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Graduate School in Social and Political Sciences
Department of Social and Political Sciences
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Ph. D. Dissertation

**PLURALISM AS IT IS, PLURALISM AS IT SHOULD BE.
A CASE FOR MODUS VIVENDI.**

Disciplinary Scientific Sector: SPS/01

Tutor:

Prof. Antonella Besussi

Director:

Prof. Francesco Zucchini

Ph. D. Candidate:

Irene Vanini

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ABSTRACT

Pluralism is an inescapable feature of contemporary liberal societies and it raises the demand for a normative strategy to face the disagreement it generates. Contemporary debates in normative political theory deal with pluralism by proposing a variety of solutions to prevent it from degenerating into unmanageable conflicts. The most prominent and dominant theoretical paradigm is John Rawls's theory of political liberalism, that dissolves the dangerous potential of political disagreement by imposing a *discipline* of pluralism. This work is guided by the question: is there a way to govern the undesirable consequences of pluralism that does not imply a disciplining of pluralism itself? The goal is to find a solution to the problem of pluralism, a strategy for its management able to preserve its features without putting order, peace and stability at risk. Along with modus vivendi scholars and contrary to the Rawls outlook on modus vivendi, this work is committed to show that modus vivendi contains the potential to give an answer to the pluralism of beliefs and not just to the plurality of goals. Modus vivendi is here regarded as an independent political project, capable of providing an answer to pluralism whilst representing a valuable alternative to political liberalism. I commence my analysis challenging the Rawlsian paradigm of political liberalism, starting with an assessment of his version of pluralism, reasonable pluralism, and of what I call the "tools" that political liberalism puts in place to contain the effects of reasonable pluralism and to attain a form of strong and enduring consensus. I then turn to the appraisal of modus vivendi solutions. I define the Rawlsian understanding of modus vivendi (which I called "Rawlsian modus vivendi", RMV) as the black mirror of political liberalism since it is entirely thought out to perform an ancillary role with respect to the purposes of it. The *pars construens* on this work is dedicated to the project of rethinking modus vivendi along the dynamics of compromise, a model that I call "compromise modus vivendi" (CMV). I argue that CMV should fall within the scope of non-ideal realist political theory and that it is normative as it demands that citizens have an attitude to compromise, specified by a list of requirements. I observe how the dynamics of CMV result in a specific form of consensus that does not require any selection of reasons and a specific form of stability (*light stability*) that mirrors such openness to plural reasons. I conclude that CMV has the virtue of being a desirable and practicable solution while respecting pluralism in its actual form.

Tutor:
Prof. ANTONELLA BESUSSI
Università degli Studi di Milano

Doctoral Committe:
Prof. SEBASTIANO MAFFETTONE
LUISS Guido Carli

Prof. ROBERTA SALA
Università Vita Salute San Raffaele

Dr. BEATRICE MAGNI
Università degli Studi di Milano

To Giacomo and Luca

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Introduction

A description of contemporary liberal democracies would not be correct or complete if it did not account for pluralism. Pluralism is defined by the set of moral, religious, philosophical points of view hosted in liberal societies. In other terms, it is the empirical observation of the fact that people hold different beliefs. Contemporary liberal societies are pluralistic and citizens of such societies constantly encounter the effects of pluralism in the public debate, in newspapers, on social media, and especially in political discourses. However defined, pluralism fosters disagreements that may, time after time, find uncontroversial solutions, but may also trigger broad debates and harsh quarrels. One task of politics is to confront with such disagreement and to design a practicable way to deal politically with the plural and competing claims advanced by citizens. Normative political theory has aimed attention at the problem of pluralism over the past three decades, but it is far from being a resolved issue. Recent events in Western democracies constitute evidence of how the question of understanding how to deal with the fact of pluralism is an urgent one.

Contemporary debates in normative political theory dealt with pluralism by proposing a variety of solutions to prevent it from degenerating into unmanageable conflicts. The most prominent and dominant theoretical paradigm is John Rawls's theory of political liberalism. The strategy advanced by political liberalism alleges for the possibility of overcoming, and not just coping with, the problem of pluralism. Political liberalism dissolves the dangerous potential of political disagreement by imposing a *discipline* of pluralism. In political liberalism, the urgent question raised by pluralism becomes the question raised by *reasonable* pluralism, i.e. a regimented version of pluralism that is more accommodating to the *desiderata* of the theory and so easier to be politically managed.

The study of political liberalism, and of the large debate that it raised, brought about the research question that guided this work: is there a way to govern the

undesirable consequences of pluralism that does not imply a disciplining of pluralism itself? My question concerns in the first instance a method to look at pluralism and to give a normative answer that left it untouched, unreduced, unrefined. My goal was to look for a theory that worked for the purposes of pluralism and not a form of pluralism that worked for the purposes of the theory. The guiding idea of this work was to find a solution to the problem of pluralism, that is to think out a strategy for the management of pluralism able to preserve its features without putting order, peace and stability at risk. I looked for this strategy within the method of *modus vivendi*.

The theory of *modus vivendi* is discarded by Rawls as a mere battle for power within a society and identified with a contingent and fortunate conjunction of events leading to a simple balance of interests (a solution of no normative relevance). Along with other scholars studying the dynamics of *modus vivendi* and contrary to Rawls, I believe that *modus vivendi* contains the potential to give an answer to the pluralism of beliefs and not just to the plurality of goals. For this reason, I embarked on a reflection on *modus vivendi* as an independent political project, capable of providing an answer to my research question whilst representing a valuable alternative to political liberalism. Between the overcoming of pluralism in the form of strong consensus envisaged by political liberalism and the Rawlsian demeaning understanding of *modus vivendi*, there is an option to be explored, that is a *normative* conceptualisation of *modus vivendi*.

A complete scrutiny of this third option is the object of a current lively debate in political theory and my contribution nestles within this new emerging field. In order to seriously conduct my examination of *modus vivendi* as a substantial response to the fact of pluralism, I devoted large part of this work to the assessment of the available solutions, i.e. political liberalism and the Rawlsian account of *modus vivendi*. I then considered the state of the art of the contemporary debate on normative *modus vivendi*. The objective of my analysis was to measure which aspects of the available perspectives could assist in answering my research question, and which aspects determined obstacles in preserving pluralism without endangering order. I searched for a solution that could be respectful of the fact of pluralism *as it is* (its factual shape) by being at the same time practicable as well as desirable, and thus politically relevant.

This solution is an example of modus vivendi theory tailored onto the notion of compromise, which I called “compromise modus vivendi” (CMV). Having observed that the narrative of negotiation and compromise is a significant facet of the debate around modus vivendi, I examined the dynamics of compromise and found that they are consistent with the essential features of modus vivendi. CMV, the outcome of such analysis, is a normative theory of modus vivendi that does not call for any restriction on pluralism and can guarantee a sufficient level of stability. For this reason, I believe that CMV is a desirable solution. Because it is a normative solution and because it refers to the notion of compromise, CMV implies some demands for individuals, that are modeled according to the attitude required of compromising parties. Such demands take into account the imperfection and complexity of human political interaction and, unlike the demands of Rawlsian public reason, do not embody any indication about what values or kind of values should be prioritised. As a result, they do not constitute an infringement on pluralism nor they represent an interference with contingent political dynamics. I believe this aspect of CMV make it a desirable but also practicable answer to the question of pluralism.

I commenced my analysis challenging the Rawlsian paradigm of political liberalism. I started with an assessment of his version of pluralism, reasonable pluralism, and of what I called the “tools” that political liberalism puts in place to contain the effects of reasonable pluralism and to attain a form of strong and enduring consensus. I identified two main features of political liberalism that I argued should be considered shortcomings in facing the fact of pluralism: political liberalism is an example of ideal theory and of moralist theory. The descriptive distance political liberalism has from the reality of political cooperation, I argued, results in the definition of a demanding standard, that real people will hardly ever match. The reconstruction and critique of political liberalism constitute the substance of Chapter 1.

I then turned to the appraisal of modus vivendi solutions. I defined the Rawlsian understanding of modus vivendi (which I called “Rawlsian modus vivendi”, RMV) as the black mirror of modus vivendi since it is entirely thought out to perform an ancillary role with respect to the purposes of political liberalism. RMV has the explanatory

function of describing a political scenario in which all the *desiderata* of political liberalism are absent and that, for this reason, is highly undesirable because deeply unstable. I observed how RMV is no more descriptively adequate than political liberalism is, as it oversimplifies political interaction by depicting it as mere coordination of goals.

A final step required before addressing CMV consisted of laying the foundation of my proposal in the field of normative modus vivendi theory. Could CMV be a non-ideal, non moralist theory and a practicable, desirable, stable political solution respectful of pluralism that still be true to what constitutes a modus vivendi? In examining the stances of modus vivendi theorists, I concluded that the form of consensus featured in CMV should be built on prudential and plural reasons and that CMV should embody a thin notion of toleration, consistent with pluralism and minimally demanding. The critique of RMV and the critical analysis of modus vivendi literature are comprise, respectively, in the first and second part of Chapter 2.

On this premises, I devoted Chapter 3 to construct the proposal of CMV. My aim has been to figure out what constitutes the idea of compromise and how it can be used to define modus vivendi, rather than tackling modus vivendi in the first place and then incorporating the language of compromise. I believe CMV unfolds the existing dynamics between modus vivendi and the concept of compromise and I argued that the normativity of compromise not only is consistent with the purposes of modus vivendi, but it also reveals, at least to a partial extent, what type of normativity modus vivendi theory should look for.

Chapter 1

The limits of political liberalism

1. Political liberalism: questions, goals, premises

1.1. Genesis and aims

Amongst the most prominent strategies to manage the ineradicable presence of pluralism in contemporary societies is certainly the Rawlsian one, that established an approach to the issues of political theory widely recognised as mainstream and identified as *political liberalism*. The full systematisation of the theory is indeed represented by Rawls's 1993 *Political Liberalism* (hereinafter PL¹), a book which genesis unveils the depth and relevance of some of its core concepts. PL, in fact, represents a step back with respect to his 1971 work *A Theory of Justice* which goal was to identify a set of principles of justice that might be widely accepted and that might work as the foundation for a well-ordered and stable society, by defining a method, the original position, intrinsically able to guarantee that the outcome would be the fairest. The result was the theory of justice as fairness, defined by two fundamental principles: the first listing a set of basic prior liberties, the second covering the issues of distributive justice². The way justice as fairness was presented in TJ was considered dissatisfactory by Rawls, also because it does not sufficiently account for the ongoing disagreement on political matters that characterises contemporary democracies. In particular, in TJ, the conception of justice as fairness embodied a conception of the individual as having capacity for moral agency. Individuals are able to perform moral rights and duties connected with their capacity of having moral motivations to act according to a certain notion of virtue³. Justice as fairness represented thus what Rawls defined a *comprehensive* account of justice, because

¹ I will refer hereinafter to *Political Liberalism* the book as "PL", while with the expression "political liberalism" I refer to the theory.

² For a recent analysis see Freeman and Freeman 2007.

³ Rawls 2005, xliii. All through this work I will refer to the 2005 edition of PL, without specifying if I am referring to PL (originally published in 1993), *Reply to Habermas* (originally published in 1995), or *The Idea of Public Reason Revisited* (originally published in 1997), unless it is relevant for the argument.

it embodied potentially controversial claims that go beyond the scope of the political and may hardly be the object of a wide agreement.

In the years that separate the publication of TJ from the one of PL, Rawls developed a defence of justice as fairness consisting in harbouring the account of justice connoted by the two principles in a new project, advocating for a political structure that may satisfy the requirements of justice even while taking into account a basic feature of contemporary liberal societies, i.e. the fact of pluralism typical of modern liberal democracies. In this sense, the question of political liberalism is not anymore one of an account of justice preferable to alternative options (utilitarian, perfectionist or intuitionist). Rather it is the one of showing how an account of justice can possibly work in the specific historical and institutional context of contemporary constitutional democracies⁴. The first concern of political liberalism is to show how justice as fairness, that is a “particular account of justice...always to be so understood”⁵, should work when it is adjusted to the presence of pluralism. So, in this sense, the underlying purpose of political liberalism consist of the achievement of two goals. A first one is still that of presenting the design of a well-ordered liberal society (i.e. a society where citizens share a conception of justice and in which such conception of justice informs the fundamental institutional structure⁶) that respect the demands of justice. But this time a second aim is added: political liberalism should also be able to manage the undesirable consequences of the existent variety of incompatible moral standpoints⁷. Part of the management of pluralism consists in political liberalism having the adequate theoretical tools to enable a sufficient degree of stability, given the requirements of liberty and legitimacy typical of a well-ordered society. In fact, the problem that political liberalism intends to investigate

⁴ Audard 2006, 7.

⁵ Rawls 2005, xxxv, n. 2.

⁶ Rawls 1999, 4.

⁷ “A main aim of *Political Liberalism* ... is to say how the well-ordered society of *justice as fairness* set out in *A Theory of Justice* ... is to be understood once it is adjusted to the fact of reasonable pluralism ... and regulated by a political conception of justice. ... Another main aim of PL is to say how a well-ordered liberal society containing a number of reasonable political conceptions is to be understood” (Rawls 2005, xxxv-xxxvi). This is how Rawls sets out the goals of political liberalism in the 1999 introduction. This brief quotation shows how the adjustment of justice as fairness to pluralism comes together with an arrangement of the question that political liberalism is asking, that is the possibility of a just and stable society given pluralism. As I will explain later, the notion of reasonableness is the cornerstone of the answer to such question.

is presented as the possibility of a plural yet liberal, democratic, just *and stable* society⁸ and the design of an efficient strategy to fulfil these goals.

