remains at the level of conceptualization for a political basis of justice.

> [The value of autonomy] may take two forms: one is political autonomy, the legal independence and assured integrity of citizens and their sharing equally with others in the exercise of political power; the other is purely moral and characterizes ends and ideals, as in Mill's ideal of individuality. (Rawls, 2001: 146)

Thus political liberalism does not engage every aspect of individual autonomy but political autonomy.

> This idea of shared political life does not invoke Kant's idea of autonomy, or Mill's idea of individuality, as moral values belonging to a comprehensive doctrine. The appeal is rather to the political value of a public life conducted on terms that all citizens can accept as fair. (Rawls, 1996: 98)

Political liberalism has a substantive aspect for moral obligations but these remain at the level of the political and they do not cover all aspects of life. They are primarily outlining principles. For instance, these are stated at the very basic level: the two principles of justice. "The two principles together, with the first given priority over the second, regulate the basic institutions that realize [political] values." (Rawls, 1996: 6)

Although there is a common differentiating point among political liberalism and Mill's conception of Liberal society and individual there is also a similarity.

Rawls, tried to employ the idea of liberty, as it is understood in liberal thought with a major concern to avoid instituting a comprehensive doctrine. In this way, he proposed to extract the idea of liberty as central to political liberalism but limiting it to the realm of political with a concern for equality. For both Mill and Rawls, priority of liberty and limits that should be acted upon it are basic for a just and political society. They also have a shared understanding in the hierarchy of rights and goods as well as the idea of liberty that contributes to personal development. Additionally it is important to understand Rawls's departing points from classical liberal conceptualization as in Mill's. Rawls is more concerned with the regulatory scheme that enables the priority of basic rights and liberties for a just and free society whereas for Mill, the identification of the procedure to regulate the priority of basic rights and liberties against the tyranny of majority is left to the experience of the democratic processes. In Mill's thought, the procedural scheme that is consulted by the lawgiver is not defined in strict formal terms. On the contrary, in the Rawlsian thought the deliberative mechanism of public reason is a strictly defined procedural conception. Consequently, the conceptualization of procedure in both thinkers is differentiated. Rawls is against Mill's conceptualization of individual in the sense that it is an attempt to found the idea of individual autonomy in a philosophical comprehensive doctrine. For Rawls, citizens should be able to choose their own comprehensive doctrines that may not promote individual autonomy or individualism since he considers the idea of autonomy only at the level of political due to the fact that considering other aspects of life in the context of the ideal of autonomy will inevitably bring a comprehensive conception. Rawls attempts to escape from a metaphysical doctrine but tries to find a conception of justice to

which everybody is expected to endorse without appealing to any metaphysical doctrine.

3.3. Kantian Roots of the Idea of Public Reason

The idea of public reason was originally used in the works of Kant. It is then crucial to understand the Kantian conception for reaching a general view of the concept. Rawls is usually known as a neo-Kantian thinker who seems to be adopting Kant's idea of public reason in his work of *Political Liberalism*; or modifying it in a new breadth; or developing it in a totally different form. (O'Neill, 1997) It is necessary to analyze the Kantian understanding of public reason in order to grasp the way in which Rawls employs this concept. The idea of public reason is the most revised Kantian concept in Rawls's theory. In general there are two basic Kantian principles that guide us in *Political Liberalism*. These are first, the Kantian formulation of formalism that guided Rawls's equality principle; second, the Kantian conception of negativism that guided Rawls's difference principle. Apart from the conceptions of formalism and negativism, the idea of public reason is not directly linked to the Kantian philosophy, since the idea of public use of reason is the product of Kant's earlier philosophical principles. For Rawls the idea of public reason is one of the foundational principles for *Political Liberalism*. Nevertheless, it is possible to trace the Rawlsian idea of public reason in Kantian philosophy.

Kant's philosophy found its expression in the *Critique of Pure Reason* (CPuR) and *Critique of Practical Reason* (CPrR) in relation to most of his other works. Specific development of the idea of public reason is manifested in his essay,

What is Enlightenment (WE) and some related features in his work called, *Critique of Judgment*. In order to understand public use of reason in the Kantian thought it is necessary to conceive for some basic aspects in his understanding of reason in general. Public Reason for Kant is the use of human capacity of reasoning in the pursuit of reaching a ground for common agreement in public debates. In the final analysis, public uses of reason complete the idea of free individual mind.

In the first section of this part, I present the Kantian conception of reason. Reason is a mental process for Kant and it is analyzed as an internal process of human mind. Then, I evaluate reason as an external process of human mind in Kantian conception. The explanation of reason as an external process of mind enables us to understand its importance in Kant's political philosophy. Consequently, the concept of authority of reason is presented. Finally in this section, the relation of reason as a mental process to public reason and its reflections are analyzed. In the second section I attempt to analyze private and public reasons respectively. The comparisons between Rawls and Kant concerning their respective understandings of private and public reasons are presented. The idea of categorical imperative in relation to public uses of reason is analyzed. Then, the idea of toleration in relation to public reason is presented. These two ideas provide us with a general viewpoint that relates the idea of public reason to Kantian political philosophy.

3.3.1. Reason in Kantian Philosophy

According to Kant reason should be constructed in an ideal polity to give rise to an enlightened society. Reason in itself should not be authorized, but it can be authorized for the evolution of an enlightened society. (Kant, WE) Reason is an

important starting point to understand the human condition in Kant's philosophy. His two basic works – *Critique of Pure Reason* and *Critique of Practical Reason* – are dedicated to understand the functioning of human reasoning. The political philosophy of Kant is related to reason because only reason provides individuals with the capacity to become free. The processes of mind should promise emancipating conditions for the political life of humans as well. What are the internal processes of mind for the functioning of reason?

3.3.1.1. Reason as an Internal Process of Mind

Reason as the most important capacity of human beings is intrinsically inside the human mind. No other external entity, either of religious origin or authority of any kind should be interfering into the process of reasoning of one's mind. The inalienability of reason in the mind from outer influences is a general rule labeled as 'negative instruction' (Kant, CPuR). In other words, negative instruction proposes the rejection of outer forces that influence reason. The only true way of reasoning is possible through the availability of free minds. Rejection of the outer authority on mind is required under the framework of disciplining reason. Kant used the term *dictatorial authority* for the authority which undermines the authority of reason from outside the reasoning processes of mind. (Kant, CPuR)

The freedom of reason is assured if it is left to itself. Reasoning should be free from any influences that come from other reasons. In this way, impartial judgment of any idea is guaranteed and a kind of identical reasoning is realized among the people. The internal processes of human mind should define reason as a

free enterprise. The external processes of mind is also important in identifying reason.

3.3.1.2. Reason as an External Process of Mind

Conditions outside the mind of an individual might not be favorable to contribute to free functioning of reason. The political conditions directly influence mental processes. The dictates of reason cannot survive in an unenlightened polity where other dictates are superior to the self-reasoning. Also the free political environment might not be contributing to the mental processes where the plurality of reasons stand as dictating over the self-reasoning. After the condition that individual mental processes are freed, the political situation needs to be clarified in terms of its contribution to the idea of enlightenment. Kant should also be read in a progressive way that political enlightenment is not prioritized before the mental enlightenment. In a despotic environment people does not have the capacity to develop free enterprise in reasoning. (Kant, CPuR)

The political conditions should be organized in a way to develop conditions in which free reasoning of individuals can be realized. External pressures to reasoning should be eliminated. Enlightened political environment promises conditions for the development of self-reasoning capacities of individuals. External processes of reasoning include communication as an activity in the interpersonal realm. Enabling conditions for successful communication is related to the conditions of the polity.

3.3.1.3. Authority of Reason

The authority of reason has a central place in Kantian moral philosophy. Why was Kant concerned with the authority of reason? Authority as a political concept in itself indicates the formulation of moral values in the Kantian thought in a political condition. The communication in the public forum identifies the basic platform for the public use of reason.

The dictatorial authority is more complex than a simple understanding of dictating in a simple power relation – most obvious of which is political dictation. The dictating authority over reason is the authority of other than one's self. It may include the other's reasons, ideas and transcendental canons. It may also include the environment in which dictatorial tendencies find ground to operate over the authority of reason. As O'Neill comments:

> Kant, however, thinks that negative instruction can show us more about the discipline of reason. The problem of seeing which modes of thinking – if any – are authoritative presupposes not only lack of the 'dictator' but also the presence of a plurality of non-coordinated (potential) actors or thinkers. Kant uses the imagery of 'citizen' or 'fellow workers' to contrast the situation with that of subjects facing a dictator who imposes common standards. Kant does not suggest that reason's authority is based on a constitutional convention, but reminds us that there is a plurality of potential reasoners. The existing power of transcendent authorities over reason cuts through the process of natural functioning of reason. As a result there occurs the consolidation of shared beliefs in the society. On the contrary, natural functioning of reason should not be interfered. (O'Neill, 1992b: 65)

Freeing the reason of any dictation of outer impacts is to consolidate the authority itself. However, it is paradoxical to refer to the authority of reason or

dictate of reason on itself. This paradoxical situation implies that there is no dictate of reason over reason. Reason is only freed if it is left to itself.

> … [A] vindication of reasoning might suggest that reasoning issues in uncompletable regress, so that prospects of vindicating any claim, including claims to identify principles of reason, never terminate: To reason is to keep the door open to further questioning. (O'Neill, 1992a: 280-281)

The process of freeing the individual reason will be complete as a mental process. The successful set up of political concepts will be assured thereafter.

The legitimate grounds of debating in the public with a consolidated standing authority of reason are not easy to achieve. There is more than one possible ground on which authority of reason can be freed from outer pressures in the debate. But all of these grounds should assure certain minimum conditions of a legitimate debate. These minimum conditions are realized through negative instruction and shared principles in public political matters.

> Presumably, there are always many views by which a plurality of non-coordinated parties can communicate or interact. All of these ways, however, must meet at least the negative condition that are not based on strategies of thought or action that are in principle unshareable. (O'Neill, 1992b: 74)

Shared principles among the parties and negative instruction are prior to public debate within the framework of the authority of reason.

3.3.1.4. Reason in General

An important aspect of reason is that it is non-aligned and non-procedural in its processes. The idea in free enterprise of reasoning does not entail mathematical and algorithmic reasoning in methodology. On the contrary, sporadic argumentation

through non-aligned mind processes indicates free reasoning without interference. The environment in which reasoners act suggests a plurality in which it allows free reasoning. "Critique of reason is possible only if we can find a strategy by which a plurality of potential reasoners interact without relying on force, or on the fiction of pre-established harmony." (O'Neill, 1992b: 67) The unpremeditated mind processes of reasoning are an assurance of freedom in the public use of reason.

> An account of human knowledge will be systematically indeterminate unless these maxims are identified and vindicated. Here we begin to see why Kant thinks that practical reason is fundamental to all reasoning. Why there can be no complete rules for judging and why human reasoning is, as we might say, non-algorithmic, down to the bottom. (O'Neill, 1992b: 68)

The free flow of arguments in the reasoning process is to allow the freedom for reason.

This is problematic because when there is a multiplicity of different and contending ideas and views in a society, it becomes difficult to realize freedom in reasoning. As a solution, freedom of the mind in reasoning should be guaranteed. Freedom of mind in reasoning is realized through the toleration of reasons in a condition of plurality of reasoners. The condition of providing freedom to the mind for reasoning is called console in reasoning. Console in reasoning as a cognitive process is closely connected to the political situation. Console in reasoning allows individuals to reason freely in a world for plurality of reasons.

> Toleration of public uses of reason is on this account necessary for the emergence and maintenance of the increasingly generally shared standards of reasoning which public communication requires fully. Practices of intelligence may damage the partial standards of reason on which restricted communication also depends. (O'Neill, 1986: 534)

The political and social environment would be including the plurality of many views of reasoning in the publicly shared forum. Kant's concern is to validate the situation

in which people freely exercise their reasoning for the successful realization of an enlightened situation.

The Rawlsian understanding of reason also presupposes a mental process in the development of political conditions. Rawls is concerned with the reasoners as much as the reason in the minds of individuals. Reasoners are regarded in similar conditions in terms of the ground on which public reason operates. Rawls has a similar thought to Kant in the analysis of the conditions of reasoners as the potential individuals on an equal basis. The individual should be ignorant of transcendental dictates over his reason for Kant. In the Rawlsian approach, the original position is an instrument in the process of abolishing external dictates to reasoning. According to the idea of original position, individuals choose the principles of justice without knowing their social and natural status in the society.[5] Nevertheless, in Rawls's thought everybody is free in appealing to any transcendental idea or doctrine, known as comprehensive doctrines. The individual could be the contributor in the public forum as long as he abides with the general precepts of the principles of justice. The transcendental thought that might dominate one's reason should not be against the idea of public reason and the principles of political liberalism.

3.3.2. Public and Private Reason

Differences between the public and private reasons are explained by Kant in "What is Enlightenment". It is important to understand private reason for the fact

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[5] The idea of original position is dealt in detail in connection with the Kantian categorical imperative in the coming pages.

that it provides insights for us to understand Kantian conception of public uses of reason and common grounds in which the plurality of reasoners communicate.

3.3.2.1. Private Uses of Reason

The kind of reason that is exercised in the chain of command is regarded as the private reasoning. "The use, therefore, which an appointed teacher makes of his reason before his congregation is merely private, because he carriers out the orders of another." (Kant, WE: 6) Unlike public uses of reason, private uses of reason are unfavorable for the sake of free polity. "The point is that they are deprived (privatus), incomplete uses of reason. In all such communication there is a tacit, uncriticized and unjustified promise of submission to the 'authority' that power of office establishes." (O'Neill, 1992b: 66) The discipline of reasoning includes effective use of private reasoning for the good of the community as well as the use of public reasoning for the sake of free enterprise of the polity.

> Many affairs which are conducted in the interest of the community require a certain mechanism through which some members of the community must passively conduct themselves with an artificial unanimity, so that the government may direct them to public ends, or at least prevent them from destroying those ends. (Kant, WE: 5)

The discipline as the self restraint of reason cannot be clearly identified in its wording but be left as it is. It is thus concluded that reason is restricted by one's reason itself. This is the idea of autonomy as freedom.

3.3.2.2. Public Uses of Reason

The core of Kant's philosophy lies in defining the problem of human freedom. An ideal polity should provide conditions for the development of free reasoning individuals. Public reason is the important step in assuring this ideal. Public Reason in Kantian philosophy is the use of human capacity of reasoning in the pursuit of reaching a ground for common agreement in public debates, where a plurality of reasons belonging to different views and ideas exist.

The public use of reason is free in terms of public. Communication before the public requires a certain level of freedom from other pressures into the ground of communication. Kant's definition of the public is dependent on his definition of the private. The private is valid for officers of a post under the establishment of state or other institution as such.

> In speaking of the communications of officials as private, he is not suggesting that these acts express the personal or individual opinions but pointing out that they address not 'the world at large' but an audience which has been restricted and defined by some authority. (O'Neill, 1986: 530)

Public is then defined as the outer world at large and not limited to the institutional structure of any authority. The general criterion for this is the character of communication in terms of publicity. The matter in question could be *publicizable* (O'Neill, 1986) or not which in turn defines its condition as public or private.

Public use of reason is not the usage of reason for the argumentative proceedings in a public debate. Reasoning for the sake of argumentation is not truly a public use of reason. In such an instance the reason is used to dictate any other argument over the process of free reasoning. The authority of reason would not be

the 'authority' but the use of any other dictate in a higher authority. This kind of reasoning should be excluded from the public debate.

The construction of knowledge should not be directed or planned but would be available through the existence of the plurality of reasoners sharing a basis which is not strictly outlined. "This is why the basic task of constructing principles of political order, and why politics provide metaphors for articulating the task, principles and limits of reason." (O'Neill, 1992b: 70) Kant takes the political proceduralism of a free polity as a model for the general inquiry of reason. Practical reason itself is a free enterprise in the construction of knowledge. The reasoning of agents on the basis of non-aligned free debates is on the one hand for the possibility of human knowledge and on the other for the consolidation of the authority of reason.

As the level of institutionalization in society increases, the omni-potence of private reasons becomes more restricting. The polity as such would be organized in a way that would allow the flourishing of freely consolidated public reasons. The realization of despotic uses of power put the private uses of reason under custody as well. Kant is skeptical about the private uses of reason at the expense of public reasons. Nevertheless, Kant has a positive attitude in most of his works that he sees the maturing of free reasoning even in worst conditions. The actual working of public use of reason contributes to the evolution of the polity towards the maturity of enlightenment. "Failure to tolerate public and incipiently public uses of reason undercuts all possibility of development of standards of debate and of moves in the direction of a just polity." (O'Neill, 1986: 547)

Unlike Kant, Rawls considers the realization of public reason only in a democratic polity. Kant is always positive in the existence of public reasoning in

even most primitive polities to a certain level which will allow the reasoners into a more evolved political condition. As O'Neill comments:

> In pre-political and despotic societies there can perhaps be no more than variants of the non-public reason … By contrast, the vindication of Kant's account of public reason lies in the thought that reasons must be exchangeable among reasoners, hence that any reasons that are relevant for all cannot presuppose the contingencies of a particular social or political formation. (O'Neill, 1997; 426)

3.3.3. Categorical Imperative and Public Reason

In line with Rousseau's arguments Kant proceeds with a more elaborate conception for finding a regulative framework for a genuine ethical principle in society. "… In *Social Contract* Rousseau had made liberty depend on self-legislation. Kant extended Rousseau's idea by making morality depend on obedience to universally applicable self-imposed rules." (Ritter & Bondanella, 1988: 207) Kant's starting point is moral man whereas Rousseau's starting point is natural man. In this sense, Kant tries to construct a moral commitment device. This device might be the categorical imperative which guides the individual to act in accordance with a universal moral principle. Categorical imperative is the general moral law in Kant's philosophy. It tries to define an objective principle of morality. It commands that a person should act so as to regard himself and others as human beings in equal conditions. Rawls proceeds with the Kantian conception of constructing a universal regulative ideal but with a specific concern to avoid substantive claims. Thus Rawls proceeds further from Rousseau by developing the idea of original position to help public reason to operate in a way that contributes to general will formation.

According to the idea of original position, persons decide to choose the principles of justice without knowing their social and natural status in the society. Through the principle of original position Rawls aims at developing a society in which no one becomes advantaged or disadvantaged by chance.

Categorical imperative is the general moral law in Kant's philosophy. It tries to define an objective principle of morality. According to categorical imperative a person should act as he wills through an accepted universal principle. Man acts as he wills to the extent he considers others to act in the same way. He should consider others as ends in themselves as human beings, not as means to other wills. Categorical imperative is in accord with the principle of formality. It is formal in the sense that it provides general rules of a procedural conception. (Reiss, 1991: 16-21) This is the second formulation of categorical imperative.

The centrality of categorical imperative in Kantian thought also provides basic precepts for his understanding of reason. The categorical imperative is interfered only by the construction of authority of reason. The agents will not be exposed to any outer authority with the successful adoption of categorical imperative including the negative instruction.

> The categorical imperative is only a strategy for avoiding ways of thinking, communicating and acting which cannot be adopted by all members of a plurality whose principles of interaction, are not established by any transcendent reality. (O'Neill, 1992b: 74-75)

Categorical imperative sets out the limits on reasoning as an inner capacity of humans. As though the complete algorithm of reasoning is not laid out, the limits of it should be set in classical line of thought. Categorical imperative is here to provide the basic limit on free reasoning in debate. "The categorical imperative, applied to reasoning itself, demands that we reason on principles that others can (not will or

would) act on." (O'Neill, 1992b: 76) The categorical imperative imposes a kind of regulative principle on the limits of reasoning. Accordingly, the debaters in a forum should be reasoning under this precept. There is also the hypothetical imperative which is different from categorical imperative. According to Kant, hypothetical imperative functions when there is a certain aim in an action. Thus hypothetical imperative is more about private uses of reason. On the contrary, categorical imperative is related to the public uses of reason. The reasoners in the public should not follow the line of hypothetical imperative but should apply the categorical imperative. (Kant, 1964) The limits on public use of reason presumes the exclusion of hypothetical imperative in the public.

Kantian public reason does not have an understanding of limit, which is prescribed through the use of the categorical imperative as a moral precept. Rawls uses a similar idea in limiting the idea of public reason. It is possible to trace categorical imperative in Rawls's writings, related with the concern for limiting. "… [E]ach of us must have and be ready to explain, a criterion of what principles and guidelines we think other citizens (who are also free and equal) may reasonably be expected to endorse along with us." (Rawls, 1996: 226) Other than this implicit reference categorical imperative is reflected in Rawls's theory through the idea of original position. Indirectly, Kantian formalism is adopted in Rawls's political liberalism as a moral precept. The idea of public reason in Rawls's thought provides a formal procedural conception for reasoning in the public. The universal principle for Public Reason is developed through original position in Rawls. Categorical imperative is not directly reflected in public reason but it is revised in the idea of original position. Persons decide to choose the principles of justice without knowing their social and natural status in the society. This condition of not knowing essential

personal features is called the *veil of ignorance*. Through the principle of original position Rawls aims at developing a society in which no one becomes advantaged or disadvantaged by chance. Consequently, the principles of justice they are going to decide do not favor any particular group or person in the society. Original position is an attempt to develop a formal mental procedure for an objective universality claim for morality. In this sense, the connection provided by original position indicates an indirect link for public reason with the Categorical imperative. (Bohman, 1996: 4-21)

3.3.4. Concluding Remarks: Kant and Rawls

The public use of reason is an attempt by Kant to ground the idea of toleration in the universal conditionality. It is deeply rooted in the evaluation of the idea of reason more than its being an idea of toleration distinctively. "It is the freedom to make public use one's reason as every point." (Kant, WE: 4-5) As a distinct entity in its own, at first it is worth to clarify the idea of toleration in its relation to public reason. Toleration is of consideration where there is a need for agreement and communication. Understanding one's point is already interfering with the idea of that person, consequently non-interference to any kind of communication is not possible. "We are not ourselves asserting that ground of toleration but offering it as one they could assert consistent with their comprehensive doctrines." (Rawls, 2001: 152) Rawls continued after Kant in his understanding of toleration. Toleration is as wide as the reasonable limits are set.

An important aspect of Rawls's idea of public reason is limiting it around the political standing of individuals as citizens in a just polity. Kant does not consider this but is concerned with the values at large. Being human is the basic precept to provide grounds for a moral principle in Kantian philosophy. Reason is not restricted in the public with reference to reasoners. They do not need to share any commonality, such as citizenship.

> Reasons are given and received, exchanged and rebutted: unrestricted reasons can be given and received, exchanged and rebutted unrestrictedly, even among those who are not citizens of the same democratic polity who do not share the same political identity. (O'Neill, 1997: 423)

Rawls, in contrast limited the account of reasoners in the public to the very basic principle of citizenship in a prior assumption. The political relationship of persons' is "a relationship of persons within the basic structure of society into which they're born and in which they normally lead a complete life." (Rawls, 1996: 216) This gap in the definitive principles of public reason is a crucial differentiation of Rawls from the Kantian line of thought.

The important point to mention is that Rawls's conception follows a similar line of thought like that of Kant's in the establishment of principles. They are both concerned with finding a basic regulating idea for the agents in a public forum that are actively participating in the reasoning process. Indeed Kant has a concern to regulate the relations between the state and people in an enlightened state of affairs. Rawls's intention also lies in the idea of renewing and developing the idea of public reason under a framework of public political conception of justice. Rawls indicates that Kantian conception is formulated as a comprehensive principle. "… Kant's doctrine is a comprehensive view in which the ideal of autonomy has a regulative role for all of life." (Rawls, 1996: 9) On the contrary, Rawls attempts to find a

conception which is political – not metaphysical – and at a distance from any comprehensive worldview. As he himself makes the point concerning such difference:

> This idea of a shared political life does not invoke Kant's idea of autonomy, or Mill's idea of individuality, as moral values belonging to a comprehensive doctrine. The appeal is rather to the political value of a public life conducted on terms that all reasonable citizens can accept as fair. This leads to the ideal of democratic citizens settling their fundamental differences in accordance with an idea of public reason. (Rawls, 1996: 98)

The basic difference arises in the motivation of Kant who tries to develop a moral philosophy and the motivation of Rawls who tries to found a ground for a political project suitable for pluralistic democratic societies.

Political liberalism is an attempt to achieve the foundations of a well-ordered society. As a result it is only concerned with the political aspects of life so that it will not be a comprehensive worldview or a comprehensive doctrine. Kant's idea of public reason comprises a comprehensive view of universalism. Rawls limited the idea of universalism for the sake of finding a public political conception of justice in *Political Liberalism*. These limits are realized in considering the political society in which the idea of justice as fairness stands. First, Rawls focused on the political aspects of society, not on the background culture. Second Rawls considered the society as a closed entity so that the idea of a well-ordered society is plausible and a reasonable public conception of justice can be realized.