1.2. *Pluralism as it is, pluralism as it should be*

Pluralism is presented as the “fact of pluralism”, defined by the array of *comprehensive doctrines*, that is those philosophical, religious, moral views that include “conception of what is of value in human life, and ideals of personal character, as well as ideals of friendship and of familial and associational relationships”⁹. Comprehensive doctrines embody and/or imply specific sets of values and give indications about how to rank such values, that can (and often do) cover manifold aspects of human life, thus giving indications about the motives and reasons to act one way or another in the private, as well as in the public sphere. Their role is all-encompassing¹⁰, they contain normative indication about how life should be conducted inside and outside the political realm, that is to say they provide individuals with full moral guidance¹¹. Comprehensive doctrines put forward incompatible ideas of what is to be considered good and virtuous in human life, in fact the value claims embodied in comprehensive doctrines can be and in fact are in conflict. Because they advocate for specific political decisions the disagreement they might bring about has political relevance. The set of comprehensive doctrines is defined as the *fact* of pluralism, and it consists of the acknowledgement that the positions concerning the good of life are manifold and that their difference is potentially impossible to overcome.

This account of pluralism is not specified by a metaphysical claim about the nature of values and their being related to incommensurable ends of human life as for instance in Isaiah Berlin’s work¹², which could represent one amongst others philosophical comprehensive doctrines. The fact of pluralism does not embody any

⁸ Freeman 1994, 619-633.

⁹ Rawls 2005, 13.

¹⁰ Dreben 2002, 331.

¹¹ Comprehensive doctrines “inform much of our non-political conduct (in the limit our life as a whole). ... A doctrine is fully comprehensive when it covers all recognized values and virtues within one rather precisely articulated scheme of thought; whereas a doctrine is only partially comprehensive when it comprises certain (but not all) non-political values and virtues and is rather loosely articulated” (Rawls 2005, 175).

¹² Berlin 1969, Berlin 1998.

claim about the ontological and metaphysical status of values. Its philosophical definition is agnostic with regard to any value-related dynamics that apply to the broadly conceived interpersonal sphere (so to a set of situations larger than the political) and falls within the competence of moral philosophy, rather than of political theory. The fact of pluralism corresponds to the acknowledgement that *de facto*, values expressed in the public discourses of modern and contemporary societies do (and potentially will still do in the long run) ask for incompatible political solutions. They refer indeed to different conceptualisations of what is good and therefore give different indications about what has to be done *also* in the political realm. The problem of political liberalism is exactly the one of finding a way for the political to offer a framework that can be presented as coherent and acceptable from all these points of view, i.e., in other terms, to *reconcile the irreconcilable* claims represented in the fact of pluralism¹³. In this sense, its goal goes beyond the management of the undesirable consequences of pluralism. In fact, it rather primarily aims at shaping the political according to the needs of the pacification of disagreement generated by pluralism.

In order to do this, political liberalism has to put in place a series of theoretical tools that make such appeasement possible (as well as successful from the point of view of stability). Such theoretical tools are the notions of *reasonableness* and of *public reason*, and on their turn they produce two effects. They enable a form of strong agreement, *overlapping consensus*, and allow for a specific kind of *public justification*. Reasonableness is the form of reasoning that specifies an interpersonal (moral) attitude referring to the notion of *reciprocity*, and it embodies a list of requirements that apply to the content of

¹³ Here it is worth to look more in detail in the Rawlsian terminology, crucial to the formulation of the most fundamental ideas of political liberalism, as it will be clearer later. Comprehensive doctrines accomplish, as I said, an all-encompassing task: they (can) host all kinds of beliefs, including of course those concerning moral and political values. In so doing they provide full or at least partial guidance in defining one's own plan of life, that is laying out what are *good* ends to be pursued or more broadly what should be considered *morally* valuable (virtuous or, indeed, good). The way the many comprehensive doctrines rank, organise and account for values is not homogeneous and is not fully necessitated by context. This plurality is what constitutes the fact of pluralism and it results in an ongoing ineradicable disagreement about *what is to be considered good*. In contrast, those *political* values embodied in the conception of justice are the object of agreement and define what is *right*. According to Rawls, the values and beliefs falling under the respect of the right are not subject to the same disagreement that concerns the idea of the good. Through this usage of the conceptual pairs moral/political and right/good, Rawls redefined the sense in which the idea of "political" should be employed. The reduction of the sphere of the political to the conception of justice and rightness, resulted in an exclusion from the theoretical discourse about the political of all considerations that concern the *facts* of politics and that fall outside the scope of the definition of justice (relationships of power, changing circumstances, interests and non well-ordered form of political participation).

comprehensive doctrines. Moreover, reasonableness informs public reason, that in its turn defines the set of reasons citizens can bring in the public sphere and how they should refer to the conception of justice. These are what Rawls calls the *right reasons*, that is those specified by the most reasonable conception of justice and formulated according to its political values (embodied in all reasonable comprehensive doctrines¹⁴), and in fact they represent an appeal to those values “that all citizens as reasonable and rational might reasonably be expected to endorse”¹⁵. This collection of concepts, just mentioned highlighted in italics, are the theoretical devices that constitute the architecture of political liberalism and that perform the function of reconciling the irreducible claims of the many comprehensive doctrines. This function is achieved by setting the profile of political circumstances in order for the different moral points of view to be able to endorse the conception of justice: “the problem of political liberalism is to work out a political conception of political justice for a (liberal) constitutional democratic regime that a plurality of reasonable doctrines, both religious and nonreligious, liberal and nonliberal, may endorse for the right reasons. ... In sum, PL considers whether in the circumstances of a plurality of reasonable doctrines, both religious and nonreligious, liberal and nonliberal, a well-ordered and stable democratic government is possible, and indeed even how it is to be conceived as coherent”¹⁶. The specification of the set of reasons together with the qualification of the set of comprehensive doctrines taken into account as just the reasonable ones make the system of political capable of matching the standard set by the conception of justice while being at the same time stable¹⁷, thus fulfilling its present goals.

¹⁴ “Public political discussions, when constitutional essentials and matters of basic justice are at stake, are always (or nearly always) reasonably decidable on the basis of the reasons specified by the most reasonable political conception of justice, or by a reasonable family of such conceptions” (Rawls 2005, 391).

¹⁵ Rawls 2005, 236.

¹⁶ Rawls 2005, xxxix.

¹⁷ In fact, “[i]t bears emphasizing that Rawls is not concerned with Hobbesian stability or peace and tranquillity for their own sake. The stability of a grossly unjust society is worth little or nothing by itself, particularly if its destabilization will result in a more just situation without great loss of life. Rawls’s concern is with the stability of a presumptively *just* (or “well-ordered”) society, which depends on its member having certain moral motives” (Freeman 2002, 21). Such set motivations to support the institutional set of the well-ordered society is the result of a selection put into place by reasonableness and leading to overlapping consensus. Because such reasons are grounded in the political values of the conception of justice, they are referred to as the *right reasons*. Stability in political liberalism is worth being achieved only if it is for those right reasons, that guarantee moral allegiance to the institutional (political) set, rather than merely disclose an interest in peaceful coexistence.

Nevertheless, such accomplishment of both tasks, answering the question raised by justice and by pluralism at one time, comes at a cost. Ultimately, what reasonableness and public reason do is to impose limits on the scope and depth of pluralism, by governing the kind of claims that can be brought into the public sphere, that is in the institutional space where issues concerning the basic structure of society are discussed. So, it is the fact of pluralism, i.e. the set of comprehensive doctrines, that is the very object of this restraint operated by reasonableness and public reason. Reasonableness is the standard making it possible for political liberalism to select those comprehensive doctrines that are worth to be taken into account for the purpose of full public justification and of the stability of the agreement on the conception of justice. Overlapping consensus thus corresponds to an area of intersection among reasonable comprehensive doctrines, that is indeed specified by boundaries of reasonableness¹⁸. This way, it is also a satisfactory solution from the point of view of stability over time because it refers and in fact depends on an *ex ante* specified set of viewpoints, i.e. *reasonable* comprehensive doctrines¹⁹. These are those religious, philosophical and moral doctrines that can be formulated in a way that makes them imply or at least makes them compatible with the conception of justice, the values of which are assigned priority or at least great importance within the conception of the good that the doctrines put forward. This “new” and narrower set of comprehensive doctrines, governed by the discipline of reasonableness constitutes the *fact of reasonable pluralism*.

Political liberalism further defines reasonable pluralism as the result of what Rawls calls the *burdens of judgement*, i.e. the sources and causes of the difference of standpoints amongst reasonable people and therefore of reasonable disagreement. Citizens are conceived as possessing “a common human reason, similar powers of thought and judgement: they can draw inferences, weight evidence and balance competing considerations. ... [the burdens of judgement] are the many hazards involved

¹⁸ “Such a consensus consists of all the reasonable opposing religious, philosophical, and moral doctrines likely to persist over generations and to gain a sizable body of adherents in a more or less just constitutional regime, a regime in which the criterion of justice is that political conception itself” (Rawls 2005, 15). The notion of overlapping consensus is defined and explored in several places in PL, its full analysis is in Lecture IV.

¹⁹ “the problem of stability for a democratic society requires that its political conception can be the focus of an overlapping consensus of reasonable doctrines that can support a constitutional regime” (Rawls 2005, 65).

in the correct (and conscientious) exercise of our powers of reason and judgement in the ordinary course of political life”²⁰. The burdens of judgement cover the many epistemic and moral-theoretical difficulties individuals face when finding adequate evidence and the correct relative weighting of competing values before making a decision. Simply, the idea of the burdens of judgement is the recognition that people, even reasonable ones, can end up holding different and possibly mutually exclusive positions with regard to the course of action to be taken²¹. Being aware that their difference comes from the complication of the burdens of judgement, that is common to everybody, the attitude citizens’ should hold in a situation of reasonable pluralism is not one of scepticism about their or others’ background. Rather they should be able to recognise that different viewpoints, provided that they are reasonable ones, might and do trigger different endorsements that, from a subjective point of view, are not equally evaluated but must be seen as equally reasonable²². This can only be possible if the raw material to which the political liberal strategy applies is not pluralism in its actual (factual) shape, i.e. pluralism as it is²³. If it wants to manage the disagreement generated by pluralism, political liberalism has to consider a refined version of it, adjusted, modelled and sculpted according to the needs of justice and stability. By reducing the fact of pluralism to reasonable pluralism, intractable disagreement is also reduced to reasonable disagreement and the moral purport of reasonableness with its requirements puts citizens in the condition of managing it, through the tools that political liberalism puts in place.

²⁰ Rawls 2005, 55-56, *passim*.

²¹ “being reasonable – that is, thinking and conversing in good faith and applying, as best as one can, the general capacities of reason that pertain to every domain of inquiry – tends not to produce agreement but to spark controversy” (Larmore 1999, 600). Another version of this same definition and claim, is already found in Larmore 1990, 340 and Larmore 1994, 74.

²² The individual attitude required by the recognition of the burdens of judgement can be so expressed: “[g]iven your upbringing, your epistemic position, and the difficulty of the issue in question, I may come to see that it is perfectly reasonable for you to believe some proposition that I reject, but this need not commit me to the further belief that you might be right and I might be wrong. ... It might be unreasonable to expect you to believe anything else. Given your vantage point, your views are reasonable” (Quong 2007, 327).

²³ “The fact of reasonable pluralism is not an unfortunate condition of human life, as we might say of pluralism as such, allowing for doctrines that are not only irrational but mad and aggressive” (Rawls 2005, 144).

1.3. Moralism and ideal theory: the profile of political liberalism

The observations hosted in this paragraph is meant to situate political liberalism in the constellation of positions and labels characterising the debate about how to do political theory. In particular, I follow recent literature in classifying the status of political liberalism as an example of *ideal theory* and of *moralism*. If the former predicate was forged for the purpose of drawing a criticism to an approach to political theory of which political liberalism is the most studies paradigm, the latter has been even endorsed by Rawls himself. I will limit myself to define what is meant by the terms “ideal theory” and “moralism” and to present the reasons why political liberalism can be labelled as such²⁴.

First, as said, Rawls identifies political liberalism as an *ideal theory*, advocating for the ideal of the basic institutional structure (expressed in the two principles of justice) to be at one time a standard that institutions and their changes in time are meant to respect in order to preserve the justice in society. These considerations pinpoint the role of such an ideal as the guide to channel the so called adjustments into the right direction but also as the representation of a final goal to strive for²⁵. Rawls treats political liberalism as an example of ideal theory because of its *purpose*: by setting a highly idealised aim for society (the reason why his theory has been defined “high-liberalism”) it emphasises the goals for a long-term change, rather than focussing on more directly practicable solutions²⁶. As Matt Sleat summarises: “[i]deal theory provides the blueprint for a perfectly just society, our desired endpoint towards which political action, reform and design should be directed. And by providing such a blueprint it also enables us to make evaluative comparisons between the ideal and the non-ideal circumstances we live in today, allowing us to determine where injustices prevail and when at least partial justice has been achieved. But ideal theory tells us nothing about how we got from our

²⁴ I do not enter in the debate about how to define what are considered in literature the opposites of ideal theory and moralism, namely *non-ideal theory* and political *realism*. There is still no established agreement amongst scholars about what it means to do realist political theory or how it is related to non-ideal theory, Nevertheless, many agree in taking political liberalism as a paradigm of moralism and of ideal theory.