> To say that a society is well-ordered conveys three things: first … it is a society in which everyone accepts, and knows that everyone else accepts, the very same principles of justice; and second, … its basic structure is publicly known, or with good reasons believed, to satisfy these principles. And third, its citizens have a normally effective sense of justice and so they generally comply with society's basic institutions, which they regard as just. (Rawls, 1996: 35)

Third, citizens are considered to lead a life in such a closed society so that they honor the limits of public reason. "[Public reason] is a relationship of persons within the basic structure of the society into which they are born and in which they normally lead a complete life." (Rawls, 1996: 216)

In this chapter I attempted to evaluate the views of Rousseau, Mill and Kant with respect to Rawlsian idea of public reason and its theoretical foundations. Rawls as a proponent of deliberative democracy emphasizes the concept of public reason. As I have demonstrated Rousseau, Kant and Mill have been influential on Rawls to a great extent. From Rousseau Rawls takes the understanding of a general will that can be realized through the functioning of public reason and the ideal of citizenship with moral obligations. However, he leaves substantive arguments and Rousseau's desire to consolidate common good and general will above all other interests behind. From Mill Rawls takes the idea of priority of right and concerns to limit the tyranny of majority but leaves utilitarian conceptions of individual and Mill's idea of individual autonomy behind. From Kant Rawls takes the conception of public use of reason and a form of categorical imperative although he revised it a lot. Likewise, another contemporary philosopher, Jürgen Habermas engages in developing a similar conception which led to a debate on public reason between Rawls and Habermas. Thus it is important to evaluate and compare Habermas's view with that of Rawls's to comprehend scope of this crucial debate.

CHAPTER IV

HABERMAS ON PUBLIC USE OF REASON

Habermas is the most influential political theorist of the 20th century in terms of his contributions to democracy debate. Habermas presents the most obvious alternative to Rawls's position in deliberative democracy. (Baynes, 1992) In the debate for public reason it is essential to understand Habermas's position since it provides a different approach for the justification of deliberative processes. Habermas is one of the recent theorists who revise Kantian conception of public uses of reason alongside with Rawls. He tries to develop public reason in a more dynamic way – that revises itself constantly – when compared to Rawlsian conceptualization. (Bohman, 1995) In this part I will attempt to clarify Habermas's position in deliberative democracy and his conceptualization in terms of public uses of reason. In this way, the theoretical position of Habermas would be clarified before I present and discuss their debate in the next chapter.

In order to understand the propositions concerning Habermas's insights on public uses of reason in a comparative perspective with Rawls's public reason, it is important to evaluate Habermas's major concepts and his position in social and political theory. In the first section Habermas's social and political theory is presented briefly. His intention in developing a complete social theory is analyzed. His problems and concerns for modern society are evaluated. First his

epistemological point of view is presented concerning modern society and his propositions for communicative action are analyzed. In line with his position, for a theory of communicative action, Habermas's conception for discourse ethics opens up the way for a new theory of deliberative politics and legal theory. In the second section, his conception of discourse ethics and discourse principle is analyzed in detail. Discourse ethics will indicate the conditions of a procedure for the public uses of reason. In the third section, the connections of the discourse ethics as a procedure with the conceptions of legal and democratic system are presented. This section evaluates the conditions for legitimacy and Habermas's propositions for the validity and justification of norms. Consequently, the procedure of the democratic system is completed after this second moment. Section part is about Habermas's conceptualization of public sphere. Understanding public sphere is important for the reason that the limits and constraints of the procedural system of discourse ethics and the legal order are observed in the public space. In the fifth section deliberation through discourse principle is evaluated. This section intends to give a more comprehensive and concrete outlook to the general argument for the public uses of reason in Habermas's theory. In the final section, conclusive remarks are given and a brief summary is provided.

4.1. Purposive Rationality versus Communicative Rationality

Habermas is concerned with the evolution of modern societies. The scientism in modern society led to the dominance of instrumental rationality in almost every aspect of life. Scientism defines the reflection of society from the view

of knowledge that is produced through empirical sciences. According to Outhwaite scientism is: "the reduction of all knowledge to that furnished by the empirical sciences, where these are conceived as an unproblematic reflection of reality." (Outhwaite, 1994: 20) Science and technology in modern life became instruments to assure the application of practical methods to effectively regulate industrial, administrative and political processes in an interwoven process. Practical rationality means the application of only *purposive-rational*[6] actions of empirically assured scientific methods. Government, institutions employ scientifically assured techniques for specific purposes, which resembles to purposive-rational action. The process of the domination of instrumental rationality is explained in terms of the relationship between theory and practice.

> Any theory that relates to practice other than by extending and rationalizing our control over natural and social processes stands convicted of ideology. The social potential of theory is reduced to the power of technical control. Its potential for enlightened action, in the historical meaning of the term, disappears. (McCarthy, 1989: 7)

In general, the process, for which the scientific rationality and purposive-rational action prevails, is called the scientization. Habermas's insights concerning scientization of modern society would lead to the conceptualization of 'communicative action' as an alternative to purposive-rational and instrumental action.

Purposive-rational action is understood as action that is directed to certain goals or efficiency. It is sought generally in the modern theories of Weber, Marx and Parsons. Instrumental action ignores the mutual understanding of individuals. The dimension of agreement is disregarded in modern theories of purposive-rational

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[6] For more on purposive rationality and purposive-rational action in relation to scientization see Habermas: "Theory and Practice" and Habermas: "Technology and Science as Ideology".

action. On the contrary, the action that takes communication into account would remedy the particular problems of mutual understanding and agreement in modern society. Communicative action is oriented towards the interpersonal context. Communication indicates a level of interaction and agreement among individuals. Social interaction is realized through communication and a consensus is sought for the general functioning of society. (Seidman, 1989)

The emphasis on interaction will be clearer when the types of rational action are understood. According to Habermas, action for success and action for understanding is two different categories of rational action. Action for success unavoidably aims at influencing other individuals' behavior. Strategic action is the one which aims at influencing others' actions. On the contrary, action for understanding requires a certain level of interaction among counterparts. Communicative action enables individuals to employ their rational action at the same time understanding general conditions of others through interaction. According to Habermas, communication inherently aims at understanding. (Johnson, 1991: 191-194)

At the level of political processes, the domination of strategic action indicates itself through scientization of politics. The rise of technocratic models in the modern society constituted the dominance of technical rationality in politics. The decisions are not taken through public discussion but through technocratic means. The legitimacy of democratic processes is assured through periodic elections. However there is a problem for democratic legitimacy itself:

> Political decisions themselves remain beyond the authority of rational discussion in the public sphere; decision making power can be legitimized but not rationalized. … The reduction of political power to rational administration – that is, administration guided by theoretical insight into

what is objectively necessary (for stability, adaptability, growth and so forth)– deprives the public sphere of any function … (McCarthy, 1989: 11)

This paradox for the democratic legitimacy is the essence of *legitimation crisis*. Although it is not necessary to go into details of legitimation crisis, it is important to note that instrumental action leads to a paradox in which social interaction among citizens is avoided. Yet, the source of legitimacy is embedded in social interaction that is by-passed by technocratic decision-making. Communicative action would bring insights to overcome a legitimation crisis through increasing the potential of social interaction in the public sphere[7].

The serious problem concerning purposive-rational action is its overwhelming extension to all other spheres of modern life. The power of social interaction is the emancipatory power that would enable purposive-rational action to leave other spheres of life and remain in the sub-sphere of production where it originally belongs. Communicative action is the rational action that opens possibilities for free social interaction. In communicative action consensus dominates the scene. Interaction aims at consensual understanding. (McCarthy, 1989)

For the questions of good life and ethical concerns, Habermas turned to Kantian conceptualization of ethical precepts and revised Kantian ethics in his own way through application of communicative action. A universal moral concept that is valid for everyone is tried to be developed by Habermas in 'discourse ethics' in a similar fashion to what Kant developed in categorical imperative.

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[7] Public sphere is used to indicate domain of social life where public opinion is formed. (Seidman, 1989: 231)

An important part of this project has been the development of what he (together with Karl-Otto Apel) calls 'discourse' or 'communicative ethics' in which Kant's categorical imperative is reformulated in terms of a discursive procedure for moral argumentation. (Baynes, 1992: 77)

The basis formed by discourse ethics would provide a general ground for the public uses of reason. Discourse ethics defines the conditions in which citizens of a democratic society can participate in the decision making process. It elaborates the procedural conditions of inclusion to the public discourse. For a comparative analysis of Habermas's conception for the public uses of reason and Rawlsian public reason, understanding discourse ethics and its foundational strengths is essential. Let me now focus on what Habermas means by discourse ethics.

4.2. Discourse Ethics

Discourse principle (D) states that: "Only those norms of action are valid to which all possibly affected persons could assent as participant in rational discourses." (Habermas, 1994: 459) For discourse principle to be in effect discourse ethics is developed as a basic regulative framework for democratic legitimacy. Discourse ethics tries to reach a discourse principle in its application to normal life conditions and its relation to free will of the individuals. It does not provide a substantive definition of a moral conception, but lays down rules of the game for a procedural understanding of democratic legitimacy. Discourse ethics is based on the claim for moral validity in complicated social systems. "The central principle is that for a norm to be valid, its consequences for the satisfaction of everyone's interests must be acceptable to all as participants in a practical discourse." (McCarthy, 1991:

viii) For Habermas consideration for the ethical basis is realized at the level of a practical discourse of a community rather than at the level of moral consciousness which is the case for Kant. Discourse ethics in the final analysis tries to develop a procedure for moral agreement, rather than a moral law.

Discourse ethics is the basic solution to relations between persons and Habermas proposes that moves from subjective realm to intersubjective realm for moral validity claims. The principle of discourse ethics is a principle that calls for the validity of its procedure. "Only these norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as participants in a practical discourse." (Habermas, 1991: 66) The definition of discourse ethics finds its grounds in an attempt to formulate a rational procedure for social discourse.

> Anyone who seriously engages in argumentation must presuppose that the context of discussion guarantees in principle freedom of access, equal rights to participate, truthfulness on the part of participants, absence of coercion in adopting positions, and so on. If the participants genuinely want to convince one another, they must make the pragmatic assumption that they allow their 'yes' and 'no' responses to be influenced solely by the force of the better argument. (Habermas, 1993: 31)

The justification of moral norms would be guaranteed by the procedure that regulates intersubjective realm. Consequently, truth claims would be void in the formulation of the ethical principles. Justification assumes the priority of the force of the better argument. Every norm must comply with the rule of *universalization* which is abbreviated as (U):

> All affected can accept the consequences and the side effects its general observance can be anticipated to have for the satisfaction of everyone's interests (and those consequences are preferred to those of known alternative possibilities for regulation). (Habermas, 1991: 65)

In this way universalization of the moral norm would be realized as it is justified in the intersubjective realm.

The kind of universalization Habermas proposes aims at developing validity claims that are taking normative rightness rather than truth claims into consideration. In this sense every kind of speech act is included to be considered in the range of validity claims. The validity of a norm is tested through communicative rationality, not in terms of the validity claim of its truthfulness. The norm in question should enter into discourse and its validity is decided through the force of the better argument.[8] (Baynes, 1992: 77-82)

In discourse ethics, justification of norms is based on the notion of agreement among individuals, which is achieved by discussing. Justification goes beyond personal realm to interpersonal realm. Participants in the discursive condition consider others in equal respect with a reciprocally assured mutual agreement. Individuals take other viewpoints into consideration in the social discourse. In the intersubjective realm every individual is left to his own moral viewpoint. The mutual agreement of individuals indicates mutual respect for different moral viewpoints at the same time. Autonomy of individuals is assured in the complexity of discursive interaction. (McCarthy, 1990)

The conditions in which religious and metaphysical moral claims flourish are tried to be described so that oncoming context might be revealed and the moral norm would be applied accordingly. Discourse ethics is applicable in all circumstances because it does not depend on the context but it considers the interpersonal social

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[8] The argument here belongs to Baynes which seems plausible in interpreting Habermas. However it should be noted that there are different interpretations of Habermas's position. Truth claims are different but moral rightness is still tested on cognitive grounds for Habermas. Habermas is a moral cogntivist which makes his interpretations different from Rawls's position. I am grateful to Cem Deveci for his insightful comments on this issue.

relationships. It is at first not metaphysical since the contexts are not defined strictly and at the same it is justly arranged since the conditions of discourse are defined properly. This aspect of the discourse ethics indicates its moral consideration.

> In my view, the discourse principle must be situated at a level of abstraction that is still neutral vis-à-vis the distinction between morality and law. On the one hand, it is supposed to have a normative content sufficient for the impartial assessment of norms of action as such; on the other hand, it must not coincide with the moral principle, because it is only subsequently differentiated as the moral principle and the democratic principle. (Habermas, 1994: 459)

Discourse ethics in this sense provides an ethical principle for mutual understanding in complex social relationships without proposing metaphysical constraints. Only, communicative rationality itself defines its limits and horizons.

In exactly or partially based ethical norm systems the deficiency of depending on moral precepts indicate themselves through certain conditions. Defined immoral actions require defined moral reactions. "The normative sentences in which these obligations are expressed point to a background of normatively generalized behavioral expectations." (Habermas, 1993: 41) The kinds of arguments that define normative precepts of moral norms on specific occasions are inevitable in metaphysically based moral norm systems. In discourse ethics the validity of moral norm does not consider any action or reaction to it, in specific terms. On the contrary, it is the procedure of a not strictly defined social condition.