²⁵ “a structural ideal [is meant] to specify constraints and to guide adjustments ... The fact that actual political and social life is often pervaded by much injustice merely underlines this necessity. ... Thus ideal theory, which defines a perfectly just basic structure, is a necessary complement to nonideal theory without which the desire for changes lacks an aim” (Rawls 2005, 284-285).

²⁶ Valentini 2012, 660-662.

circumstances of partial justice to those of full justice”²⁷. Political liberalism is ideal theory at least two other senses. A first one is its lack of fact-sensitivity and its disregard of aspects of the political such as peace and security (despite being coupled with the search for stability, the primary aim remains justice) and the assumption that circumstances will after all be favourable (thanks to a selection of the most relevant ones). A second sense concerns the expected compliance citizens have to the demands of justice, in particular the idea that “all *relevant* agents comply with the demands of justice applying to them”²⁸, that is to say the capacity of reasonable persons to fulfil all requirements of justice, regardless of how demanding they are.

Second, the idea that a philosophically designed moral notion such as reasonableness is employed to impose a discipline on a political problem (in this case the fact of pluralism) led to the identification of political liberalism as an example of the theoretical model labelled by Bernard Williams as *moralism*. Williams introduced the term moralism to connote those theories in which the moral point takes priority over the political one, meaning that either the political is conceived as instrumental to the realisation of morality or that at least morality sets limits on the political action and on the way it is governed by inherently political rules or principles²⁹. This is considered a shortcoming because political circumstances end up being regulated by morally connoted principles that are decided outside those same circumstances. As a result, politics end up being subjected to an externally imposed discipline. Consequently, political actors are not expected to think and reason in the way that real politics requires, rather they will be focused on the implementation of a specific morality (hence the term moralism): “I shall call views that make the moral prior to the political, versions of ‘political moralism’ (PM). PM does not *immediately* imply much about the style in which political actors should think, but in fact does tend to have the consequence that they should think, not only in moral terms, but in the moral terms that belong to the political theory itself”³⁰. Rawls does not conceive political theory as a subset of moral philosophy,

²⁷ Sleat 2014, 2.

²⁸ Valentini 2012, 655, my emphasis.

²⁹ Williams 2005, 2.

³⁰ Williams 2005, 2-3, my emphasis.

but it still relates to the political sphere in a way that undermines its distinctiveness³¹. The political liberal outlook is selective with respect to political facts and political actors: this is the focus of the accusation of moralism. The problem with the idea that morals could be just applied to politics is that it “assumes that there is, or could be, such a thing as a separate discipline ... which prescribes how humans should act toward one another ... without unceasingly reflecting on the relations one’s claims have with history, sociology, ethnology, psychology, and economics”³².

Political liberalism represents an example of moralism because the conception of justice, that is the expression of a specific morality, is the object of the consensus and the foundation of the type of reasoning that should be used in the public sphere, regardless of the contextual features of the public sphere itself. In this sense, the morality embodied in the principles of justice trumps the political circumstances. Following Williams’s definition, political liberalism does not immediately inform the type of reasoning that the citizens should apply to political issues. Reasonableness and public reason *are* this mediation. The application of reasonableness in public reason is related to the content of the principles of justice but, at the same time, it represents the *normative* core of the conception of justice. At one time, reasonableness embodies a particular morality, the one of the conception of justice (one amongst a family of other conceptions, as Rawls acknowledges), and marks the dividing line between those comprehensive doctrines that are eligible to become relevant to the public discourse and those that are not. In doing this, and in informing public reason, it says something about the type of reasoning that political actors should carry out.

A clarification is needed here. Rawls does not think of the conception of justice as fairness as a comprehensive doctrine and so there is no conception of the good defining, limiting or guiding the political dynamics. In this sense, political liberalism is not a form of perfectionism³³. “[J]ustice as fairness is not a comprehensive religious, philosophical or moral doctrine – one that applies to all subjects and covers all values. Nor it is to be regarded as the application of such a doctrine to the basic structure of

³¹ Galston 2009.

³² Geuss 2008, 6-7.

³³ For a debate about the relationship between political liberalism and perfectionism see Rawls 2005, 144.

society, as if this structure were merely another subject to which the comprehensive view is to be applied. Neither political philosophy nor justice as fairness is, in that way, applied moral philosophy³⁴. The fact that Rawls distinguishes political liberalism from an application of moral philosophy does not affect the observation that reasonableness represents a moral interference for the political. Even if the notion of reasonableness belongs to the language and complex of meanings of the political, the way it relates to politics is a moralist one³⁵: political liberalism is efficient in defining pluralism *how it should be* thanks to a *philosophically and not politically designed* ideal of reasonableness and of reciprocity. Based on these preliminary observation, I turn now to the detailed discussion of what I called the tools to carry out the political liberal strategy.

2. The tools of the political liberal strategy: achieving justice and stability

2.1. The notion of reasonableness

Reasonableness is a form of reasoning that is meant to be qualitatively different from mere rationality. As Rawls points out at the very beginning of PL: “knowing that people are rational we do not know the ends they will pursue, only that they will pursue them intelligently. Knowing that people are reasonable when others are concerned, we know that they are willing to govern their conduct by a principle from which they and others can reason in common; and reasonable people take into account the consequences of their actions on others’ well-being. The disposition to be reasonable is neither derived from nor opposed to the rational but it is incompatible with egoism, as it is related to the disposition to act morally³⁶. In fact, rationality must be completed and equipped with reasonableness in order to have an unabridged account of public reason and of the political liberal individual as a citizen. Rationality is the intelligent but possibly solipsistic and certainly self-interested calculus and assessment of the bare interests implied by one’s actions, based on an accurate evaluation of the relationship between means and ends and on a correct (or at least correctly elaborated) prediction of

³⁴ Rawls 2001, 14.

³⁵ Galston 2009, 113

³⁶ Rawls 2005, 49, n. 1.

the possible outcomes of choices. It applies in the private as well as in the public sphere, in the short and long run, and its requirements do not go beyond the ability to navigate in the circumstances of the world. It governs the kind of cooperation made necessary by the availability of a limited amount of space and resources and by the motivation to fulfil particular (individual) interests. Thus, rational agents regard other actors only as functions of their own interests and goals because other actors' interests and goals may in manifold ways curb or expand one's probability of success. Rationality is certainly a fundamental pattern of behaviour for interpersonal and, more broadly, political interactions. Political liberalism does not deny that, but it needs more. Rationality alone is consistent with egoism³⁷, in fact it specifies a form of cooperation that does not go beyond "merely socially coordinated activity"³⁸.

On the contrary, reasonableness is a form of attitude that takes the presence of an interpersonal space into consideration in a *moral* way. This means that the reasonable agent is able to account for the interests of others, even particular ones, as something valuable³⁹ and that she is able to acknowledge and consider a common point of view as well as her individual one. Being the common perspective a variable in the decision-making process, behaviour is guided by a combination of rational and reasonable motives. So, "[s]uppose, for example, that my apartment complex requires dog-owners to dispose of their dogs' waste. If one of my interests is to avoid personal inconvenience, there is nothing inherently irrational ... about my regular failure to pick up after my dog. ... Reasonableness, however, is not simply the exercise of rational and intelligent judgment. ... From a common perspective, then, my deliberate failure to pick up after my dog is plainly unreasonable. My decision is not justifiable from a common point of view"⁴⁰. The reasonable thus accounts for a justification that assumes the common point of view and therefore embodies an expectation from others to do as much, in terms of cooperation within the limits of what is a shared space. The reasons that reasonableness provides the individual with (at the intrapersonal level, i.e. these are the reasons I have

³⁷ Boettcher 2004, 603.

³⁸ Rawls 2005, 16.

³⁹ Boettcher 2004, 603.

⁴⁰ Boettcher 2004, 603.

to behave in a certain way) depend on a *moral* characterisation of the interpersonal circumstances the individual finds herself in (I judge my decision to behave in a certain way according to its justifiability from the point of view of others).

Here it is important to notice that the foundation of such justifiability does not lie in the idea of a common good. If there is something like one unique account of what such common good is, reasonableness remains agnostic about it⁴¹. This does not mean that the kind of cooperation produced by reasonableness does not represent a form of improvement from the point of view of the agent or that it only comes with costs. In fact, there is a form of advantage or gain for the reasonable individual⁴² that *should not* be identified by a specific idea of the good, i.e. by a specific comprehensive doctrine. Justifiability thus relies in the mutuality of reasonable reasons, this meaning that the reasons the agents puts forward for an action must be available to the comprehension and acceptance of others⁴³. In fact, “[r]easonable persons, we say, are not moved by the general good as such but desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept. They insist that reciprocity should hold within that world so that each benefits along with others”⁴⁴. This idea of reciprocity is embodied and refers to the conception of justice informing the relationships between citizens in the well-ordered society, namely, in the case of political liberalism, justice as fairness.

More than that, this criterion of reciprocity sets the normative standard of reasonableness thought out as an irrevocable ingredient of the conception of justice itself. The political conception of justice, in fact, “must contain its own intrinsic *normative and moral ideal*. One such ideal can be set out this way. Citizens are reasonable when, viewing one another as free and equal in a system of social cooperation over generations, they are prepared to offer one another fair terms of social cooperation (defined by principles and ideals) and they agree to act on those terms, even at the cost of their own interests in particular situations, provided that others also accept those terms. ... Note

⁴¹ Kraus 1999, 50.

⁴² Rawls 1999a, 408.

⁴³ On the complementarity and gap between the understanding of a reason and the acceptance of it I will reflect later.

⁴⁴ Rawls 2005, 50.

that ‘reasonably’ occurs at both ends of this formulation: in offering fair terms we must reasonably think that citizens offered them might also reasonably accept them. And they must be able to do this as free and equal, and not as dominated or manipulated, or under the pressure of an inferior political or social position. I refer to this as the criterion of reciprocity⁴⁵. So, the criterion of reciprocity, even if it goes beyond the prudential nature of rationality, does not fully overlap with the altruistic idea that people can do without a form of reward for their cooperative behaviour⁴⁶. This shows how some advantage comes from the application of the criterion of reciprocity, because individuals are indeed securing their benefit even if they need to provide acceptability of their choices from the points of view of others. But it also shows how such advantage is embedded in a broader understanding of the criterion of reciprocity, one that refers to the requirement of mutual justification of the principles individuals are acting upon⁴⁷.

This last requirement of mutual justification is crucial for the Rawlsian notion of reasonableness, making it morally tainted. In fact, the moral character of reasonableness embodies a more extensive requirement than the one of simply acting in accordance with the mutuality of reasons. The morality of reasonableness demands that the possible point of view of others (fellow citizens) should be considered when formulating arguments in the public debate. The point of behaving as a good (reasonable) citizen is to be able to see the public space from the perspective of others, and so it implies the use of methods of reasoning and inquiring that are acceptable to others⁴⁸. Now, it seems to me that the criterion of reciprocity requires that citizens produce publicly only *justifiable* reasons. In fact, they have to account for others’ readiness to apply the same

⁴⁵ Rawls 2005, xlii, my emphasis.

⁴⁶ “When citizens make moral claims in a deliberative democracy, they appeal to reasons or principles that can be shared by fellow citizens who are similarly motivated. The moral reasoning is what is in this way mutually acceptable. ... it cannot reach those who refuse to press their public claims in terms accessible to their fellow citizens” (Gutmann and Thompson 1998, 55). In Rawls’s words: “the idea of reciprocity lies between the idea of impartiality, which is altruistic (being moved by the general good), and the idea of mutual advantage understood as everyone being advantaged with respect to each person’s present or expected future situation as things are. ... reciprocity is a relation between citizens of a well-ordered society expressed by its public political conception of justice” (Rawls 2005, 16-17).

⁴⁷ Reidy 2007, 248-249.

⁴⁸ “Citizens should appeal to reasons that are based on common sense, logical consistency, strong evidence or established methods of science and inquiry [...] In other words, in advancing a political justification, a citizen provides what, from her own perspective, is the most reasonable claim or argument and what, from the perspective of an addressee, may be considered at least reasonable” (Boettcher 2004, 614-615, *passim*).

criterion in the shared space of the public discourse. But besides indicating a standard of assessment for the reasons they should put forward in the public space, it does not offer an evaluative tool to judge whether those reasons will be actually justified. In other terms, while the demands of the criterion of reciprocity apply to the intrapersonal level by informing the agent about what standard *her* reasons ought to respect, i.e. mutual justifiability, they say nothing on how likely will justification be successful.

Reasonable citizens are bound to formulate reasons that other citizens (provided that they are reasonable as well) would not only be able to understand but also to accept. Then, how can the Rawlsian account of reciprocity require *justification* instead of a less demanding *justifiability*? It seems to me that it is precisely this problem posing the question of a more complex device to achieve the demanded standard of justification. The concept of reasonableness (thanks to its reference to criterion of reciprocity) does the work of accomplishing this task, because it is equipped with the regulative power of the conception of justice, that works as a benchmark of justifiability thus enabling justification. The theoretical jump reasonableness performs between the *understandability* and the *acceptability* of reasons couches the formulation of the political liberal notion of legitimacy and of public justification. The fact that political liberalism designs the conception of justice in a way that embodies reasonableness as its *normative ideal* enables it to ask for actual justification. The gap between mutual justifiability and actual common justification is automatically rectified because the conception of justice allows to identify, within the set of mutually justifiable (understandable) reasons, those that are candidate to be considered reasonable (therefore acceptable) and so produce actual justification. In this sense then reasonableness is also the *moral ideal* of the conception of justice, because it defines the moral character *and limit* of the scope of reasons that may reciprocally be endorsed. So, even though reasonableness is not regulated by a comprehensive idea of the good, it has to respect a *given* moral standard, set by the conception of justice. As a result, not only should citizens produce sound arguments but

arguments that others can recognise as sound *and* reasonable *within the boundaries of the shared conception of justice*⁴⁹.

The result of reasonableness being philosophically founded on the criterion of reciprocity and so on this account of justification is the implication of a morally thick requirement. In Rawls's words: “[p]ersons are reasonable in one basic aspect when, among equals say, they are ready to propose principles and standards as fair terms of cooperation and to abide by 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. ... What rational agents lack is the particular form of moral sensibility that underlies the desire to engage in fair cooperation as such, and to do so on terms that others as equal might reasonably be expected to endorse”⁵⁰. The reasonable thus morally overcomes the boundaries of plain rationality because it allows space for a revision of one's own particular interest through the lens of her fellow citizens' interests⁵¹, motives but also through the agreed idea of justice that they supposedly share, which task is to inform the morality of this mechanism. Thus, the moral attitude demanded by reasonableness not only broadly covers the idea that political interaction should to account for others' (fellow citizens') claims, let them be interests or moral (comprehensive) reasons. Most importantly, it regulates the political interaction in a narrower sense: it requires to take the morality of the conception of justice as the reference for reciprocally justifiable therefore acceptable reasons. So, reasonable citizens should hold others' claims to be as valuable as theirs, insofar as they also do so but above all because such claims are already

⁴⁹ In fact, the formulation of the criterion of reciprocity found in the second introduction to PL is minimally but meaningfully different from the one used in *The Idea of Public Reason Revisited*. While in the introduction the “fair terms of social cooperation [are] (defined by principles and ideals)” (Rawls 2005, xlii), in *The Idea*, “citizens are reasonable when, viewing one another as free and equal in a system of social cooperation over generations, they are prepared to offer one another fair terms of cooperation *according to what they consider the most reasonable conception of political justice*, and when they agree to act on those terms, even at the cost of their own interests in particular situations, provided that other citizens also accept those terms” (Rawls 2005, 446, my emphasis). The close link between the notion of reciprocity and the notion of justification is also crucial in the definition of consent and public justification, that I will explore later.

⁵⁰ Rawls 2005, 49-51, *passim*.

⁵¹ “If, as Rawls contends, a person's public behaviour must be reasonable if it is to be legitimately accommodated, protected, and facilitated, then maximizing one's potential to achieve her personal ambitions – that is, acting in a ‘rational’ manner – will require that she act ‘reasonably’, as such is defined by the public conception of justice. Hence, the likelihood of success in realizing one's personal goals will be a measure of their reasonableness. In essence, then, one must act reasonably to act rationally” (Young 2005, 1-2).

morally qualified by a common point of view, one that is *ex ante* theoretically identified and expected to be held as the most reasonable one, thanks to a morally defined notion of reasonableness.

2.2. *Public reason and its demands*

So far I have discussed the design and content of the notion of reasonableness trying to emphasise its moral status. I shall now turn to show how this tool finds political application, expressed in a set of requirements that political liberalism poses to its citizens. Such expression of requirements is systematised in the idea of public reason, i.e. the “characteristic of a democratic people: it is the reason of its citizens, of those sharing the status of equal citizenship. The subject of their reason is the good of the public ... 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”⁵². It is thus the type of reasoning is supposed to be applied in the public discourse, when defining political matters and when taking fundamental political choices. It is here important to note that Rawls introduces a series of clarifications about the nature of public reason that are also needed to understand what actually public reason is, and its function within the political liberal project.

First, I shall focus on the function of public reason, that its relevance for political agents and the objects of its application. In order to do this, it is useful to look at how the *idea* of public reason, defined by a specific area of application and by a specific content, is distinguished from its *ideal*. The idea of public reason defines the reasons that government officials and candidates for public offices have to present when fundamental political issues are at stake, so these are the main political actors that have to apply it. Political liberalism identifies as “fundamental questions” those concerning the principles that give shape to the basic structure of government, political processes and the division of powers (legislative, executive and judiciary), and the citizens’ basic rights and liberties that every empowered majority is bound to respect⁵³. The content of public reason is

⁵² Rawls 2005, 213-214, *passim*.

⁵³ Rawls 2005, 227. A philological note: in *The Idea of Public Reason Revisited*, Rawls defines the scope of application of public reason as the *public political forum*, that is “the discourse of judges in their decisions, and especially the

not intrinsically dependent on the conception of justice as fairness, rather it is defined by what Rawls calls a *family* of reasonable conceptions of justice⁵⁴. The application of the principles embodied in this family of conceptions of justice should take the form of the legitimate norms of a democratic society. Furthermore, it requires “citizens’ checking that the principles derived from their conceptions of justice satisfy the criterion of reciprocity”⁵⁵. Here lies the tie between public reason and reasonableness: the functioning of public reason as a tool to guide the political decision-making process and the definition of fundamental political conditions cannot but refer to reciprocity that is the core ideal of reasonableness. In fact, the *ideal* of public reason is “realized, or satisfied, whenever judges, legislators, chief executives, and other government officials, as well as candidates for public office, act from and follow the idea of public reason and explain to other citizens their reasons for supporting fundamental political positions in terms of the political conception of justice they regard as the most reasonable. In this way they fulfill ... their duty of civility to one another and to other citizens”⁵⁶. So, in the case of political liberalism the reference will be justice as fairness. The realisation of the corresponding idea of public reason is conceived as a duty, more specifically as a *moral* duty: it has the form of a moral obligation that is supposed to take precedence over the moral reasons embodied by particular comprehensive doctrines, when the actors find themselves in the public debate. Public reason, being intimately related to reasonableness, is the tool that *regulates*, through this set of obligations, individual political behaviour in the processes of justification and selection of reasons, both depending on the distinction between reasonable and unreasonable ones⁵⁷.

A second important aspect is the supposed practicability of public reason, that is the conditions under which political liberalism conceives the actual application of public reason. A first step in this analysis is the specification of the sense in which public reason

judges of a supreme court; the discourse of government officials, especially chief executives and legislators; and finally, the discourse of candidates for public office and their campaign managers, especially in their public oratory, party platforms, and political statements” (Rawls 2005, 443).

⁵⁴ “It is crucial that public reason is not specified by any one political conception of justice, certainly not by justice as fairness alone. Rather, its content – the principles, ideals, and standards that may be appealed to – are those of a family of reasonable political conceptions of justice and this family changes over time” (Rawls 2005, l-li).

⁵⁵ Rawls 2005, 442.

⁵⁶ Rawls 2005, 444.

⁵⁷ Boettcher 2012, 3.

is to be considered public. In defining public reason, Rawls says that it “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, being given by the ideals and principles expressed by society’s conception of political justice, and conducted open to view on that basis”⁵⁸. According to these lines it seems then that it is broadly concerned with the domain of human life that pertain to the collective and shared space of politics.

Things are more complex than this, in fact, the Rawlsian case for the possibility of the actual application of public reason is empirical and comes from the presence in contemporary societies of what Rawls calls the *public political culture*. Even in this case, it is necessary to distinguish what is captured by the notion of public political culture and what is excluded by it. First, public political culture is different from the *background culture*, i.e. the culture (broadly conceived) contextually belonging to a civil society that is composed of “diverse agencies and associations with their internal life”⁵⁹. Parallel to the reasons comprised in the background culture (*social* reasons, formulated by those groups and associations), but always separate from the ones of the public political culture, there are *domestic* reasons (those coming from families as small groups)⁶⁰ and those coming from the non-public political culture, i.e. those provided and elaborated in communication media. It seems to me that the background culture with all the parallel types of reason identified is the place where pluralism is expressed in its factual shape, and these groups and the individuals belonging to them are bearers and representatives of the various comprehensive doctrines. So, once again, these are not and cannot be the references for the political liberal mechanism of justification to work. Public political culture coincides with the set of political values and principles that refer to the political conception of justice and the political conception of the person⁶¹, such political values are “very great values and not easily overridden and the ideals they express are not to be

⁵⁸ Rawls 2005, 213.

⁵⁹ Rawls 2005, 443. These are “churches and associations of all kinds, and institutions of learning at all levels, especially universities and professional schools, scientific and other societies” (Rawls 2005, 443, n. 13).

⁶⁰ Rawls 2005, 220, n. 7.

⁶¹ Rawls 2005, 29-34.

lightly abandoned”⁶². When citizens and institutions debate referring to the right (embodied in the conception of justice and hosted by the public political culture) while setting aside considerations about the good (that constitute instead the background culture and the non-public political culture), their discourses are, in the Rawlsian outlook, worth the label of “public”.

If we look at public reason as a gear of the political liberal strategy, it becomes then evident that its normative role is expressed in a restriction on the set of reasons that have to be offered in the public debate, that in its turn runs parallel to the limits imposed by reasonableness on the fact of pluralism. Two important remarks are to be done here: first, public reason does not refer only to the so called public forum, but also to the larger public debate, representing thus an imperative also for citizens; second, even when resting on a wider interpretation of public political culture, it opens the door to non-public and comprehensive commitments only when they are filtered by reasonableness. First, even if Rawls specifies that public reason only applies to institutions rather than citizens, there are passages in *Political Liberalism* and in *The Idea of Public Reason Revisited* in which the idea that public reason should also apply, at least to a certain extent, to citizens is introduced. In fact, Rawls considers the fact that if the ideal of public reason is realised, that is if the actors in the public forum fulfil their duty of civility, then citizens are provided with public reasons for the political choices that are binding for them. Moreover, citizens are expected to explain to each other their actions in a way that is reasonably acceptable from the point of view of others, thus they have to respect that same criterion of reciprocity that founds the moral character of public reason. In fact, “ideally citizens are to think of themselves *as if they were legislators* and ask themselves what statutes, supported by what reasons satisfying the criterion of reciprocity, they would think it most reasonable to enact. ... Thus citizens fulfill their duty of civility ... *This duty, like other political rights and duties, is an intrinsically moral duty*”⁶³. So the requirements of public reason apply to citizens as well, when they vote and in the debate about the political sphere⁶⁴. Second, in this sense citizens should be able and must indeed

⁶² Rawls 2005, 218.

⁶³ Rawls 2005, 444-445, my emphasis.

⁶⁴ Archard 2001, 211.

distinguish the kinds of reason that they are entitled to present in the public debate. The selection of such reasons refers to the standard established by reasonableness and so the basis for the plurality of reasons cannot be the fact of pluralism, rather reasonable pluralism. Citizens can indeed refer to their reasonable comprehensive doctrines when debating in the public sphere, but only by respecting the so called *proviso*: they must assure that “in due course proper political reasons – and not reasons given solely by comprehensive doctrines – are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support”⁶⁵. Now, the proviso suggests that reasons that should be considered eligible to be accepted in the public debate should undergo a double refinement: to begin with, they should come from *reasonable* comprehensive doctrines and not from comprehensive doctrines as such, and only then they should be revised in order to be expressed in political terms. In this sense, citizens’ fundamental moral commitments, i.e. the set of prescriptions dictated by the content of comprehensive doctrines, even if the target is already restricted to reasonable ones, have to be modified to match the standard set by public reason. The standard of public reason requires a translation of reasons into political reasons that refer to the set of values and principles defined by the conception of justice and that respect the criterion of reciprocity and duty of civility.

A fitting example of such redefinition of moral commitments in political terms that political liberalism considers adequate could be the debate, still topical in many contemporary democracies, of same-sex marriage⁶⁶. It is in fact a case in which there is a very evident gap between the demands of public reason and the formulation of public claims in political (in Rawlsian sense) terms and the moral demands some comprehensive doctrines might ask their representatives to defend. Let us take for example citizens identifying themselves as, say, conservative Catholics. This group believes that

⁶⁵ Rawls 2005, 462.

⁶⁶ The famous equivalent is Rawls’s footnote about abortion, extensively discussed in literature. In its first formulation (in the 1993 version of PL) women’s right to abortion is thought out according to the guidelines of public reason by appealing to the *political* values of “the due respect for human life, the ordered reproduction of political society over time, including the family in some form, and finally the equality of women as equal citizens” (Rawls 2005, 243, n. 32). The case that follows states that “any reasonable balance of these three values will give a woman a duly qualified right to decide whether or not to end her pregnancy during the first trimester. ... [A]t this early stage of pregnancy the political value of the equality of women is overriding” (Rawls 2005, 243, n. 32).

homosexuality is immoral and/or unnatural and that marriage is a sacred institution meant to harbour procreation and children care. Public reason, instead, requires to take into consideration the value of equality and so to the principle that citizens should be all treated equally. Most importantly, equality demands that no restrictions or legal regulation are to be imposed on the basis of citizens' identities or beliefs. Now, according to Rawls, if conservative Catholics are reasonable, they should recognise that the value of equality amongst citizens takes priority over the value of sacredness. They should renounce to bring their comprehensive claims in their public debate and give up with any action or project of boycott against the performance of marriage of same-sex couples⁶⁷. The former is a political values, embodied in the conception of justice and the public political culture, justifiable to all reasonable citizens and in fact object of overlapping consensus, while the latter is a comprehensive value, belonging to the background culture and depending on a set of metaphysical beliefs⁶⁸. In *The Idea of Public Reason Revisited*, Rawls highlights how a comprehensive doctrine can still be said to respect public reason even when it does not provide a sufficiently reasonable ordering of values to be the most reasonable one⁶⁹. The footnote is supposed to show how public reason is effective in solving disagreements when those happen to be reasonable ones.