Moral validity is realized in an intersubjective formulation. All of the members of society have a role in interpreting the validity of norms and ethical practices. Validity claims depending on personal insight and egoistic interpretations unavoidably concern a moment of coercion, a coercion of argumentation for the

validity claim. The difference between the validity for one and the validity for all is the specific point in Habermas's conceptualization.

> Every justified truth claim advocated by someone must be capable of being defended with reasons against the objections of possible opponents and must ultimately be able to command the rationally motivated agreement of the community of interpreters as a whole. (Habermas, 1993: 53)

Interpretation requires communicative community and communicative action. Discourse ethics aims at the ultimate realization of communicative community.

Discourse principle depends on the assumption that individuals use their liberties in the pursuit of democratic reason, although not defined properly to avoid substantive claims. The more concrete requirement is the condition that individuals would not use their communicative liberties for personal pursuits.

> Despite this structure, however, they can open up the sources of legitimation in discursive opinion – and will – formation only if citizens do not exclusively use their communicative liberties like individual liberties in the pursuit of individual interests, but rather use them as communicative liberties for the purpose of a 'public use of reason' (Habermas, 1994: 461)

The modern legal community needs a kind of citizenship that desires the sources of freedom so that it would ensure the level participation at desired levels. The more the members of the community assure their allegiance to the system as participators and lawmakers the more the system would function legitimately.

It is also important to locate discourse ethics in terms of moral theory. In the end the position proposed by the discourse ethics will reveal its procedural condition more obviously. The originality of Habermas's moral concerns arises from the very beginning when he prefers communicative rationality at the expense of purposive rationality.   Habermas's suspicion concerning the common criticisms directed

against discursive knowledge led him to develop an understanding that does not resemble Kantian and Aristotelian moral theories.

> Today all discursive knowledge is taken to be fallible and more or less context dependent, more or less general, more or less rigorous; correlatively it is not just the nomological knowledge of the objectifying empirical sciences that raises a claim to universal validity. (Habermas, 1993: 25)

The universality claim developed through purposive-rational action of empirical sciences led moral theory to raise a claim to objectivity which caused rendering discursive knowledge to subjectivity. Indeed social and cultural context limits the possibilities for the moral theory to achieve this end. This is an important paradox of the moral theory. The moral intuition of individuals in everyday life is taken into consideration only through the context of interpersonal relations. Yet, the context is understood in such a way that normative validity claims become obsolete.

It is commonly agreed that the context which surrounds moral conceptions affects the kind of formulation of the norm or the level of its validity. The ideal moral norm is the one which resembles historical, factual context in a rightful way. On the contrary, this condition is not practical at all. For Habermas this kind of conditionality jeopardizes the attempt to construct validity for the moral norms. Against historicism and moral / social relativism, he states that:

> The social world toward which we are oriented in the normative attitude is historical in a different sense from the laws and regularities that constitute the realm of describable events and states of affairs in the objective world. (Habermas, 1993: 38)

The way to overcome this discrepancy is the formulation of validity claims of moral norms by ignoring the contextual interpretations. Not depending on the ontological ethical prepositions would avoid context reliance in moral argument. Stating deontological procedural conditions for interpersonal relations will reveal the

conditions of validating moral norms, which does not depend on contextual specificities.

> Deontological ethical conceptions assume in the final analysis only that the moral point of view remains identical; but neither our understanding of this fundamental intuition, nor the interpretations we give morally valid rules in applying them to unforeseeable cases, remain invariant. (Habermas, 1993: 39)

Deontological validation in the interpersonal realm is realized by the availability of discourse principle.

The inclusive process of validation is an important aspect of discourse ethics. The inclusive process of validation states that all the individuals who are affected from the contested norm should have the right to consider it. "On this fact of universal pragmatics is founded the fundamental principle of discourse ethics: only moral rules that could win the assent of all affected as participants in a practical discourse can claim validity." (Habermas, 1993: 50) All individuals included in the argumentation effect and are affected from the arguments that are presented during the argumentation. Perspectives of participants are also understood in this process. However in moral theory the objectivity is generally assured through the observance of the third person. Third person is not involved in the interaction among disputing two persons. Consequently, without interference, third person would be the impartial observer. Interestingly, the validity claims of moral norms are formulated through first person indicative. The ambiguity arises at the moment when objectivity is realized from the point of view of third person whereas the obligatory indicative is realized from the viewpoint of first person. As a solution Habermas proposes discourse ethics to resolve the viewpoint of third person by nullifying the need for impartial viewpoint. There is no need for an impartial person for testing the validity

of moral claims. Universality will be achieved, as the third person is included in the inclusive process of validation.

4.3. Legitimation and Justification

Having understood the communicative action and discourse ethics it is now crucial to analyze the connection of these principles to the functioning of modern society. Proposing communicative action as an alternative to purposive-rational action, Habermas attempts to solve the problem of legitimation crisis. The procedural conception of discourse principle would be providing interpersonal social interaction to construct discursive will formation instead of technocratic decision making processes. In the next phase of his theoretical inquiry, Habermas intended to analyze the constitutional state and rule of law with regard to modern legal theory. As a result, he positioned discourse theory in a context of deliberative politics in full realization of its legal conditions. (Rehg, 1998) The place of legal theory is important to understand since it is the next phase of procedural political functioning of society in public sphere. The legitimacy of the state will be fully portrayed after assuring the legal order in line with the insights provided by discourse principle and democratic legitimacy through communicative rationality.

The source of legitimacy through discourse principle depends first, on the procedural conceptualization of democratic legitimacy and second, through the conceptualization of modern legal system as a mediating system in itself. Procedural conceptualization of discourse principle is understood so far but the justification through the existing practices of legal system needs clarification. According to

Habermas, moral law itself can become the source of legitimacy since it is defined properly as a formal and neutral instrument for the working of modern society. Discourse principle enables the understanding that positive law functions as an important procedural system. "The philosopher should be satisfied with the insight that in complex societies, law is the only medium in which it is possible reliably to establish morally obligated relationships of mutual respect even among strangers." (Habermas, 1994: 460) Law would provide expected outcomes unlike the human behavior if let to act as it wills. The legal system is the basic regulative constraint in the interpersonal realm. With the discourse principle, law is the perfect instrument for procedural functioning of the public uses of reason in modern democracies.

4.4. Public Sphere

Having understood the discourse principle as a procedural conception and the legal system as a complement to the legitimacy of communicative society, it is now essential to consider the role of public sphere. Understanding public space is important for Habermas's discourse theory first for the realization of the context in which the type of community arises under the framework of ideal speech situation. Second, it is important in the sense that public conceptualization defines the type of participation of citizens in which they are affected and they affect in turn. Habermas defines public sphere as "a network for communicating information and points of view; the streams of communication are, in the process, filtered and synthesized in such a way they coalesce into bundles of topically specified public opinions." (Habermas, 1996: 360) The foundational element in the conception of public sphere

is communication, because public sphere is socially reproduced in communicative action. Public sphere appears at the basic level of interpersonal communication.

Public space in the discursive model calls for the establishment of legitimate grounds of a society for the citizens in which they participate. "… [Public space] is viewed democratically as the creation of procedures whereby those effected by general social norms and by collective political decisions can have a say in their formulation, stipulation and adoption." (Benhabib, 1992: 104) Public discourse is constructed by the public. The public conforms to the conceptualization of discourse ethics. There is no concern for neutral conceptualization of the public sphere since it aims at the development of a discourse regardless of its ends. The procedural condition of public discourse is the only condition that goes beyond liberal neutrality.

The construction of the conditions of discourse enables those participants who would be affected from public space to evaluate their validity claims. The evaluation for validity arises whenever participants engage in discourse. The more open and valid – in terms of the procedural constraints – discourse ethics become, the more deliberative society is realized. Public space as defined in terms of its discursive procedural conditions enables different kinds of publicly defined conceptualizations to live together for the realization of different goods. Discourse ethics is not ends oriented because it does not define by any means, any ends but only the procedure in which public sphere realizes itself. Consequently, there can be different modes of public spaces living together in one conceptualization of public discourse. (Benhabib, 1992)

The availability of more than one public space living under the same procedural condition means an inclusionary concept of participation in contrast to

many liberal conceptions that provide exclusionary participatory mechanisms through regulative moral principles or strictly defined rights and obligations for citizens. Habermas's concept of discursive public space does not consider any conception of good for the society as a whole. It is merely procedural as compared to other liberal conceptions. Accepting the conditions of argumentation in public sphere is the first and foremost principle to enter into discourse. The only condition to enter into discourse is accepting the interpersonal conditionality of discourse ethics. In liberal theories, entering into public decision-making mechanisms requires a certain level of self-commitment to the system. In Rawlsian public reason, the condition to enter into public discourse is the acceptance of two basic principles of political liberalism. This condition confers a burden over the individual for self-realization of the basic principles of the society. This moment is crucial because it points Habermas's procedural conception against Rawls's relatively more substantive argument concerning the conditions of inclusion. I will deal with this issue in the next chapter. Now it is essential to further analyze Habermas's position depending on the discourse principle.

4.5. Deliberation Through Discourse Principle

Democratic politics is viewed as reaching to a compromise among competing interests in its liberal understanding. Basic rights and liberties should be guaranteed for the realization of democratic legitimacy so that individuals will freely participate in the democratic processes. It is supposed to be an inclusive process since it is supported by universal suffrage and backed by basic human rights. On the

contrary, the technical side of the process overvalues practical reason in a unidirectional way that might not favor the rights of citizens in every instance. Sometimes the executive powers of democratic states undermine the rights of individuals depending on social justice and conceptions of common good. Avoiding this problem can be sustained through employing measures for bidirectional governance. Against the unidirectional practical reason of democratic practices there is a possibility of bidirectional participatory mechanisms. This is accomplished by discourse principle. It is a way of conforming to the rules of deliberative politics.

> Democratic procedure, which establishes a network of pragmatic considerations, compromises and discourses of self-understanding and of justice, grounds the presumption that reasonable or fair results are obtained insofar as the flow of relevant information and its proper handling have not been obstructed. (Habermas, 1996: 296)

The source of deliberative legitimacy is deontological support of discourse principle. Communicative powers of citizens are the basic means for their participation in the deliberative processes and it is guaranteed by the basic rights and freedoms as well as discourse principle itself. Can the results of deliberative processes jeopardize the legitimacy of democracy?

Devoting all of its foundational strength to communicative processes of deliberation Habemas's discourse theory assumes all possible outcomes to be reasonable. For this purpose it is essential that the deliberation should be all-inclusive.

> Deliberative politics acquires its legitimating force from the discursive structure of an opinion – and will – formation that can fulfill its socially integrative function only because citizens expect its results to have a reasonable quality. Hence the discursive level of public debates constitutes the most important variable. It must not be hidden away in the black box of an operationalization satisfied with crude indicators. (Habermas, 1996: 304)

Everything is open to public discourse on the condition that its intentions are also open to public deliberation. By assuming the possibility of remembering and reminding the requirements of ideal speech situation in public intersubjective discussions on validity, Habermas has trust on the results of the public discourse to have reasonable results. In the ideal speech situation the most important variable that avoids such an outcome is the condition that communicative powers of individuals are not used for personal interests.

Inclusionary power of deliberative politics through discourse principle is its flexibility to consider informal procedures of communication and deliberation to come together with formal procedures. "Deliberative politics thus lives off the interplay between democratically institutionalized will-formation and informal opinion-formation." (Habermas, 1996: 308) For liberal views informal channels of deliberation should be excluded from the formal democratic procedures to assure neutrality and exclude substantive claims. In this sense, Habermas departs from liberal models of rationality and decision-making.

4.6. Concluding Remarks

This chapter aimed at exploring Habermas's discourse principle and foundations of discourse ethics in order to grasp his view on the public uses of reason. As he indicates in Postscript to *Between Facts and Norms*, the discourse principle lays down the conditions for citizens' public uses of reason. Rawls's concept of public reason does not resemble discourse principle but the goals Rawls

and Habermas are trying to achieve through these principles are almost the same. The discourse principle points to the conditions in the public sphere in which citizens will be participating through using their communicative powers. It is basically a procedural principle and Habermas's main attempt in its evaluation is to stress this point of procedural conceptualization. The discourse principle allows to overcome the discrepancies in democratic society under the conditions of technical and unidirectional attempts to control the legal and legislative processes.

For Habermas, the domination of purposive rationality in modern society can empower individuals' potential to seize emancipatory opportunities. Scientization of modern society is one evil that forced Habermas to reevaluate the conditions of public sphere. Habermas's proposal for unleashing communicative rationality as an alternative to instrumental rationality is the basic foundational tool in his theory.