Citizen respecting public reason should: first, hold a comprehensive doctrine that can host the commitments of the conception of justice; second, prioritise the political values of the conception of justice over the core moral commitments of their comprehensive doctrine making it thus reasonable; third, refer in the public discourse only to the public political culture and not to the background culture, thus excluding all non-political values and arguments in judging their cases. This way they fulfil their duty of civility; fourth, looking, when debating, for the most reasonable set and order of values rather than the one that corresponds what they believe to be true or morally preferable. By respecting reasonableness, they intrinsically commit to the criterion of reciprocity: this is the *moral* foundation of all their duties as citizen.

⁶⁷ Dreben 2002, 327-329.

⁶⁸ For a broader discussion on the issue see Nussbaum 2010 and Liveriero 2015.

⁶⁹ Rawls 2005, 479, n. 80.

2.3. *Overlapping consensus and public justification*

In the two previous sections I analysed the tools put in place by political liberalism meant to make sure that the conception of justice is implemented and that its principles are applied. As said though, the goals of political liberalism go beyond the satisfaction of justice requirements and call also for a strategy to achieve stability. Overlapping consensus and public justification are the mechanisms thought out to guarantee stability. I will now introduce their definition and dynamics, trying to show how the search for stability is strictly connected and actually relies on the moral outline of the role of reasonableness and public reason. Without the moral commitment to reciprocity and the consequent shrinking of the fact of pluralism to reasonable pluralism, the wide justification and the steadfast consent political liberalism aims at would not be practicable paths anymore.

The conception of justice is the object of an overlapping consensus among various and often clashing comprehensive doctrines. So, overlapping consensus is presented as the natural outcome of the reasonable discipline of pluralism, and it represents the core of the strategy displayed by political liberalism to manage the disagreement deriving from the fact of pluralism. In fact, overlapping consensus answers at a time the two-levelled question of political liberalism: it is a form of consent about the basic structure of institutions, that respects the requirements of public reason and refers to the conception of justice, and it is a steadfast agreement, likely to resist over time and so to be stable. It is represented as the area of overlap amongst the various reasonable comprehensive doctrines, coinciding with the political values embodied in the conception of justice and considered overriding with respect to the comprehensive values marking the difference amongst doctrines. Since the conception of justice is only compatible with the comprehensive doctrines insofar as these are reasonable, such an overlap area would be impossible to identify if the context of consensus were the background culture (therefore pluralism in its factual shape). Overlapping consensus thus needs to be achieved on the basis of the *morally* filtered form of pluralism, i.e. reasonable pluralism, and it is precisely the moral discipline of reasonableness enabling its stability.

In fact, citizens are expected to have a steadfast commitment to those fundamental political values because issues of justice (i.e. the definition of what is *right* and should found the basic structure of institutions) are always given priority over moral issues (i.e. the definitions of what is *good* that are by nature plural in as much as they stem from the various moral standpoints). In political liberalism this idea is expressed as the *priority* of the right over the good. The right, conveyed in the conception of justice, is complementary but also sets the limits to the good. The Rawlsian language is especially illuminating here, in fact he refers to “ideas of the good” upon which admissibility and/or permissibility are predicated⁷⁰. In other terms, the conception of justice (informed by reciprocity and defining reasonableness) decides of the relevant plurality that can be allowed in the well-ordered society. Such a capacity to prioritize political values is crucial to political liberalism because citizens’ recognition that the political conception of justice is the most adequate and the most reasonable one determines their compliance with the just institutions it informs and guarantees a stable support to the consensus⁷¹. Thanks to public reason every comprehensive doctrine is reframed and formulated along with the political values of the conception of justice and following public political culture. So the political reasons citizens have to support the political settings are also genuinely moral because they stem from a moral commitment to reasonableness.

Overlapping consensus “is affirmed on moral grounds, that is, it includes conceptions of society and of citizens as persons, as well as principles of justice, and an account of the political virtues through which those principles are embodied in human character and expressed in public life. An overlapping consensus, therefore, is not merely a consensus on accepting certain authorities, or on complying with certain institutional arrangements”⁷², in fact the conception of justice that is its object is not “affected by the existing balance of political power between comprehensive doctrines. Nor do its

⁷⁰ “a political conception must draw upon various ideas of the good. ... In justice as fairness this restriction [to certain ideas of the good] is expressed by the priority of right. In its general form, this priority means that *admissible ideas of the good must respect the limits of, and serve a role within, the political conception of justice*”. (Rawls 1999a, 451, my emphasis).

⁷¹ Rawls 2005, 141.

⁷² Rawls 2005, 147.

principles strike a compromise between the more dominant ones”⁷³. The support to the consensus comes from the acceptance, from within the framework of every reasonable comprehensive doctrine, of the conception of justice that is presented as freestanding from each of them, since it does not imply any epistemological or metaphysical commitment.

Such an ambitious ideal of consent is a powerful device for performing the ideal of stability wanted by political liberalism. What citizens should agree upon in overlapping consensus (the conception of justice) is at the same time rooted in the standard (reasonableness) defining the set of agents that are supposed to agree with each other. This creates the perfect conditions to realise consensus. The genesis of the conception of justice and the effects of the conception of justice on the political liberal architecture take place before the achievement of overlapping consensus. First the conception of justice is designed, then it gives the moral guidelines for a discipline of the fact of pluralism and of the reason that should be used in the political space. Only when this is all given, i.e. once everybody has already *agreed on the constraints* set by justice⁷⁴, can the search for an agreement begin. Such search will be surely successful, because the circumstance of pluralism has already been reduced to the fact of reasonable pluralism and its unfortunate effects have been thus neutralised by reasonableness. The values object of the agreement, but above all citizens’ commitment to them, are already alleged to be overriding with respect to the importance citizens place in moral values. What I have before described as a “theoretical jump” from *understandability* of reasons to *acceptability* of reasons is brought through overlapping consensus to level of actual *acceptance* of those reasons. The idea that stability could come *ex post* from a balance of already existing viewpoints is downplayed as dissatisfactory and insufficient, following the model of a *modus vivendi*⁷⁵. Also the representative of those reasonable doctrines who find themselves in a weak position, when it comes to power, stably consent, because their consensus is grounded in moral reasons and not in prudential incentives. In other

⁷³ Rawls 2005, 142.

⁷⁴ Barry 1995.

⁷⁵ The rest of this work is devoted to a discussion of *modus vivendi*, I will specifically discuss the Rawlsian notion of *modus vivendi* in Chapter 2.

terms, they do not have to compromise politically, because comprehensive reasons are already morally excluded⁷⁶.

So because the allegiance to the agreement is founded in the commitment to the conception of justice *through* reasonable comprehensive doctrines and taking priority over them, “those who affirm the various views supporting the political conception [of justice] will not withdraw their support of it should the relative strength of their view in society increase and eventually become dominant”⁷⁷. This fundamental commitment to the principles of justice, that is also grounded in citizens’ commitment to their comprehensive views, enables the kind of stability that political liberalism needs. It is thus clear how stability is not the result of fortunate contingencies, rather it is the effect of constraints on the set of comprehensive doctrines that the *theory* (and not a political decision) considers worth to take into account. This is the moralistic nature of political liberalism.

The fact that the support of the conception of justice comes from the citizens’ deepest convictions is also the basis for social unity, in fact: “political liberalism says that as citizens of this society we have achieved the deepest and most reasonable basis of social unity available in a modern democracy. ... [T]his basis of social unity is the deepest because the fundamental ideas of the political conception are endorsed by the reasonable comprehensive doctrines, and these doctrines represent what citizens regard as their deepest convictions – religious, philosophical, and moral”⁷⁸. It is the moral basis of overlapping consensus that should be regarded as the prime mover of political liberalism of stability. The moralistic move of political liberalism, expressed in public reason, operates a selection of adequate comprehensive doctrines and within those of the reasons that can be brought to public discourse, *right reasons*.

In this sense, overlapping consensus works for the stability together with the notion of public justification. In replying to the Habermasian question whether the goal of overlapping consensus is only stability and what is the role of justification⁷⁹, Rawls

⁷⁶ Lister 2007.

⁷⁷ Rawls 2005, 148.

⁷⁸ Rawls 2005, 391-392.

⁷⁹ Habermas 1995.

sets out the definition of public justification and explains how the search for stability is fundamentally connected with the liberal idea of legitimacy⁸⁰. Rawls considers three levels of justification: first, *pro tanto* justification happens when citizens' comprehensive commitments can override the political values of the conception of justice, despite it being complete; second, the level of *full* justification is realised at the individual or at best particular (in groups or associations of bearers of comprehensive doctrines) level, and no reasons are given to count political values as prior with respect to non-political ones; third, the level political liberalism wishes for, *public* justification. Public justification is realised when *all* citizens in a society are reasonable and therefore bearers of reasonable comprehensive doctrines, and know that their fellow citizens are also reasonable, therefore, as they do, respect the requirements of public reason. Because all citizens know that the one conception of justice is shared by everybody, the standard of public discourse set by public reason is respected and the public culture of society is characterised according to its demands⁸¹.

It is precisely because of its reference to the morality of reasonableness that public justification is capable of serving the purpose of stability. The publicity of the conception of justice provides the moral reasons for citizens to plan their actions but also to foresee what they can expect from their fellow citizens, thus avoiding the individual process of decision leading to plural solutions and therefore disagreement⁸². In such *circumvention* of disagreement (albeit reasonable) lies the effectiveness of the political liberal strategy to manage the undesirable consequences of pluralism. If on the one hand the double requirement of respecting justice while preserving stability is presented as a goal, on the other hand the moralistic play of the conception of justice creates a virtuous circle between justice and stability: while the discipline set by the principles of justice enables stability, the stability given by overlapping consensus and public justification contributes to the conservation of the standard of public culture, that is expression of the recognition and endorsement of the principles of justice. Thanks to the combination of justice and

⁸⁰ Firstly formulated: "our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals *acceptable* to their common human reason" (Rawls 2005, 137, my emphasis).

⁸¹ Rawls 2005, 385-387.

⁸² Freeman 2007, 6.

stability, the idea of liberal legitimacy finds the framework to be acknowledged as a practicable solution: the agreed and thus publicly endorsed priority of political values enables decision based on public reason to always be legitimised.

3. The limits of political liberalism

3.1. Classes of objections

It seems needless to say again that political liberalism and the Rawlsian work more broadly gave rise to a huge tradition in political thought as well as to a great number of critical reflections around the manifold tools it displays to answer its questions and around the very nature of its approach. It would thus be the aim of a much larger work to try to categorise the whole *corpus* of literature on political liberalism, above all literature that raises objections against it. Thus, I shall start this section by limiting and defining the scope and intentions of my criticisms. So far I have analysed the instruments of political liberalism highlighting how the way it fulfils its double task of achieving the respect of the principles of justice together with stability depends on its full reliance on the cornerstone of its theoretical structure: the moral content of reasonableness and public reason. I gave a reading of political liberalism that questioned its capacity to answer to the problem of the undesirable consequences of the fact of pluralism. More precisely, I highlighted the role reasonableness plays in the political liberal solution. The enforcement of a conception of justice is successful because legitimised by a steadfast form of consent, is in its turn achieved through the imposition of a discipline on pluralism, a limit on the variety of the moral viewpoints that should be taken to account in the public justification process. In this sense, I treated the political liberal theory as a moralistic strategy.

Recall that I followed Williams in identifying political liberalism as an instance of moralism. A preliminary remark has to be made here: the criticism coming from the realist point of view depends on a defence of the priority of politics in the definition of political dynamics and issues, a task that should not, according to realists, be taken on by morality, as it is the case of political liberalism. This is a first class of objections, those made *in the name of an alternative normative outlook*, and that, to say it in a brief slogan, puts

politics first. Criticisms starting with a realist perspective thus display a fundamental disagreement with the theoretical approach political liberalism has towards political theory as a discipline. For this reason, realist critiques do not capture the internal limits of political liberalism. In other terms, they are external critiques. The problem then does not lie in the endorsement of a specific kind of morality or in its malfunctioning for the purposes of the theory. Such problems political liberalism is already meant to have overcome, in fact, the conception of justice is thought out to be freestanding. The problem lies within the role of morality, more specifically in its interference with the political. The morality of reasonableness positively biases political decision (only reasonable agents and doctrines are eligible to participate) in the definition of the institutional design of a society.

My intention, for the moment, has been and is to outline a criticism of political liberalism that does not endorse realism because of an already alleged superiority of the realist point of view over the moralistic one. In other terms, I do not want to label my critique as realist *a priori*. Rather I would like to identify and evaluate the moralistic mechanism of the political liberal strategy in order to cast light on its possible shortcomings. I must say at this point, that the purpose of further discussion will be to consider whether a realist approach is to be preferable to the Rawlsian one, but I firstly need to show how I consider this latter dissatisfactory in the first place and whether such dissatisfaction eventually depends on its moralistic profile. An important *caveat* here: I do not intend to put into question the internal coherence of the Rawlsian project. Of course political liberalism works in giving a stable political account of justice, but only if one endorses the Rawlsian meaning of “political”, i.e. by committing to a notion of public reasoning that is moral. For Rawls political values trump moral values, but the reasons for this overriding power are moral and not political. Political values are supposed to be given priority thanks to reasonableness and ultimately to the criterion of reciprocity. What I want to see is whether, as I believe, this substitution of the moral to the political is responsible for the political liberal strategy to face the fact of pluralism to be dissatisfactory. In other term, I want to see which are the weakness of political

liberalism and figure out if it is its moralism that has to be blamed for them. If this will be the case, then the realist outlook will have to be preferred.

In order to do this, I shall start with an introductory observation concerning the nature of objections that might be raised and have indeed been raised against political liberalism but that do not fall under the realist umbrella. Once again, my intention is not to give a full and organised overview of the literature about political liberalism (a huge enterprise!). This second class of objections, that are more relevant for my discourse now, consist of those raised, so to speak, *in the name of facts*. Differently from the first type, such criticisms do not focus generally on political liberalism as a representative of moralism. They more specifically refer to its moralistic treatment of political facts, especially with regard to the issue of pluralism. In so doing, political liberalism is treated as a representative of ideal theory. The main point is that what I called before the “raw material of political liberalism”, i.e. the *fact* of reasonable pluralism, does not correspond to an accurate description of the status quo in contemporary democratic societies. Rather, it is a *moralised re-description of the political reality*, useful to allow a successful achievement of consent and justification, thus supposedly showing the adequacy of the political liberal strategy.

3.2. In the name of facts: normativity and demandingness

By tackling the fact-sensitivity of the theory, objections of this second class draw attention on two important aspects of political liberalism: firstly, they object to it as a representative of *ideal* theory and so, consequently, it seems to me that they show the way to highlight the *demandingness* of the theory. As I explored before, what Rawls means by ideal theory consist of an approach that stresses the specific task of the ideal of the basic structure. Nevertheless, the definition of institutions is conceived in political liberalism as part of a process of justification and as the object of consent, two mechanisms that, as seen, strictly depend on the application of public reason. By following all the way down the line of this argument, it becomes more evident how the re-description of the fact of pluralism is the way political liberalism respects the need for an ideal to be followed to satisfy the preservation of the standard of justice. In this sense,

the political liberal *strategy* needs to rely on an idealised definition of facts, in order for the political liberal *ideal* to be able to actually affect reality. In other terms, the application of reasonableness and the idea that reasonable citizens will comply to the demands of public reason, make political reality already a little closer to the ideal (the set of comprehensive doctrines is reduced to the set of reasonable comprehensive doctrines and only reasonable citizens are taken into account). Such little step is crucial for the strategy to work.

On this premises, I now turn to the point of *demandingness*. The normative power of political liberalism is defined by a set of highly demanding moral imperatives, those of public reason. Thanks to such imperatives, political liberalism considers a quantitatively restricted and qualitatively refined political reality, and can thus imply that it is *feasible* as well as *desirable* that citizens can keep up with a very high standard of political behaviour. The idea that the political liberal theory reconciles desirability and feasibility, showing that a desirably fair society can also be stably performed, is summarised in the idea of the *realistic utopia*, that Rawls expresses after PL. The idea is that political theory has to be *realistic* (and not *realist*)⁸³, that is it has to respect the boundaries of what is feasible, given the circumstances, but it has to be as well *utopian* in considering possibly upcoming in the immediate future circumstances, hypothetically adequate to fulfil normative requirements that might be too demanding *for the present conditions*⁸⁴. Only, “there is a question about how the limits of the practicable are discerned and what the conditions of our social world in fact are; the problem here is that the limits of the possible are not given by the actual, for we can to a greater or lesser extent change political and social institutions, and much else”⁸⁵. The limits and boundaries that have to be taken into account are defined through the constructivist method: “[w]hat justifies a conception of justice is not its being true to an order antecedent to and given to us, but its congruence with our deeper understanding of

⁸³ The adjectivisation of the term “realism” might be source of confusion. I use the adjective “realistic” in the most intuitive sense, as a synonymous for likely, expected, achievable, in the same sense Rawls uses to qualify the idea of the realistic utopia. I use the adjective “realist” as a reference to the methodological perspective of political realism, in the sense I explored above.

⁸⁴ Pasquali 2016, 50-53.

⁸⁵ Rawls 2001, 5.

ourselves and our aspirations, and our realization that, given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us. ... moral objectivity is to be understood in terms of a *suitably constructed social point of view that all can accept*⁸⁶. The facts of our political world are not to be immediately observed, as it would be in a strictly realistic (again, not realist) account, neither it is entirely up to the theorist to decide what fact to care about, as it would be in an opposite perspective. Rather, the noteworthy relevant political facts are selected through the lenses of ideal people in ideal conditions (the original position), i.e. in a political *vacuum*.

This is the relationship with facts implied by justice as fairness and therefore by political liberalism: the range of facts that theory should take into account is thus given by a possible alternative scenario. Such scenario in political liberalism is the one seen through the lens of reasonableness and it is one where its demands are already satisfied. In this sense what political liberalism calls the fact of reasonable pluralism is an already accomplished ideal, because it already presupposes that citizens are capable of applying and indeed apply the demands of reciprocity. The problem of so deeply relying on *idealisation* is that the political liberal answer to the fact of pluralism turns out to be ineffective, because it is designed to manage pluralism as it should be rather than pluralism as it is⁸⁷. This should not be regarded as a minor problem because the goal of political liberalism is to give normative indications for a society to be just and stable. The very possibility of stability depends on the right reasons, those that can only grow from an idealised soil.

The evaluation of the effectiveness of the political liberal strategy coincides with a possible third source of criticism to political liberalism, the one considering if the trade-off between feasibility and desirability is actually convincing or if it too heavily depends on the *ideal* of reasonable pluralism, suggesting so a *de facto* impracticable strategy path in answering the question of pluralism as it is. The main problem that comes upon political

⁸⁶ Rawls 1999a, 306-307, my emphasis.

⁸⁷ I follow here Onora O'Neill's distinction between abstraction and idealisation. The problem with assuming that citizens will all be able to consistently behave reasonably "is not just that much (too much) that is true of human agents is *omitted* in some accounts of agents, but that much (too much) that is false of human agents is *added*. Descriptions of agents in much post-enlightenment ethical and political theory are often *idealized*; they are satisfied only by hypothetical agents whose cognitive and volitional capacities human beings lack" (O'Neill 1987, 56).

liberalism as an ideal theory and from this perspective is that the idea of starting the process of justification and the way to consensus “may be imaginable, but it is not feasible. It is therefore naïve, and ineffective, to hold existing societies to account on the basis of such demanding moral standards. ... the less real-world constraints are taken into account in the design of a normative political theory (which is meant to apply to the real world), the more practically ineffective its principles are likely to be. ... *the principles may be designed to respond to a situation different from the one we are actually facing*”⁸⁸. The weakness of the ideal set by reasonableness and public reason is thus defined by a double problem. It is descriptively inadequate, because it does not account for political reality as it is (the fact of pluralism and the behaviour of non idealised citizens) and since it refines such reality it affords a standard that only corresponds to a possibility in non-actual (non-real) political circumstances. Referred to the real world, such standard is so demanding that it is hardly manageable to be applied and, as a result, practically irrelevant⁸⁹. It seems to me that irrelevance is a direct consequence of descriptive inaccuracy: because the re-description of individual agency and therefore of the plurality of viewpoints is not loyal to real circumstances then the solution might not work. This affects the solidity of the political liberal strategy in its turn under a double perspective.

On the one hand the likelihood of the success of the strategy is put into question: in this sense the ideas of reasonable citizens, of a full public justification and of a strong overlapping consensus are to be just discarded as unfeasible in our world and so not worth being explored or tested, at least as they are presented in political liberalism. This raises a *feasibility* issue. On the other hand, the employment of the strategy has some intrinsic high costs. Even if we assume that the selection of relevant facts and the reduction of pluralism is feasible, the notions of reasonableness and public reason would determine a distance between a set of citizens entitled to fully participate in public life of a society (reasonable citizens, bearers of reasonable comprehensive doctrines) and a set of citizens that is not involved of the justificatory process and does not participate in

⁸⁸ Valentini 2012, 659, my emphasis.

⁸⁹ I owe the notions of descriptive inadequacy and practical irrelevance to John Horton: “[t]here are, I suggest, two related but distinguishable broad lines of criticism ... First, there is the complaint that the conception of politics at work in liberal moralism lacks *descriptive* adequacy. Secondly there is the objection that it is normatively utopian and therefore largely *practically* irrelevant” (Horton 2010, 433).

the overlapping consensus (the unreasonable). The question of the unreasonable raises an issue of inclusiveness, especially concerning for the political liberal account of legitimacy. This problem affects the *desirability* of the theory. I now turn to the discussion of these objections.

3.3. Feasibility and desirability: a difficult trade-off

There are manifold interpreters of political liberalism touching upon its ideal character and so, more or less explicitly, questioning its practicability. Such objections tackle different aspects of the political liberal strategy at different levels, but they all show how controversial it is to hold a strategy to be successful if it is hard or difficult to implement it because of its distance from reality. In particular, the problem many critics have pinpointed is that the demands of reasonableness and public reason are somehow unsustainable for actual human beings, because its deontological burdens are simply too heavy. Another important aspect such criticisms have in common, I think, is methodological individualism, that is they are formulated keeping in mind the viewpoint and the moral, cognitive and volitional abilities of actual individuals. Rather than evaluating the internal consistency of the theory itself, this type of objection focusses on real citizens as the ultimate political actors.

Reasonable individuals are expected to be able to offer reasons and be ready to listen and possibly be persuaded by others' reasons, at the same time only accounting for a specific set of reasons, that is by selecting their interlocutors, and only referring to the shared conception of justice, avoiding partial considerations⁹⁰. The act of behaving reasonably requires in the first place an ongoing willingness to cooperate that is a desire to produce public reasons⁹¹: this capacity is certainly possessed by idealised individuals, who *always* prioritise the right over the good, but it can hardly be expected from actual individuals, whose preferences may swing. If real individual behaviour is taken into consideration⁹², one initial point is that there can be some practical difficulties in

⁹⁰ Moore 1996, 171.

⁹¹ Brower 1994, 9-10.

⁹² Notice that these critics typically advocate for different solutions, let them be a stronger or looser form of public reason or the idea that public reason is all the way down a useless tool. There is no space to discuss this here, the

choosing the right reasons and also in re-formulating some originally non-public reasons in a form that is respectful of the demands of public reason. The inquiry citizens have to make before expressing their reasons might be perceived as too demanding (even only in terms of time) compared to the effect it might trigger, besides the one of strengthening public reason⁹³.

A further point concerns considerations about would be the costs of prioritise right reasons (being reasonable) for the individual. The questions actual citizens are likely to ask themselves are those about the moral costs of setting aside their core comprehensive commitments, but also those about the consequences of this choice. One question concerns the relationship between reasonableness and truth: being the shared conception of justice acceptable from all reasonable standpoints it has to be neutral towards what comprehensive doctrines hold to be true. As a result, the plural, possibly incompatible, truth claims embodied in comprehensive doctrines are equally uninfluential⁹⁴. Thus, citizens may ask themselves why truth or moral commitment should *never* trump the demands of public reason. An illuminating example are religious citizens: the idea that they should set aside what they hold to be a matter of truth for the sake of public reason is for them especially demanding, given that they believe such truth to have a divine origin. On the one hand it has been argued that public reason should be made more inclusive with respect to reasons⁹⁵, or that political liberalism should host a variety of public reasons, more fitting with the fact of pluralism⁹⁶, or that comprehensive reasons should be allowed and brought forward in the public sphere because this would be the best way to encourage the achievement of agreement through mutual understanding⁹⁷ and so justification. Such positions are limited to the highlighting of

concern is about the hold of the political liberal strategy as a whole and not just the specific features of public reason.

⁹³ See Nussbaum 2011, 15.

⁹⁴ The conceptual relationship between reasonableness and truth has been extensively explored by Habermas, also in light of his own works on public discourse. "On Rawls's conception, metaphysical doctrines and religious world-interpretations admit of truth and falsity. ... the truth claims of all reasonable worldviews have equal weight, where those worldviews count as reasonable which compete with one another in a reflexive attitude" (Habermas 1995, 124-125).

⁹⁵ Bonotti 2010.

⁹⁶ Bohman 1995.

⁹⁷ See Weithman 2002 and Nussbaum 2011.

intuitive difficulties individuals may face in weighting their most important moral commitments against public reasons.

A stronger challenge on this point has been formulated by Micah Lott, who analysed in depth how the prioritisation of public reason over comprehensive ones may put citizens on the position of undermining their own moral accountability for the sake of public reasons⁹⁸. The scenarios he analyses are those in which a truth possessed by citizens happens to be extremely relevant from a political point of view, but because of its being an epistemic or moral truth (or at least *so it is held by the citizens* in question) it cannot be translated into public reason. The very fact that citizens perceive the information they have and think of it as a truth, or at least the best they can achieve in terms of truth, puts them in the condition of (if they are good Rawlsians) betray their beliefs and losing their moral accountability *and* producing no political effect also. Citizens, may find themselves deciding between the demands of the duty of civility and the duty to honour other fundamental rights or duties that cannot *contingently* being brought to public attention in a reasonable way. It is here important to notice that what counts to the purpose of the argument are the moral perceptions of citizens and how they will probably (but indeed likely) affect their behaviour, *regardless of their correctness*: “[i]nsofar as a person perceives some duties to be of more importance than others, it seems foolish to *predict* that she will choose to abandon a more important duty for a lesser one if the two come into conflict. Likewise, I don’t see how we can *morally* fault people for choosing what they perceive to be a higher duty of over a lesser duty if the two come into conflict”⁹⁹.

This shows how even under the best intention to behave reasonably, it is highly unlikely that non idealised citizens will always and perfectly behave according to public reason. The objections I collected here insist on the complications of the *feasibility* of political liberalism as a whole because it cannot be expected from actual citizens that they fully comply with such elevated demands. Political liberalism is looked at as an *over-demanding* theory, which initial expectations are flawed by inaccuracy.