The interpersonal context provided by communicative action would be the new emancipatory tool for democracy. The new interpersonal context would be regulated through a moral precept which is genuinely called the discourse ethics. Discourse ethics defines the limits of the public sphere that individuals are participating. In Habermas's terms, like communicative action, discourse ethics depends on the interpersonal realm rather than egoistic personal realm. (Johnson, 1991: 188-194) Discourse ethics stems from the agreement potential of communication. It evaluates participants' validity claims for the rightness of their arguments. On the contrary many moral theories evaluate truth claims of individuals. Discourse ethics transcends contextual constraints – social, political, historical. The only contextual constraint is the context of the interpersonal realm which is basically defined in the public sphere. For Habermas, public sphere may

include many formal and informal contexts. Accordingly, discourse ethics attempts to include as many participants as possible for public argumentation.

Habermas assumes individuals to use their communicative liberties in the pursuit of public reason. However, there are no guarantees in discourse ethics that prevent citizens from using their communicative liberties in the pursuit of their personal interests. Strategic action may still dominate the public sphere and interpersonal relations. Only an impartial legal order is presented as a guarantee to prevent the abuse of liberties in the public sphere. Law itself becomes the source of legitimacy for the deliberative democratic society.

Habermas's conception of public sphere is inclusive. It attempts to include all disregarding the personal moral convictions of the participants. Similarly, in Rawls's original position personal and moral convictions of the participants are also disregarded. However, Habermas argues that any issue can come to public, subject to discourse ethics, whereas for Rawls only public political issues should be voiced in the public realm. In Habermas's theory the only condition for inclusion is compliance with the discourse principle. On the contrary, in Rawls there is the assumption that the system would guarantee the basic rights and liberties of individuals through the implementation of the principle of rule of law. This aspect of democratic legitimacy should not be taken as an instrument for exclusion.

The procedural conception of public uses of reason is constituted against more substantive conception of Rawls's public reason in the debate for deliberative democracy. Unlike Rawls, for Habermas public reason does not consider a shared political conception. The debate between Rawls and Habermas will indicate the differences and similarities in more detail. Let me now turn to the debate.

CHAPTER V

THE DEBATE BETWEEN RAWLS AND HABERMAS

One of the most important debates on public reason has taken place between John Rawls and Jürgen Habermas. This debate is about major issues concerning democratic theory and deliberative democracy. Indeed, these issues take their starting points from different interpretations of Kant's practical philosophy. The dispute that brings two philosophers to argue around similar matters of practical philosophy also indicates the similarity in their approaches to contemporary issues in political theory. Both Rawls and Habermas are known as the leading philosophers who established the premises of deliberative democracy. However, they have two distinct interpretations for the basic matters of deliberative democracy. The debate took root after two major books by Rawls and Habermas were published. Habermas published *Between Facts and Norms* (1992) as an essential work that examines the problems in modern democracies. Rawls published *Political Liberalism* (1993) that works out the issues in *Theory* (1971) with an emphasis on pluralism in constitutional democracies[9]. After Rawls and Habermas, many scholars contributed

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[9] The concerns of Rawls for revising *Theory* in *Political Liberalism* is presented in the previous chapters of my thesis. See: 2.2. From *Theory* to *Political Liberalism*: 17-20.

and expanded this debate.[10] The debate is explicated and analyzed in Thomas McCarthy's "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue" (1994) in which Rawls and Habermas are presented in a dialogue of compromise. Then, Habermas's "Reconciliation Through the Public Use of Reason: Remarks on John Rawls's Political Liberalism" (1995) asserts almost an unbridgeable gap between his approach and that of Rawls. Rawls reacted to Habermas in "Reply to Habermas" in the same issue of *The Journal of Philosophy* in 1995[11] where he argued that the difference between them arises from Habermas's comprehensive worldview.

The significance of the debate between Rawls and Habermas in terms of public reason is the fact that it concerns the conception of public use of reason. This debate enables us to understand the centrality of the issue of public reason in the theory of democracy. There are basically four points of dispute. First point of dispute arises around Rawls's conception of original position and Habermas's ideal discourse situation. Both conceptions attempt to establish an initial condition[12]. The

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[10] Kenneth Baynes published *The Normative Grounds of Social Criticism* in 1992 in which Kant, Rawls and Habermas are studied in a comparative perspective. Seyla Benhabib analyzed two approaches in *Situating the Self,* especially in terms of the conceptions of public. Joshua Cohen is influenced from Rawls and Habermas in "Deliberation and Democratic Legitimacy" in *The Good Polity*, (ed.) A. Hamlin and P. Pettit Oxford: Basil Blackwell, 1989.

[11] I used the article "Reply to Habermas", reprinted in *Political Liberalism*: 372-434.

[12] The initial condition is meant to provide the starting point before a social theory is presented like in the case of 'state of nature' in social contract theories. In social contract theories, an abstract hypothetical initial position is conceptualized, which is the state of nature, and a contract is formed to construct a society. Justice as fairness is founded upon the conception that a person does not enter a society through a contract but through accepting a particular conception of justice. Persons in an *initial position of equality* accept justice as fairness. Similar to the conception of state of nature in social contract theories, Rawls conceptualizes the original position. According to Rawls, Habermas's ideal speech situation constitutes an initial condition because in the ideal discourse situation, the ideal speech situation is to ground a state of equality in the process of argumentation. Only with this requirement as an initial condition, participants are expected to accept the conditions of ideal discourse situation. However, Habermas does not seem to agree with this comment. For him ideal speech situation is a lived process and not an initial condition. In the ideal speech situation; (1) everyone with the competence to speak and act is allowed to take part in a discourse, (2) everyone is allowed to question any assertion, (3) everyone is allowed to introduce any assertion whatever into

second point of dispute concerns overlapping consensus and justification. This point indeed is a question of validity posed by Habermas to Rawls. The third point is about public and private autonomy in Rawls's theory. Habermas raises the question of autonomy starting from its Kantian roots to *Political Liberalism*. The last point of dispute is about substantive and comprehensive aspects of Habermas's approach, raised by Rawls. At this point, Rawls responds to Habermas by stating that his theory is procedural and Habermas's theory is substantive. In this chapter, I try to present the debate in general with an attempt to compare and contrast the basic arguments in this debate. The analysis of the debate indicates most important controversial and problematic points related to public reason. The best way in presenting the debate is through its own development of the ideas. Thus in every section points of dispute will be presented in order.

5.1. Original Position versus Ideal Discourse Situation

According to Rawls, both original position and ideal discourse situation are devices of representation. Original position is a situation in which persons decide to choose the principles of justice without knowing their social and natural status in society. It is an abstract mental construction. Through the principle of original position Rawls aims at reaching a conception of justice which is free from advantages and disadvantages originating from contingent means. Consequently, the principles of justice that participants are going to decide should not favor any

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the discourse, (4) everyone is allowed to express his attitudes, desires and needs. See Habermas: *Moral Consciousness and Communicative Action*, and Habermas: *Justification and Application*.

particular group or person in the society. (Rawls, 1999: 11) Persons decide to choose

the principles of justice without knowing their social and natural status in the

society. This condition of not knowing essential personal features is called the *veil of*

ignorance. The principles of justice are

> [1] Each person has an equal claim to a fully adequate scheme of equal
> basic rights and liberties ..., [2] Social and economic inequalities are to
> satisfy two conditions: first, they are to be attached to positions and offices
> open to all under conditions of fair equality of opportunity; and second,
> they are to be the greatest benefit of the least advantaged members of
> society. (Rawls, 1996: 6)

In the ideal discourse situation participants are socialized in similar

conditions so that they are capable of understanding and judging each other's truth

claims. (Habermas, 1996: 322) In the ideal discourse situation, discourse principle is

in effect which states that

> Anyone who seriously engages in argumentation must presuppose that the
> context of discussion guarantees in principle freedom of access, equal rights
> to participate, truthfulness on the part of participants, absence of coercion in
> adopting positions, and so on. If the participants genuinely want to
> convince one another, they must make the pragmatic assumption that they
> allow their 'yes' and 'no' responses to be influenced solely by the force of
> the better argument. (Habermas, 1993: 31)[13]

In both the original position and the ideal discourse situation the aim is to

define a point before[14] public deliberation. In the original position an initial

condition of equality is desired. In the ideal discourse situation, an initial condition

of equality is not sought in material terms but a condition of equal situation and

symmetry in terms of communication abilities are tried to be thematized.

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[13] This quotation is important to indicate discourse principle in Habermas's original terms.

[14] Here 'before' is presumed and it is distanced from actual. This is true for Rawls's interpretation. For Habermas ideal discourse situation is applicable any time during the discourse. It is embedded in communication in every language.

5.1.1. Critique of the Original Position

According to Habermas, conception of persons in the Rawlsian approach brings a paradox when the idea of original position is introduced. He states that the autonomy of citizens in a well-ordered society is ignored in the original position.

> Citizens are assumed to be moral persons who possess a sense of justice and the capacity for their own conception of the good, as well as an interest in cultivating these dispositions in a rational manner. But in the case of the parties in the original position, these reasonable characteristics of moral persons are replaced by the constraints of a rational design. (Habermas, 1995: 112)

Habermas's first argument against original position claims that persons who should understand principles of justice are going to decide about them after the initial position but they are incapacitated of their cognitive capacities to do this during the decision-making process.

In the Rawlsian original position, rights are introduced as primary goods. According to Habermas, the second argument against original position is considering rights in terms of goods. Goods are persons' needs for life. Rights are considered as one type of goods. In this sense justice is considered in terms of the just distribution of goods. However, rights are realized not as a problem of distribution of goods. "Precisely because Rawls adheres to a conception of justice on which autonomy of citizens is constituted through rights, the paradigm of distribution generates difficulties for [Rawls]." (Habermas, 1995: 114) Rights are exercised by persons, they are not an issue of distribution. Rights are to regulate relations among persons. In this sense, according to Habermas, original position jeopardizes Rawls's position in the rest of his theoretical framework. Original

position is founded upon the idea that rights are considered as goods. According to Habermas:

> … [T]he conceptual constraints of the model of rational choice preclude Rawls from construing basic liberties from the outset as basic rights and compel him to interpret them as primary goods. This leads him to assimilate the deontological meaning of obligatory norms to the teleological meaning of preferred values. (Habermas, 1995: 114)[15]

The primary disagreement about the rights and goods seems to take its ground from Rawls's intention in providing a framework of distributive justice and its social critiques.[16]

The original position is a revised form of Kant's categorical imperative. Categorical imperative is the universal moral law in Kant's philosophy. It tries to construct an objective principle of morality. Just like categorical imperative allows us freedom from hypothetical imperatives – imperatives that are bound to an end which are egoistic and interest oriented and purposively rational –, in Rawls original position allows us to imagine justice free from our partial, selfish and socially contingent desires and positions. Rawls's intention in revising categorical imperative through the conception of original position is accomplished with the help of veil of ignorance. In Habermas's terms, veil of ignorance is depriving persons of their practical reasoning. Consequently, Habermas argues that the original position would

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[15] Deontological is different from teleological. "Teleological ethics focuses on outcomes; deontological ethics is much more concerned with balancing competing rights and obligations. However, each of these types of ethics has several variations. For instance, both ethical egoism and utilitarianism are teleological theories, yet they are fundamentally distinct in nature and implications. Similarly, deontological monism and deontological pluralism are both deontological theories but they differ in how they function." *web.uvic.ca/philosophy/phil331/readings/unit3big.html*, viewed on 10 September 2003.

[16] "… [D]istributively oriented theories conceptualize questions of justice, whether of particular actions or practices, or of the pattern of rights and inequalities of a whole society, primarily as questions concerning the fair allocation of social goods, including non-material goods, among individuals." (Young, 286). For a more elaborate discussion see Young: "Toward a Critical Theory of Justice" and Baynes: "From Distributive Justice to Normative Social Criticism" in *The Normative Grounds of Social Criticism* pp. 153-181

be revised in a way that it shall become an *intersubjectively applied procedure*. Depriving participants of their practical reasons deprives them of information, which is essential for understanding their situation. In line with this critique, Habermas proposes a solution.

> … I believe that Rawls could avoid the difficulties associated with the design of an original position if he operationalized the moral point of view in a different way, namely, if he kept the procedural conception of practical reason free of substantive connotations by developing it in a strictly procedural manner. (Habermas, 1995: 116)

Habermas proposes ideal discourse situation and discourse ethics as an alternative in this manner.

> I have in mind the more open procedure of an argumentative practice that proceeds under the demanding presuppositions of the 'public use of reason' and does not bracket the pluralism of convictions and worldviews from the outset. (Habermas, 1995: 118)

The kind of procedural conception that Habermas has in mind will be explained in the next section.