⁹⁸ Lott 2006.

⁹⁹ Lott 2006, 82.

3.4. *Political liberal legitimacy and its process*

I now turn to a further question concerning desirability, i.e. the demands of liberal legitimacy. The notion of legitimacy embodied in political liberalism is strictly connected with the idea of reasonableness and public reason and in fact Rawls refers in the introduction to PL to the criterion of reciprocity as its basis: “[p]olitical conceptions to be reasonable must justify only constitutions that satisfy this principle [of reciprocity]. This gives what may be called the liberal principle of legitimacy as it applies to the legitimacy of constitutions and statutes enacted under them”¹⁰⁰. The full utterance of the Rawlsian notion of legitimacy is that “our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason. This is the liberal principle of legitimacy”¹⁰¹. Now, at first glance it seems that this latter formulation of the principle of legitimacy¹⁰² is wide in the scope, since it addresses *all* citizens and refers to the capacity of reasoning they have in common as humans. It embodies the idea that if the constitutive structure of a society can be endorsed by all these citizens in light of such broadly shared capacities then it is legitimate, provided that this endorsement happens *reasonably*. Such endorsement depends on the ability of citizens to justify the principles and ideals that are meant to be binding for them (because they define political power). The principle of legitimacy is presented by Rawls as dependant on the criterion of reciprocity, but, David Archard notices, the reverse is also valid, i.e. the criterion of reciprocity can be derived by the ideal of legitimacy: “[a]ny would-be exercise of political power is legitimate only if those who would exercise it provide those who would be subject to it with reasons the latter will accept”¹⁰³. This formulation makes it clearer that those who should be entitled to exercise political power need to be reasonable in the first place.

¹⁰⁰ Rawls 2005, xliv.

¹⁰¹ Rawls 2005, 137.

¹⁰² It is the second in the order that I presented them but it is important to bear in mind that this is not the chronological order they have been written. While the main body of the book is from 1993, the introduction I have just quoted is from 1995.

¹⁰³ Archard 2001, 212.

The idea that legitimacy, and so the legitimate use of coercive power, depends on the justification from all citizens is supported by various liberal thinkers. Already before the publication of PL, Larmore discussed the idea of political liberalism in a way that is very sympathetic with the Rawlsian one, providing a case for justification grounded on the notions of rational dialogue and equal respect, calling for mutuality of justification and neutrality: “[i]f our aim is to devise principles of political association and if we are resolved to respect each other as persons in this effort, then the principles to be established must be the ones justifiable to everyone whom they are to bind. If, in this attempt at justification, we meet with reasonable disagreement, then we should fall back on common ground and determine what principles can be derived on that basis. Acceptable political principles must thus conform to the cardinal principle of neutrality toward controversial views about the good life”¹⁰⁴. Similarly, Waldron identified a core *tenet* of contemporary liberalism with the idea of justification to every citizen subject to political power: “[t]he thesis that I want to say is *fundamentally* liberal is this: a social and political order is illegitimate unless it is rooted in the consent of all those who have to live under it”¹⁰⁵.

Notice that such an account of legitimacy implies a twofold mechanism. On the one hand, the fundamental principles defining the shape and modes of political coercive power have to be justified to all citizens. This should happen in political liberalism via public justification and overlapping consensus, in fact the three levels of justification require citizens to justify firstly *in foro interno* and then publicly, by endorsing the prioritisation of the political values of the conception of justice and by relying on them to justify their position to others. Such values, and so the reasons they produce, are already shared, because they are the object of overlapping consensus¹⁰⁶. On the other hand, the very process of justification has to happen *reasonably* so the legitimation process does not concern all citizens, but only the reasonable ones. The fact that legitimacy is so

¹⁰⁴ Larmore 1990, 351.

¹⁰⁵ Waldron 1987, 140.

¹⁰⁶ “public justification by political society ... works in tandem with the other three ideas: those of a reasonable overlapping consensus, stability for the right reasons, and legitimacy. ... [T]he express contents of these [reasonable comprehensive] doctrines have no normative role in public justification; citizens do not look into the content of others’ doctrines ... Rather, they take into account and give some weight to only the fact – the existence – of the reasonable overlapping consensus itself” (Rawls 2005, 387).

dependent on justification and works parallel with the achievement of consensus creates a gap within the notion of liberal legitimacy itself: while only reasonable people participate to the *legitimation* process, *legitimacy* requires that all the ones supposed to live under (be coerced by) the principles object of the legitimation/justification are in the position of justifying them.

3.5. Non-ideal people and unreasonableness: the costs of political liberalism

It is this specific relationship between justification and legitimacy triggering criticisms about the exclusivist attitude political liberalism has towards the unreasonable. What I want to highlight here is the idea that the roots of the relationship between legitimacy and justification can be traced back to the notion of reasonableness. In order to do so, I shall clarify the conclusion I have just reached. The liberal principle of legitimacy *defines* what political coercive power should count as legitimate in political liberalism, by referring, I hope I have shown, to the notion of justification. In so doing it gives a criterion to distinguish legitimate from illegitimate use of such power. The type of justification required by political liberalism is public justification, a notion I already explored, that requires a *process* of selection of reasons (right reasons) and of agreement on those reasons in its turn depending on reasonableness. In this sense, the process of justification informs the process of legitimation, because it is by making the basic structure and the principles justifiable that theory can claim them to be legitimate. The success of the justificatory process and the achievement of overlapping consensus are the result of the willingness of reasonable citizens to restrict the pool of the reasons to right reasons and, simultaneously, of the reduction of pluralism to reasonable pluralism. So, if justification is limited to the set of reasonable citizens, then also legitimacy is dependent on the same limits.

The question of legitimacy, because of this intrinsic connection with justification, shapes the position of political liberalism with respect to unreasonable people. The fact that legitimacy is subject to the limits of reasonableness tells at the same time something about the political liberal attitude to non idealised unreasonable citizens and something about the notion of reasonableness itself. Rawls is only explicit about unreasonableness

in a footnote, where it refers I think only to a subset of unreasonable comprehensive doctrines, those that are openly illiberal: “[t]hat there are doctrines that reject one or more democratic freedoms is itself a permanent fact of life, or seems so. This gives us the practical task of containing them – like war or disease – so that they do not overturn political justice”¹⁰⁷. The idea of containing unreasonable doctrines could be prudentially justified on the basis that in the long run it protects the fundamental tenets of liberal justice, because it protects stability by preventing the unreasonable to gain too much power. Nevertheless, the main purpose of containment is moral, since it is supposed to protect that special kind of moralised stability identified by right reasons¹⁰⁸. In this sense, the aim of containment is again one of selecting the appropriate (consistent with justice and reasonableness) reasons, doctrines and ultimately citizens.

The question Rawls is tackling here is the difference between the facts of pluralism and of reasonable pluralism, claiming that the parties in the original position would select the same principles of justice, regardless of their accounting for the former or the latter form of pluralism and this is because “[t]he parties must always guarantee the basic rights and liberties of those for whom they are trustees”¹⁰⁹. Of course, reasonableness does not interfere with the work of parties in the original position. If anything, it is the original position being at the very basis of the idea of reasonableness. Parties are able to produce principles of justice which implementation requires reasonableness because they are situated in what I previously called a political *vacuum*. Clearly, this is the point of thinking out a hypothetical impartial point of view. However, the result is that even if the parties’ trustees are *all* citizens, their word only counts and/or apply to reasonable ones. In defending the Rawlsian position, Jonathan Quong argued that the identification of such gap comes from a misreading or misunderstanding of Rawls. He argues that “[t]he principles of justice derived in the original position gain their moral force from the way the original position is constructed. In other words, if the original position is a genuinely fair and impartial moral perspective, then the principles of justice derived within it are going to hold for everyone, and not just those

¹⁰⁷ Rawls 2005, 64, n. 19.

¹⁰⁸ Quong 2004, 323-325.

¹⁰⁹ Rawls 2005, 64.

citizens who happen to endorse their premises”¹¹⁰. Nevertheless, this is only sufficient to argue that there is no sound reason in political liberalism to deny the unreasonable the basic liberal rights and freedoms, and does not account for the difference between reasonable and unreasonable marked by the legitimation process. So even if the principles of justice are originally thought out for all citizens, they *de facto* say something only to reasonable ones.

The reason is that reasonableness is *applied* in a self-referential way. It gives the starting for public justification and overlapping consensus, i.e. reasonable pluralism, because if the justificatory stage took pluralism as it is in account then it would be impossible to achieve stability for the right reasons, but is also informs the process. In other terms, political liberalism aims at being justified only to a set of people whose political characteristics (reasonableness) are defined and defended from within political liberalism itself¹¹¹. It is because of this that critics argued that political liberalism is only concerned to be legitimate for the reasonable. Such circularity has been discussed in manifold ways, and Estlund, one advocate of this position, described reasonableness as an “insular” concept¹¹². He observed that the principle by which only those comprehensive doctrines that are reasonable, that is acceptable to reasonable people, can be part of the justification implies another assumption, more precisely, a normative assumption. It is the requirement that every reasonable citizen shall recognise the power (or the right) to reject a comprehensive doctrine in the justification/legitimation process only to other reasonable citizens, which means on the basis of the lack of capacity of the doctrine in question to respect the standards of reasonableness¹¹³. It is in this sense that the audience of the conception of justice is limited and so it is its authority, in fact if it was the unreasonable claiming a rejection of the conception of justice, this would not affect its legitimacy, rather it would just be a further prove of their unreasonableness. The role of reasonableness is not one of testing the outcomes of justification, which

¹¹⁰ Quong 2004, 316.

¹¹¹ This view has been called the “internal conception” in Quong 2011.

¹¹² Estlund 1998.

¹¹³ “*Insularity Requirement*: Each member of C [reasonable citizens] must recognize the rejection rights of all and only the members of C. (An individual has rejection rights over a doctrine’s admissibility into political justification. And ... only members of C have rejection rights)]” (Estlund 1998, 259).

would be testing if what results from the process is a good candidate for shaping political power, neither it depends on justification, which would mean considering reasonable what citizens have justified and so legitimised. It is not an *ex post* threshold test¹¹⁴. Its role is instead constitutive of justification and so legitimacy ultimately depends on reasonableness¹¹⁵.

As anticipated the interference of reasonableness on legitimacy does not come without a cost. The exclusion of the unreasonable from the legitimation pool, in Friedman's words, has impact not only on the status of the unreasonable, but also on the implications of political liberalism. Being excluded from the legitimation pool, unreasonable citizens' position with respect to the basic structure of institutions is irrelevant for the legitimacy of those same institutions. Whether citizens falling within the set of the unreasonable are able or unable to justify the institutional settings under which they live has no relevance. The use of coercive power over them is seen from *their* point of view as illegitimate because unjustified, nevertheless "their rejection [of the conception of justice informing coercive institutions] appears to carry no theoretical weight"¹¹⁶, that is it does not affect the strategic structure of political liberalism, in fact "given the enormous diversity among human viewpoints, the exclusion of the unreasonable people from the legitimation pool makes the search for legitimacy more manageable than it otherwise would be. This consideration, however, is a practical one only. It is not a principled reason for excluding anyone. Rawls, by contrast, elevates the exclusion of the unreasonable into a matter of principle in his quest for political legitimacy"¹¹⁷.

Now, it seems to me that the matter of exclusion of the unreasonable highlights two weaknesses of political liberalism. Firstly, as explored, it seems that the political conception is not meant to speak to the unreasonable. The principles of justice do apply to all citizens, but only some of them receive their message. In this sense, their *practical relevance* is jeopardised by the limits of their effectiveness. In fact, only those who grasp

¹¹⁴ The expression "threshold test of reasonableness" is from Macedo 1990.

¹¹⁵ Besch 2013, 35-37.

¹¹⁶ Friedman 2003, 163.

¹¹⁷ Friedman 2003, 164.

their importance, the reasonable, take part to the construction of the political foundation of their society and legitimate the political power of institution, thus leaving the rest, the unreasonable, under illegitimate (even though only from their point of view) coercion. This last point is an *undesirable* consequence of political liberalism, because it damages stability, which achievement does not account for a part of society that it is expected to contain.

Chapter 2

Managing pluralism: portraits of modus vivendi

1. The black mirror of political liberalism? The question of Rawlsian modus vivendi

1.1. The management of pluralism: a premise on alternative strategies

I devoted the first chapter to the dissection into atomic components of the Rawlsian political liberal theory, presenting it as a strategy. I treated the fundamental normative assumptions and commitments of political liberalism as the pillars and cornerstones of the political liberal architecture. Such normative tools are those needed to manage the undesirable consequences of the fact of pluralism by containing it. I accounted for how in Rawlsian philosophy the application of the prescriptions of political liberalism are meant to build a type of contemporary liberal democratic society (labelled well-ordered society) that is capable of legitimately enforcing a conception of justice and, as a consequence, successfully performing stability. I analysed how the theoretical design of political liberalism, by underlining how the mechanisms it puts in place are aimed at the management of the undesirable consequences of pluralism (hence the qualification political liberalism as a strategy). I analysed political liberalism through the question of how satisfactory its strategy is, and I concluded by endorsing some of the mainstream criticisms in literature. In the process, I identified three main weaknesses: idealism, moralism, and a feature that I called demandingness (or, when I used it more critically, over-demandingness). Idealism and moralism are methodological terms of art and accepted categories in literature that I used to analyse political liberalism and that I am going to use to discuss modus vivendi. Unlike these, demandingness should be regarded as a concept aimed at grasping a peculiarity of political liberalism, that is the quality and, using a metaphor, the volume of demands that political liberalism puts on individuals.