5.1.2. Critique of the Ideal Discourse Situation

According to Rawls, in *Political Liberalism*, the original position contributes to a political conception of justice. A political conception of justice draws the boundaries in political society in terms of realizing the conceptions of equality and freedom. A political conception of justice would enable citizens to leave their

comprehensive worldviews aside in public matters and to endorse a shared public conception of justice.

> The original position is an analytical device used to formulate a conjecture. The conjecture is that when we ask – What are the most reasonable principles of political justice for a constitutional democracy whose citizens are seen as free and equal, reasonable and rational? – the answer is that these principles are given by a device of representation in which rational parties (as trustees of citizens, one for each) are situated in reasonable conditions and constrained by these conditions absolutely. (Rawls, 1996: 381)

Original position is an essential device of representation to guarantee a political conception of justice to be consolidated. On the contrary, ideal discourse situation does not guarantee any political conception of justice to dominate public condition. Ideal discourse situation calls for validity of practical reason. It presumes that after initial conditions for ideal discourse situation is met the result of rational discourse is morally valid. As a result, rational participants are expected to accept the outcome. In this sense, the ideal discourse situation establishes the foundations for comprehensive arguments.

The kind of procedural conception that Habermas has in mind is indeed the discourse ethics. Discourse ethics tries to construct a clear understanding of discourse principle in its application to normal life conditions and its relation to free will of the individuals. It does not provide a substantive definition of a moral conception but lays down rules of the game for a procedural understanding of democratic legitimacy. As he describes:

> Discourse ethics rests on the intuition that the application of the principle of universalization, properly understood, calls for a joint process of 'ideal role taking'. … Under the pragmatic presuppositions of an inclusive and noncoercive rational discourse among free and equal participants, everyone is required to take the perspective of everyone else, and thus project herself into the understandings of self and world of all others; from this interlocking of perspectives there emerges an ideally extended we-

perspective from which all can test in common whether they wish to make a controversial norm the basis of their shared practice; and this should include mutual criticism of the appropriateness of the languages in terms of which situations and needs are interpreted. (Habermas, 1995: 117)

On the other hand, Rawls's overlapping consensus and reasonableness is an attempt to limit the pluralism of different worldviews from the very outset. Limiting the pluralism of worldviews is not desirable for the full realization of public uses of reason. Habermas proposes a more inclusive view of procedural conception than Rawls in which the plurality of worldviews is not limited.

5.2. Overlapping Consensus and Justification

For Rawls, in the condition of reasonable pluralism a certain conception of justice is supposed to balance different comprehensive worldviews. The condition that citizens of every reasonable comprehensive worldview accept a shared conception of justice is the fact of overlapping consensus. Overlapping consensus is not a mere consensus on basic matters of justice but it requires the commitment of those who accept the fact of reasonable pluralism. It aims at assuring stability among different comprehensive worldviews in the society. The consensus in political liberalism is overlapping in the sense that it does not try to reconcile various comprehensive worldviews but it provides a conception that persons, belonging to various comprehensive worldviews, are expected to endorse. Overlapping consensus is not decided through considering various worldviews and reaching a *modus vivendi* among them. Rather, overlapping consensus is attained as a freestanding view that comprehensive worldviews are expected to endorse.

Habermas analyzed Rawls's concern for justification in terms of justice as fairness. Justice as fairness is a public conception of justice in a well-ordered society. The terms and conditions of justice are designed to construct the basic structure of society. Justice as fairness is justified by reference to the conception of person. The conception of person is a moral conception that enables citizens to adhere to a sense of justice and to have a capacity for the conception of the good. Citizens participate in the fair terms of cooperation to the public conception of justice because they have a sense of justice. Citizens adhere to a variety of worldviews and endorse plurality of interests because of their capacity for a conception of good. Consequently, Rawls justified his theory by developing a political conception of justice as opposed to a metaphysical conception. Related to the fact that Rawls justified his position by a political conception of justice, overlapping consensus should contribute to this conception in a positive manner. Habermas is concerned with the contribution of overlapping consensus to the justification of Rawls's theory.

> I should examine whether the overlapping consensus, on which the theory of justice depends, plays a cognitive or merely instrumental role: whether it primarily contributes to the further justification of the theory or whether it serves, in the light of the prior justification of the theory, to explicate a necessary condition of social stability (1). Connected with this is the question of the sense in which Rawls uses the predicate 'reasonable': as a predicate for the validity of moral judgments or for the reflective attitude of enlightened tolerance (2). (Habermas, 1995: 119)

Overlapping consensus is founded on the principle of justice as fairness. For the stable co-existence of different worldviews in society, the conception of person is crucial. In Habermas's terms the conception of person should be *neutral*. Justice as fairness should also establish the conditions of stability so that the plurality of worldviews is realized. Thus the overlapping consensus aims at two purposes;

justification of the theory and stability of the society. According to Habermas, these two distinct purposes cannot be accomplished through a single device. Rawls should distinguish between the *acceptability* of the conception of justice as fairness and *acceptance* of the conditions of overlapping consensus among contending worldviews. (Habermas, 1995: 120-122)

Habermas's second concern is about the conception of reasonable. According to Rawls, reasonable agents in society are concerned with the fact that they are living in a society with others in a fair system of cooperation. In this sense, reasonable agents consider others in society while at the same time, pursuing their own interests as rational agents. On the other hand, Habermas argues that the conception of reasonable confers problems.

> Either we understand 'reasonable' in the sense of practical reason as synonymous with 'morally true', that is, as a validity concept analogous to truth and on the same plane as prepositional truth; this reading is supported by at least one line of argumentation (a). Or we understand 'reasonable' in more or less the same sense as 'thoughtfulness' in dealing with debatable views whose truth is for the present undecided; then 'reasonable' is employed as a higher-level predicate concerned with more with 'reasonable disagreements', and hence with the fallibilistic consciousness and civil demeanor of persons, than with the validity of their assertions. In general, Rawls seems to favor this latter reading. (Habermas, 1995: 123)

Against Habermas's criticisms concerning the justification, Rawls proposes a clarification. According to Rawls, there are three different kinds of justification that needs to be distinguished in political liberalism. Understanding these conceptions will enable us to understand *the idea of stability for the right reasons* and *the idea of legitimacy*. The idea of stability for the right reasons is realized in which a society is regulated by a reasonable political conception of justice. The political conception of justice is backed by a reasonable overlapping consensus of the participants. Those who accept this consensus are in majority with respect to contenders. Public

discussions are decided in line with the most reasonable political conception of justice.

The first kind of justification is *pro tanto* justification. In *pro tanto* justification, justification of public reason is realized only through political values. "… [T]he political values specified by it can be suitably ordered, or balanced, so that those values alone give a reasonable answer by public reason to all or nearly all questions concerning constitutional essentials and basic justice." (Rawls, 1996: 386) Considering arguments in public reasoning in the light of the political values justifies those arguments in terms of political liberalism. In this sense, every citizen would understand the values that indicate comprehensive worldviews to be reasonable or not. Non-reasonable worldviews are assumed to lack support for political values. (Rawls, 1996: 241-244)

Second kind of justification is *full* justification. It is left to the citizen as individual. "… [T]he citizen accepts a political conception and fills out its justification by embedding it in some way into the citizen's comprehensive doctrine as either true or reasonable, depending on what the doctrine allows." (Rawls, 1996: 386) Justification in the eyes of individuals indicates its full justification. Citizens decide any view to be compatible with political values.

Third kind of justification is accomplished by society. It is the *public* justification. "Public justification happens when all the reasonable members of political society carry out a justification of the shared political conception by embedding it in their several reasonable comprehensive views." (Rawls, 1996: 387) In the society citizens have a mutual understanding of every other's commitment to the public conception of justice. Citizens endorse the very basic idea of public justification but not to their personal commitments for comprehensive worldviews.

Consequently, reasonable overlapping consensus is fully realized. As the reasonable overlapping consensus is realized, the justification of political liberalism is complete.

According to Rawls, public justification helps stability for the right reasons to be established. Stability in society is part of the public justification. Public justification further contributes to democratic legitimacy.

> If we can make the case that there are adequate reasons for diverse reasonable people jointly to affirm justice as fairness as their working political conception, then the conditions for their legitimately exercising coercive political power over one another – something we inevitably do as citizens by voting, if no other way – are satisfied. The argument, if successful, would show how we can reasonably affirm and appeal to a political conception of justice as citizens' shared basis of reasons, all the while supposing that others no less reasonable than we, may also affirm and recognize that same basis. Despite the fact of reasonable pluralism, the conditions for democratic legitimacy are fulfilled. (Rawls, 1996: 390)

A political society with overlapping consensus establishes the foundation for social unity. Social unity leads democratic polity to stability for the right reasons which can be called legitimate stability[17]. Without commitment to a political conception of justice, consensus remains at the level of a *modus vivendi*. Thus stability is left to power struggles among contending comprehensive worldviews. Consequently, social unity would not be accomplished.

Coming to Habermas's question on the conception of reasonable, Rawls does not add a new comment regarding truth claims of moral judgments. He argues:

> Political liberalism does not use the concept of moral truth applied to its own political (always moral) judgments. Here it says that political judgments are reasonable or unreasonable; and it lays out political ideals, principles and standards as criteria of the reasonable. (Rawls, 1996: 394)

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[17] I am grateful to Cem Deveci for this concept that makes the context easily comprehendible.

The idea of reasonable is sufficient in public reasoning so that claim for truth is not considered. The conception of reasonable also expresses a reflective attitude in terms of toleration. In brief terms, Habermas asked whether the conception of reasonable express a truth claim for moral judgments or does it express a reflective attitude to toleration? Rawls replied this question by stating that the conception of reasonable expresses both. Reasonable agents in society are concerned with the fact that they are living in a society with others in a fair system of cooperation. In this sense, reasonable agents consider the impact of their actions on others in the society. Consequently, in reasonable pluralism only those worldviews are included as part of the political system which reasonable citizens accept to endorse.

5.3. Private and Public Autonomy

The difference between Rawls and Habermas can be traced back to their own assessments on republicanism and liberalism. Both Rawls and Habermas try to combine republicanism and liberalism in a single project. Nevertheless, they emphasize different points in the compromise between republicanism and liberalism which leads to a controversy in their approaches. Rawls prioritize rights as a set of liberal principles above all other concerns and limits the public deliberation to political issues. Habermas emphasizes communicative action and proposes a contentless procedure in the public forum. The distinction between liberals and republicans is considered by reference to the liberties of the ancients and the liberties of the moderns.

Liberals have stressed the 'liberties of the moderns': liberty of belief and conscience, the protection of life, personal liberty, and property – in sum, the core of subjective private rights. Republicanism, by contrast, has defended the 'liberties of the ancients': the political rights of participation and communication that make possible the citizens' exercise of self-determination. Jean-Jacques Rousseau and Kant shared the aspiration of deriving both elements from the same root, namely from moral and political autonomy: the liberal rights may neither be merely foisted on the practice of self-determination as extrinsic constraints nor be made merely instrumental to its exercise. (Habermas, 1995: 127)

In the same line of thought Rawls follows Rousseau and Kant's attempts so that he formulated first principle of justice in accord with these concerns. (Rawls, 1996: 196) However, Habermas concludes that Rawls's conception of original position in one level and Rawls's conception of moral persons in another indicates the priority of liberal rights over the republican liberties.

Public political autonomy is conceptualized at the level of the original position. Habermas argues that this autonomy is not fully realized later, at the level of democratic procedure.

For the higher the veil of ignorance is raised and the more Rawls's citizens themselves take on real flesh and blood, the more deeply they find themselves subject to principles and norms that have been anticipated in theory and have already become institutionalized beyond their control. (Habermas, 1995: 128)

Against this critique, Rawls proposes a *four-stage sequence* of democratic procedure. First, citizens decide principles of justice in the original position – in the way Mill conceptualizes. Second, citizens decide rules of a constitution following the principles of justice. Third, citizens become legislators of their own laws which are laid down in the constitution – as Rousseau intends to do. Fourth, citizens become judges to interpret the laws – similarly as Kant develops Rousseau's point of view. Although Habermas assumes that knowledge available to citizens in one

level – the original position – contradicts with the knowledge available in another level – democratic procedure –, Rawls assumes the possibility of different information available at each stage of democratic procedure. The four-stage sequence conceptualizes the original position as a device of representation, extended into the democratic procedure.

Habermas argues that public reason in Rawls is a completed project of constitution making and institutionalization of politics.

> From the perspective of the theory of justice, the act of founding the democratic constitution cannot be repeated under the institutional conditions of an already constituted just society, and the process of realizing the system of basic rights cannot be assured on an ongoing basis. It is not possible for the citizens to experience this process as open and incomplete, as the shifting historical circumstances nonetheless demand. (Habermas, 1995: 128)

Public reason as a stable condition does not allow citizens to exercise their reasons in the political process as an ongoing process. As a response, Rawls argues that the four-stage sequence allows citizens to continue democratic procedure in discussions and deliberations. Political autonomy is a condition in political liberalism so that citizens can continue with their deliberations in the public as an ongoing process. Rawls states that the ideal of just constitution cannot be a completed project but should be understood as an ongoing process.

> To make clearer the idea of political autonomy we say, first, that citizens gain full political autonomy when they live under a reasonably just constitution securing their liberty and equality, with all of the appropriate subordinate laws and precepts regulating the basic structure, and when they also fully comprehend and endorse this constitution and its laws, as well as adjust and revise them as changing social circumstances require, always suitably moved by their sense of justice and the other political virtues. To this we add, second, that whenever the constitution and laws are in various ways unjust and imperfect, citizens with reason strive to become more autonomous by doing what, in their historical and social circumstances, can be reasonably and rationally seen to advance their full autonomy. (Rawls, 1996: 402)

Rawls's understanding of the political refers to, first, a conception of justice which is distinguished a metaphysical conception and which neutral with respect to comprehensive worldviews in society. Second, political conception is interested in the public matters. In this sense, the sphere of political values is differentiated from other value spheres. Habermas finds this the differentiation of public from the non-public problematic in Rawls's theory.

> For only with reference to political values, whatever they may be, can he split the moral person into the public identity of a citizen and the nonpublic identity of a private person shaped by her individual conception of the good. These two identities then constitute the reference points for two domains, the one constituted by rights of political participation and communication, the other protected by basic liberal rights. (Habermas, 1995: 129)

The domain which is constituted by the rights of political participation and communication is the domain of the political. The domain which is protected by basic liberal rights is the domain of the private. For Habermas, what constitutes the private domain is for Rawls the domain of non-public. On the contrary, Rawls's four-stage sequence clarifies Rawls's position in terms of the liberties for public and non-public spheres.

> The four-stage sequence fits, then, with the idea that the liberties of the moderns are subject to the constituent will of the people. Put in terms of that sequence, the people – or better, those citizens if any who affirm justice as fairness – are making a judgment at the stage of a constitutional convention. (Rawls, 1996: 406)

In this way, Rawls constitutes political values, he accomplishes to found bases for both the liberties of the ancients and the liberties of the moderns. Thus, he reconciles Rousseau's republicanism with Mill's liberalism while revising Kantian public use of reason.

5.4. Procedural versus Substantive Theory

Habermas argued in his article that Rawls's conception of justice as fairness is substantive although it was designed to be procedural.

> Philosophy shoulders different theoretical burdens when, as on Rawls's conception, it claims to elaborate the idea of a just society, while the citizens then use this idea as a platform which to judge existing arrangements and policies. (Habermas, 1995: 131)

Rawls disagrees with Habermas's arguments. According to Rawls substantive and procedural aspects of the idea of justice are interrelated. The substantive aspects of justice as fairness is that it is a liberal view and any liberal view is substantive. It is a liberal view because justice as fairness accepts priority of rights as a prior conception to the goods. Nevertheless this does not mean that justice as fairness is a metaphysical conception. It is political for the reasons presented before. Rawls explains the differences between procedural justice and substantive justice as justice of procedure and justice of its outcome. In this case justice of procedure indeed depends on justice of its outcome. Justice of a procedure is procedural in the sense that its outcome depends on fair division. Justice of its outcome depends on intrinsic value judgments, although it has an accepted procedural set up.

In a similar line of thought, interestingly, Rawls argues that Habermas's conception of discourse theory is substantive.

> To be sure [Habermas] thinks of the discourse-theoretic idea as restricted to an analysis of the moral point of view and the procedure of democratic legitimation. And he leaves substantial questions calling for answers 'here and now' to be settled by the more or less enlightened discussions of citizens. (Rawls, 1996: 424)

For Rawls, Habermas founds his theory on substantive assumptions. Rawls indicates

that there are values of the procedure of discourse ethics. In discourse ethics:

> Anyone who seriously engages in argumentation must presuppose that the context of discussion guarantees in principle freedom of access, equal rights to participate, truthfulness on the part of participants, absence of coercion in adopting positions, and so on. If the participants genuinely want to convince one another, they must make the pragmatic assumption that they allow their 'yes' and 'no' responses to be influenced solely by the force of the better argument. (Habermas, 1993: 31)

The conditions that are presented to be part of the procedure are indeed values of the

procedure which constitute substantive aspects of the theory. Rawls comments:

> Here are five values that offhand seem to be values of the procedure – impartiality and equality, openness (no one and no relevant information is excluded) and lack of coercion, and unanimity – which in combination guide discussion to generalizable interests to the agreement of all participants. This outcome is certainly substantive, since it refers to a situation in which citizens' generalizable interests are fulfilled. (Rawls, 1996: 425)

The considered outcome of the procedure of discourse ethics is thought to bring

about reasonable results even the discussion in the public sphere is about substantive

judgments. In this sense discourse ethics is designed in line with its expected

outcome. According to Habermas, the results of a democratic procedure are likely to

be reasonable. Rawls argues that considering an idea of reasonableness indicates a

substantive value depending on the outcome of the procedure.

5.5. Concluding Remarks

The core of the debate between Rawls and Habermas is realized around the

public use of reason. This is so, because both philosophers used similar devices of

representation in constructing their view for public use of reason. Rawls and Habermas share the same starting point from Kant's practical philosophy in considering the public use of reason. It may be argued that Kant's formula in developing public use of reason is categorical imperative as universal moral law. However the employment of categorical imperative is undesirable for both Rawls and Habermas because the categorical imperative is embedded in Kant's moral philosophy. In order to avoid comprehensive moral arguments, Rawls and Habermas revised categorical imperative with a similar aim to bring about procedural devices of representation.

> … Habermas's idea of a 'discourse ethics' can be viewed as a reconstruction of Kant's idea of practical reason in terms of communicative reason. Roughly speaking, it involves a procedural reformulation of the Categorical Imperative. (McCarthy, 1994: 45)

In Rawlsian approach, categorical imperative is revised by introducing the idea of original position. Original position is an attempt to develop a formal mental procedure for a political conception of justice where participants are divided by differences in worlds views, interests and incomes. Original position and ideal discourse situation are initial conditions for the construction of the general theory in democratic deliberation. According to Habermas, original position deprives persons of their practical reasoning through veil of ignorance. Knowledge available in the original position and knowledge required for public reason contradicts with each other bringing a paradox in terms of citizens. Against this critique, Rawls responds with the revision of original position in a four-stage sequence in which differing levels of knowledge is available for persons.

Overlapping consensus in Rawls's theory indicates the neutrality as well as political nature of public reason in terms of different contending comprehensive

worldviews in society which are supposed to be non-public and non-political, i.e. moral, economic. Habermas argues that overlapping consensus is problematic in defining justification of Rawls's theory. Habermas asks whether overlapping consensus contributes to the justification of the theory, or it contributes to the stability of society. Rawls replied this question by stating that overlapping consensus accomplishes both justification and stability. The basic reason of dispute on this point is different concerns of two philosophers. Habermas has paid more attention to the issues of legitimacy, justification and validity in modern societies. Rawls rather deals with the conceptualization of justice and he has been interested in constructing conditions for a just society following Kant's moral theory. Another difference is that while Habermas remains to be Kantian when he argues that there can be a morally true claim, Rawls is skeptical about this issue, since he remains to be a liberal in the sense of Mill who states that one cannot establish the truth of a claim as long as the rights are prior to goods. Although Rawls is interested in justification of the theory, it is not his main concern. The case is also true for stability. Rawls replies to state that overlapping consensus contributes to stability for the right reasons. There is a similar case for the dispute on the conception of reasonable. Habermas considered reasonable in terms of moral validity claims. However, Rawls does not consider questions of moral validity and simply asserts that it is not his concern. Rawls overrules concerns for moral validity claims by developing the argument for the conception of the political. The conception of the political overrules a search for truth claims, so that comprehensive worldviews does not prone to argue validity claims. Stating this position is enough for Rawls to escape from considerations of moral validity and truth claims. For Kant only moral law can be known that is universal. Heteronymous claims to moral validity cannot be known

or cannot be universal. For Habermas scope of validity is much larger than Kant's scope. Habermas is a moral cognitivist whereas Kant is not. In a similar line of thought Rawls is not a moral cognitivist[18].

In the concerns for public and private autonomy, it is difficult to distinguish between Rawls and Habermas, since they share basics of Kantian understanding of autonomy. The dispute arises in the revisions of the understanding of autonomy. According to Habermas Kantian understanding of autonomy does not consider intersubjective realm. Similarly, closer to Kant's conception, Habermas argues that Rawls fails to consider the role of intersubjective realm. For Rawls, Kantian understanding of autonomy is revised along the lines of revision from categorical imperative to original position. Rawls attempts to define public and non-public spheres and strictly limits public uses of reason, whereas for Habermas the public sphere is conceptualized in a way that it can include every aspect of society. Nonetheless, there can be possible agreements between two different approaches. The point is that approaches of two philosophers should be taken into consideration in terms of their concerns and problems. Different concerns bring different approaches and different conceptualizations. Also, different paths for revising Kantian ideal of autonomy and applying Kantian practical philosophy to politics seem to be the reasons behind two split. In this sense, most parts of this debate are not resolvable.

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[18] I have to indicate this point to reduce confusion on the subject matter. I am thankful to Cem Deveci for his comments o this topic.

CHAPTER VI

CONCLUSION

The debate between Rawls and Habermas indicates that public uses of reason comprise an important part of any democratic theory. The reason is the fact that public reason defines the principles of relations between state and its citizens and among citizens themselves. The idea of public reason is defined by Rawls as:

> To begin: in a democratic society public reason is the reason of equal citizens who, as a collective body, exercise final political and coercive power over one another in enacting laws and in amending their constitution. (Rawls, 1996: 214)

Nevertheless, Rawls's interpretation of public reason finds its place in political theory as a continuation of an already studied subject matter. In this sense, I argue that Rousseau's, Mill's and Kant's contributions influenced Rawls's point of view to an important extent. In comparison to Habermas, Rawls's theory seems to be more loyal to past thinkers.

According to Rousseau, a person's giving up his right at the expense of the community is the only way for him to be social and free at the same time. The common good is essentially important and the realization of common good is accomplished through the general will. General will is, at the mental level, sum of all wills except particular interests. General will is realized in a society in which

citizens are the legislators of their own laws. Although Rousseau did not develop a specific conception of public reason, the process that regulates the relations among citizens in the legislature should be in a certain way. Rousseau appeals to public deliberation in the legislative process. When general will is appeared in the public, it is to regulate almost all matters in society. The definition of government for Rousseau indicates this condition: "What then is government? An intermediary body established between the subjects and the sovereign for their mutual dealings, charged with the execution of the laws and with the maintenance of liberty, both civic and political." (SC: 118) In the process of general will formation citizens deliberate without any constraints or any regulative ideal and eventually they live with the laws that they themselves legislate as a result of deliberative process and general will formation. This point is one important point where Rousseau's successors like Kant would try to develop deeper level analysis.

Rousseau's interpretations on limiting rights at the expense of common good are not readily acceptable for many liberal thinkers. Against the will of all, liberals like John Stuart Mill championed the rights of individual. According to Mill, individual can only be free as long as his basic rights are secured through legitimate means against the tyranny of majority. These basic rights are liberty of conscience, liberty of thought and feeling, freedom of opinion, liberty of tastes and pursuits and freedom of association. (Mill, 1991: 31) Democracy should not become the rule of majority as the process of voting might bring about. Rawls is influenced from Mill's point in terms of the idea of priority of right. After Rousseau's influence on developing an argument favoring liberty of ancients which are, equal political liberties and values of public life, Rawls comes into terms with liberty of moderns which are freedom of thought and conscience, certain basic rights of the person, and

the rule of law to make a compromise between the two. In *Political Liberalism*, both civic liberties and individual liberties are favored in compromise.

In line with Rousseau's arguments Kant proceeds with a more elaborate conception for finding a regulative framework for a genuine moral principle in the society. In this sense, Kant tries to construct a moral commitment device. This device might be Kantian categorical imperative that leads the individual to act in accordance with a universal moral principle. Following Rousseau's and Kant's positions, both Rawls and Habermas developed devices of representation, the original position with the veil of ignorance in Rawls's case and the discourse principle in Habermas's. However, Rawls and Habermas interpreted this device of representation in different terms.

According to Rawls, the original position aims at indicating the conditions of living in the society from the viewpoint of other citizens. It contributes to the development of reasonable comprehensive doctrines and other regarding citizens. In public deliberation only the citizens are included into the process who accept comprehensive doctrines which endorse the idea of public reason. This is to ensure the overlapping consensus which contributes to the stability and validity of the constitutional democracy.

For Habermas, the discourse principle provides the rules of public discussion which only regulates the procedural conditions. He aims at reaching a final compromise for the common good in society. For this purpose, Habermas tries to include all issues into the process of public use of reason as long as citizens abide with the rules of communication. However, his ideal to reach a final point can be understood in terms of reaching a specific kind of society as Kant presumed. At one point Habermas is more inclusive in the process than Rawls but at another point

Rawls seems more open to changing circumstances than Habermas. The basic point of disagreement appears in their major endeavors. Rawls aims at developing a conception that will enable various comprehensive doctrines to live together without some strategic compromise but with an idea of overlapping consensus. Habermas aims at finding conditions for validity of moral truth claims in society through communicatively regulated measures.

As I have outlined an important point of disagreement between Rawls and Habermas is their definition of public. For Rawls, public is defined with limits to concern only political matters. Political matters are also defined as the issues of basic justice and constitutional essentials. For Habermas, the public includes many aspects of social life. Public sphere is: "[A] network for communicating information and points of view; the streams of communication are, in the process, filtered and synthesized in such a way they coalesce into bundles of topically specified public opinions." (Habermas, 1996: 360) This kind of definition for public sphere include many aspects of society unlike Rawls's conception. For Rawls, limiting public reason is crucial to limit unreasonable comprehensive doctrines that jeopardize the balance of the overlapping consensus. The compromise on the issue of definition of public is not easy to achieve between Rawls and Habermas.

It may be argued that an important distinction in Rawls's and Habermas's viewpoints arises due to the differences between analytic and continental philosophy. Although Rawls has important impressions from the continental thought, his reasoning in *Political Liberalism* follows the main guidelines of analytic philosophy. On the other hand, Habermas's theory as a whole corresponds to the continental tradition. The important point to note is that Rawls's point is more open to compromise with the viewpoints from continental philosophy than Habermas's

point with analytic philosophy. In other words, Rawls's theory carries characteristics of both philosophical traditions. "… [T]he principles of justice are defended not with reference to a neutral (game theoretic) model of rational choice, but with reference to a 'model conception' of the person as a free and equal moral being." (Baynes, 1992: 3) If there is a project to look for a compromise between the philosophical traditions of analytic and continental philosophy the debate between Rawls and Habermas can be seen as an important milestone.

In this thesis I believe that I have clarified the idea of public reason in the context of deliberative democracy. Understanding public reason is crucial to grasp not only the most basic issue of debate between Rawls and Habermas but also because it contributes to the development of theory of deliberative democracy for a compromise in the formation of an idea that is to regulate relations between state and citizens and between citizens themselves. In the context of Rawls's approach, this thesis indicates philosophical roots of the idea of public reason in political theory. Furthermore, this thesis argued that public use of reason is essential to ground and maintain the legitimacy and stability of a pluralistic, deliberative democracy.

SELECT BIBLIOGRAPHY

Ackerman, Bruce 1994 "Political Liberalisms", *The Journal of Philosophy*, (91) 7: 364-386.

Baynes, Kenneth 1992 *The Normative Grounds of Social Criticism* NY: SUNY press.

Beitz, Charles. R. 2000 "Rawls's Law of Peoples", *Ethics* 110 (4): 669-696.

Benhabib, Seyla (ed.)1996 *Democracy and Difference: Contesting the Boundaries of the Political* Princeton, NJ: Princeton University Press.

----- 1992 *Situating the Self: Gender, Community and Postmodernism in Conytemporary Ethics* NY: Routledge.

Bohman, James 1995 "Public Reason and Cultural Pluralism: Political Liberalism and the Problem of Moral Conflict", *Political Theory*, 23 (2): 253-279.

----- 1996 *Public Deliberation: Pluralism, Complexity and Democracy* Cambridge, MA: MIT Press.

Bouton, Clark. W. 1965 "John Stuart Mill: On Liberty and History", *The Western Political Quarterly* 18 (3): 569-578.

Brower, Bruce W. 1994. "The Limits of Public Reason", *The Journal of Philosophy* 91 (1): 5-26.

Brown, D. G. 1972 "Mill on Liberty and Morality", *The Philosophical Review*, 81 (2): 133-158.

Cassirer, H. W. 1938 *A Commentary on Kant's Critique of Judgment* UMI 1997 (Reprint) London: Methuen.

Charney, Evan 1998 "Political Liberalism, Deliberative Democracy, and the Public Sphere", *The American Political Science Review* 92 (1): 97-110.

Constant, Benjamin 1988 *Political Writings*, Biancamara Fontana, ed., Cambridge: Cambridge University Press.

Cook, E. Terrence 1975 "Rousseau: Education and Politics", *The Journal of Politics* 37 (1): 108-128.

Freeman, Samuel. 1992 "Original Meeting, Democratic Interpretation, and the Constitution", *Philosophy and Public Affairs* 21 (1): 3-42.

Frohock, Fred M. 1997 "The Boundaries of Public Reason", *The American Political Science Review* (91) 4: 833-844.

Greenawalt, Kent 1995 *Private Consciousness and Public Reasons*. NY: Oxford University Press.

Goodin, Robert E. 2001 "Bargaining over Beliefs", *Ethics* 111 (2): 256-277.

-----1999. "On Public Reason" in Paul J. Weithman ed., *Philosophy of Rawls (vol. 4): Reasonable Pluralism.* NY: Garland, 247-267.

Habermas, Jürgen 1968 *Legitimation Crisis*. London: Heinemann Educational Books.

-----1971 *Towards a Rational Society: Student Protests, Science and Politics*. J. J. Shapiro, trans. London: Heinemann Educational Books.

----- 1991 *Moral Consciousness and Communicative Action*. C. Lenhardt & S. W. Nicholsen, trans. MA: MIT Press.

----- 1993 *Justification and Application*, C. P. Cronin, trans. MA: MIT Press.

----- 1994 "Postscript" in W.Rehg, trans., *Between Facts and Norms: Contributions to a Discourse Theory of Democracy*. (1996) USA: Polity Press.

----- 1995 "Reconciliation Through the Public Use of Reason: Remarks on John Rawls's Political Liberalism", *The Journal of Philosophy* 92 (3): 109-131.

----- 1996 *Between Facts and Norms: Contributions to a Discourse Theory of Democracy*. W.Rehg, trans. USA: Polity Press.

----- 1998 *The Inclusion of the Other: Studies in Political Theory*, C. Cronin and P. Grief, eds. MA: MIT Press.

Held David and Joel Krieger 1983 "Accumulation, Legitimation and the State: The Ideas of Claus Offe and Jürgen Habermas" in D. Held et. al., *States and Societies*. NY: New York University Press.

Hollenbach, David 1999. "Contexts of the Political Role of Religion: Civil Society and Culture" in Paul J. Weithman ed., *Philosophy of Rawls (vol. 4): Reasonable Pluralism*. NY: Garland, 269-293.

Honig, B. 1993 "Rawls on Politics and Punishment", *Political Research Quarterly*, 46 (1): 99-125.

Howe, Leslie A. 2000 *On Habermas*. CA: Wadsworth.

Johnson, James 1991 "Habermas on Strategic and Communicative Action", *Political Theory*, 19 (2): 181-201.

Kant, Immanuel. 1963 (WE) "What is Enlightenment" in L. W. Beck ed., *On History*. Indianapolis: Bobbs-Merill Pub.

----- 1964 *Groundwork of the Metaphysics of Morals* James W. Ellington, trans. NY: Harper Torchbooks.

----- 1991 *Political Writings* Hans Reiss ed. Avon, UK: Cambridge University Press.

Keohane, Nannerl O. 1978 "The Masterpiece of Policy in Our Century: Rousseau on the Morality of the Enlightenment", *Political Theory* 6(4): 457-484.

Lecture notes of Phil 331. *web.uvic.ca/philosophy/phil331/readings/unit3big.html*, viewed on 10 September 2003.

McCarthy, Thomas 1989 *The Critical Theory of Jürgen Habermas* MA: MIT press.

----- 1990 "Introduction" in J. Habermas, *Moral Consciousness and Communicative Action*, C. Lenhardt & S. W. Nicholsen, trans. MA: MIT Press.

----- 1994 "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue", *Ethics* 105: 44-63.

Mill, John. Stuart 1991. "On Liberty" in John Gray and G. W. Smith eds. , *J. S. Mill On Liberty in Focus.* London: Routledge, 21-127.

O'Neill, Onora 1986 "The Public Use of Reason", *Political Theory* 14(4): 523-551.

----- 1992a "Vindicating Reason" in *The Cambridge Companion to Kant*, Paul Guyer ed. NY: Cambridge University Press.

----- 1992b "Reason and Politics in the Kantian Enterprise" in *Essays on Kant's Political Philosophy*, H. L. Williams ed. UK: University of Chicago Press.

----- 1997 "Political Liberalism and Public Reason: A Critical Note on John Rawls, Political Liberalism", *The Philosophical Review* 106(3): 411-428.

Outhwaite, William 1994 *Habermas: A Critical Introduction* UK: Polity Press.

Rawls, John 1969 "The Justification of Civil Obedience" in Samuel Freeman ed. *Collected Papers* (1999) Cambridge, MA: Harvard University Press.

----- 1996 *Political Liberalism*. New York (NY): Columbia University Press.

----- 1996 "Reply to Habermas" in *Political Liberalism*. New York (NY): Columbia University Press, 373-434.

----- 1999a *A Theory of Justice*. USA: Oxford University Press.

----- 1999b "The Idea of Overlapping Consensus" in Samuel Freeman, ed., *Collected Papers*. Cambridge (MA): Harvard University Press, 421-448.

----- 2000 *Lectures on the History of Moral Philosophy*, Barbara Herman, ed. USA: Harvard University Press.

----- 2001 "The Idea of Public Reason Revisited", *The Law of Peoples*. Cambridge (MA): Harvard University Press, 129-180.

Raz, Joseph 1999. "Liberalism, Autonomy, and the Politics of Neutral Concern" in Paul J. Weithman ed., *Philosophy of Rawls (vol. 4): Reasonable Pluralism.* NY: Garland, 1-32.

Rehg, William 1996 "Introduction" in J. Habermas *Between Facts and Norms: Contributions to a Discourse Theory of Democracy*, W.Rehg, trans. USA: Polity Press.

----- 1998 "Against Subordination: Morality, Discourse and Decision in the Legal Theory of Jürgen Habermas" in M. Rosenfeld & A. Arato Berkeley *Habermas on Law and Democracy: Critical Exchanges*, CA: U. of California Press.

Reiss, H. (ed.) 1991 "Introduction" in *Kant: Political Writings*, H. Reiss ed. UK: Cambridge University Press.

Ritter, Alan and Julia C. Bondanella (eds.) 1988 *Rousseau's Political Writings* US: W. W. Norton & Co. Inc.

Rousseau, Jean Jacques 1988. "On Social Contract or Principles of Social Right" (SC) in *Rousseau's Political Writings* A. Ritter & J. C. Bondanella eds. US: W. W. Norton & Co. Inc.

----- 1988. "Discourse on Political Economy" (DPE) in A. Ritter & J. C. Bondanella eds., *Rousseau's Political Writings.* US: W. W. Norton & Co. Inc.

Seidman, Steven (ed.) 1989 "Introduction" in J. Habermas *Jürgen Habermas on Society and Politics: A Reader*, S. Seidman ed. MA: Beacon Press.

Shaw, Brian J. 1999 "Habermas and Religious Inclusion: Lessons from Kant's Moral Theology", *Political Theory*, 27 (5): 634-666.

Skorupski, J. 1991. *John Stuart Mill* London: Routledge.

Spragens, Thomas A. Jr. 1990 *Reason and Democracy*. Durham (NC): Duke University Press.

Starobinski, Jean 1962. "The Political Thought of Jean-Jacques Rousseau" in A. Ritter & J. C. Bondanella eds., *Rousseau's Political Writings.* US: W. W. Norton & Co. Inc., 221-232.

Ten, C. L. 1991. "Mill's Defence of Liberty" in John Gray and G. W. Smith eds. , *J. S. Mill On Liberty in Focus.* London: Routledge, 212-238.

Thilly, Frank 1918 "The Kantian Ethics and its Critics", *The Philosophical Review*, 27 (6): 646-650.

Wagner, Gerhard and Heinz Zippiran 1989 "Habermas on Power and Rationality", *Sociological Theory* 7 (1): 102-109.

Weithman, Paul J. 1995 "Contractualist Liberalism and Deliberative Democracy", *Philosophy and Public Affairs* 24 (4): 314-343.

Young, Iris, M. 1981 "Toward a Critical Theory of Justice" in Paul J. Weithman ed., *Philosophy of Rawls (vol. 4): Reasonable Pluralism.* NY: Garland, 295-318.