First, I discussed how political liberalism falls under the label of idealism. I especially insisted on the gap between the fact of pluralism and what Rawls calls the fact

of reasonable pluralism. The definition of this gap is dependent on two aspects: one is the difference in broadness of the range of comprehensive doctrines *tout court* and the subset of reasonable comprehensive doctrines, the other is the difference between unreasonable and reasonable citizens, marked by the individuals' readiness to comply with the demands of public reason and, ultimately, those of justice. The political liberal idealism consists of the refinement of the fact of pluralism in these two senses, and my dissatisfaction with it depends on its fact-sensitivity being levelled according to the objectives of its normative programme (justice and stability) rather than according to descriptive accuracy.

Second, I reviewed what I called the tools of political liberalism according to their purpose within the theory and their implications for citizens, concluding that political liberalism ends up demanding more than it realistically could. I focused especially on the requirements of reasonableness and public reason, arguing that their over-demandingness sets a normative standard that can only be approached by individuals with uncommon moral capacity. I considered such over-demandingness as the result of the idealist take: because the starting point of political liberalism is a "polished" version of pluralism (that I called the raw material of political liberalism), citizens are expected to give exceptional performance in the public sphere. Their steady compliance to the idea of justice enables in its turn the success of two highly demanding devices of stability: public justification and overlapping consensus.

Third, I discussed political liberalism as an example of moralism. I argued, along with Williams¹, that the means political liberalism puts in place to achieve justice and stability (i.e. the ideals of reasonableness and public reason) represent the prioritisation of a particular morality over political dynamics. I observed how the political liberal strategy cannot do away with moralism, because the discipline imposed on the fact of pluralism ultimately refers to the morality specified by the notion of justice, philosophically and not politically identified. I need here to reiterate an important point about the critique of moralism. The purpose of the previous chapter was to do is to show how the moralistic nature of political liberalism is not only strictly necessary for its goals, but also deeply connected with its ideal approach. On this premise, I concluded regarding moralism as a dissatisfactory aspect of political liberalism because I considered

¹ Williams 2005.

its strategic costs in terms of desirability and practicability. In this sense, the over-demandingness of public reason and overlapping consensus seems to be avoidable for the purpose of containing the undesirable consequences of pluralism. Thus, I did not conclude that political theory should reject a moralistic approach and endorse a realist one on the basis that realism is a theoretical *desideratum*. Rather, I limited my observations to the price political liberalism had to pay for its moralism. I surmised that moralism is the reason for the undesirable exclusion of the unreasonable and, via its ideal connotation, for the impracticability of its goals.

Having identified what are the reasons why political liberalism does not convincingly perform in facing the fact of pluralism, one must look for an alternative strategy to manage ineradicable disagreement. One alternative solution that is the focus of a renewed attention of current debates is *modus vivendi*. Rawls treated *modus vivendi* as an alternative scenario to political liberalism, conceptualising it as a non-normative solution, as well as a deeply undesirable one. In this sense, he does not elaborate on it as a suitable alternative, let alone one that measures up to political liberalism, as his outlook on *modus vivendi* is kept in check by the stipulations of ideal theory. I look instead at *modus vivendi* as a political strategy that has the potential to respond to the fact of pluralism. From a starting point of what has previously been considered and I consider a misrepresentation of *modus vivendi*, i.e. the Rawlsian one, I try to set out its essential features (what does define what *modus vivendi* is), to assess its strengths and weaknesses as I did for political liberalism, and finally to ponder its normative relevance.

1.2. The Rawlsian definition of modus vivendi

“*Modus vivendi*” are the Latin words used to express a status quo in international relations, denoting a treaty securing the perfect balance of powers among states or nations, i.e. a situation in which none of the parties has an interest in undertaking an act which may lead to the loss of equilibrium and consequently to conflict. Most importantly, *modus vivendi* is grounded on the idea that two conditions are met at the same time: that States are ready to act at the expense of others and that it is part of the common knowledge that an alteration of the status quo (let it be the violation of a treaty or of a less formalised agreement) would be disadvantageous for all parties. The example Rawls employs to illustrate the dynamics of *modus vivendi* is the acceptance of the

principle of toleration by Catholics and Protestants in the sixteenth century: appeasement through toleration was reached only because the *costs* of an exhausting war drained both sides to the point of outweighing the duty (inherent to their morals) of “uphold[ing] the true religion and to repress the spread of heresy and false doctrine”². For the two parties, giving up hostilities and endorsing the principle of toleration was the only accessible way to conclude a highly draining situation and to secure a long-lasting peace³.

Rawls appropriates the expression to draw a parallel between the scenario it describes in international relations and a certain situation in domestic politics. *Modus vivendi* is in fact intended as the situation in which a society is only supported by an agreement resulting from the bargain among groups’ or individuals’ powers or interests. Because this use of the notion of *modus vivendi* is due to Rawls and because the phrase originally became part of contemporary political theoretical language as a Rawlsian reference, I will call this theoretical perspective (and the political scenario it describes) “Rawlsian *modus vivendi*” (hereinafter RMV). In line with how *modus vivendi* is conceived in international relations, RMV is founded on self- or group interests, it is the result of social and political bargain, and it is subject to the fluctuation of circumstances. The original twist of RMV is the perspective from within a given society: RMV does not describe the interaction among distinct political unities, rather it portrays the political relationships of individuals living under the same set of institutions whose social unity is the result of a balance and is, especially compared to the standard of political liberalism, only apparent⁴. As it happened after religious wars in the Modern era, the tolerant acceptance of living close to one’s opponent is not the object of an overlapping consensus, rather it depends on considerations of political convenience.

Before unfolding the dynamics of RMV, it is worth reflecting more on its definition. Rawls’s introduction of RMV is brief and designed to enrich the scrutiny of overlapping consensus and of its place within political liberalism. The very notion of RMV is framed by political liberal categories and it is thus conceptualised in an evaluative

² Rawls 2005, 148.

³ “resting on the conflicting authorities of Church or Bible, there was no resolution between them, as their competing transcendent elements do not admit of compromise. Their mortal combat can be moderated only by circumstance and exhaustion, or by equal liberty of conscience and freedom of thought. Circumstance and exhaustion lead to a *modus vivendi*”(Rawls 2005, xxxviii-xxxix). On this point, see also Rawls 1999, 433.

⁴ Mills 2000, 194-197.

perspective, as the stereotyped absence of what is most dear to political liberalism: justice and stability. In order to unravel the elements that define RMV, I have to look at what is the role it plays in the political liberal project and how it is thought out with respect to political liberal normative standards. RMV is only considered as a stage on the way to overlapping consensus. Society is expected to overcome it to become a well-ordered society and to reach the kind of stability and compliance to the principles of justice that define political liberalism. Overlapping consensus is achieved via the stage Rawls calls constitutional consensus, that is on an ideally chronological line between RMV and the realistic utopia of political liberalism. Constitutional consensus is the situation in which liberal principles of justice are embodied in a constitution and the political procedures of democracy are shaped according to their content. A certain form of public reason is already present at this stage and citizens are expected to apply what Rawls calls “the cooperative virtues of political life: the virtue of reasonableness and a sense of fairness, a spirit of compromise and a readiness to meet others halfway, all of which are connected with the willingness to cooperate with others on political terms that everyone can publicly accept”⁵. The society characterised by constitutional consensus is a democratic one (the freedoms of political speech and association, the right to vote and “whatever else is required for the electoral and legislative procedures of democracy”⁶ are there) and citizens’ attitude towards their own comprehensive views protects the principles of justice from being systematically overridden by comprehensive claims (that are not necessarily shared by all).

Comprehensive doctrines are loose and make it possible for citizens to appreciate the good of political principles *per se*. Notice that this is no more than a possibility: in a constitutional consensus the principles of justice do not inform the basic structure of institutions, nor the kind of public reason that is at use when political decisions are taken. Citizens are not ready *yet* to rethink their position in case it shows to be incompatible with the political principles. In fact, the form of reasoning expected from citizens simply refers to common sense and uncontroversial scientific evidence. Under these conditions though, it happens that they appreciate the common values that keep their polity together: “at the first stage of constitutional consensus the liberal principles of justice,

⁵ Rawls 2005, 163.

⁶ Rawls 2005, 159.

initially accepted reluctantly as a *modus vivendi* and adopted into a constitution, tend to shift citizens' comprehensive doctrines so that they at least accept the principles of a liberal constitution. These principles guarantee certain basic political rights and liberties and establish democratic procedures for moderating political rivalry, and for determining issues of social policy"⁷. When the cooperative virtues of political life are expressed at their best, enabling compliance to the principles of justice that implies their overruling the content of comprehensive doctrines, then the final stage of political liberalism is realised. Constitutional consensus is needed as an intermediate level on the way to overlapping consensus because the deep and wide allegiance to principles of justice that political liberalism requires depends not only on the compatibility of the various moral standpoints with those principles, but also on the capacity and will of citizens to prioritise those values over the non-political ones embodied in the respective comprehensive doctrines. Allegiance to constitutional consensus, instead, is based on the endorsement of those political values on the ground of long-term interests, attitudes shaped by custom and a will to adapt to what is contextually considered a normal behaviour.

1.3. RMV in the shadow of political liberalism

RMV can only be unpacked through the lens of the *desiderata* of political liberalism. Its definition grants a franchise to political liberalism by actualising the absence of all the structures and mechanisms that constitute the political liberal theory. In this sense RMV is the black mirror of political liberalism. In fact, although presented as the first of three steps it seems to me that RMV formulation is conceived in a deeply different way with respect to the following stages and that the step to the constitutional consensus requires a fundamental change. As seen, one of the tenets of overlapping consensus, that is fundamental for political liberalism, is tied to the achievement of conditions for citizens to accept the fundamental principles of justice informing the basic structure of political institutions in the form of public justification. Now, while at the stages of constitutional consensus and overlapping consensus citizens understand the value of the principles of justice and endorse them (for reasons that can be but do not have to be moral), they do not do so in RMV. Recall that the requirement of public justification is also at the basis of the political liberal notion of legitimacy: for the use of

⁷ Rawls 2005, 163.

political power to be legitimate, the basic structure of institutions has to be justifiable to every reasonable citizen subject to its rule⁸. Moreover, in achieving public justification, political liberalism rules out what Rawls calls the *fact of oppression*, that is the scenario in which a conception of justice or good informing political institutions cannot be publicly justified and has to be maintained through the use of State power. When a political choice is made or a policy implemented, those citizens who cannot accept and/or justify that choice or policy from their moral standpoint (i.e., when it does not account for or explicitly clashes with their beliefs and values) are in a condition of oppression, because the political decision will be imposed on them⁹. RMV does not envisage a notion of justifiability, let alone the possibility of actual justification in the sense political liberalism does, nor does it embody the idea that citizens' agreement to live under *modus vivendi* institutions should rest on an explicit endorsement.

The qualitative gap between RMV and other liberal forms of consent and legitimacy seems to me mainly dependant on the fact that RMV says very little about the modes of pacific coexistence amongst individuals who profoundly disagree with each other. As a matter of fact, *all* that RMV says is that such coexistence is pacific because lead by reciprocal toleration, intended as the giving up of actual conflict. RMV can come into existence and be maintained insofar as the costs of breaking a given balance of powers, interests, goals and starting a conflict (of any kind) are higher than those of the upkeep of the status quo. This is true of RMV regardless of *what* status quo. These considerations highlight at least two important aspects of RMV. First, that consent is not qualified, which means that the reasons individuals have for complying with RMV do not need to match any moral or epistemic standard: there are no good or right reasons in RMV. All that matters is that some kind of incentive (again regardless of if being just prudential or also moral) to carry on tolerating each other presence and not to upset the balance is there. Second, RMV is indifferent to the relative distribution of power or to whether institutions reflect the substantive content of a doctrine, insofar as the scenario happens to be balanced. However, this means that, from a political liberal perspective, RMV does not exclude the possibility of oppression (in Rawlsian sense).

⁸ Rawls 2005, 137.

⁹ "a continuing shared understanding on one comprehensive religious, philosophical, or moral doctrine can be maintained only by the oppressive use of state power. ... The same holds, I believe, for any reasonable comprehensive philosophical and moral doctrine ... A society united on a reasonable [doctrine] would likewise require the sanctions of state power to remain so. Call this 'the fact of oppression'" (Rawls 2005, 37).

1.4. *Consensus and (in)stability in RMV*

In the previous section I argued that toleration is an essential feature of RMV because it is conceptualised as the adequate way of achieving the settlement of disagreement. The recourse to toleration as only viable option depends on the absence in RMV of a strong consensus of any kind. Not only RMV does not rely on a consent of the type of overlapping consensus, that represents the reconciliation of pluralism in the form of a moralised principled agreement about what is right, but neither does it need an agreement around a notion of the good. In contrast with such forms of consent, all that RMV needs is the acknowledgement that coexistence can only peacefully work with the giving up of conflict and needs toleration. The agreement underpinning RMV does not depend on the endorsement of a notion of the just or the good, neither it implies any theory about individuals' moral commitment to a political agreement or to the use of a certain form of public reasoning nor one about social cohesion. It is thus evident why Rawls qualifies the agreement on RMV in contrast to overlapping consensus in the famous sentence: “[t]he substantive question concerns the significant features of such a consensus [overlapping consensus] and how these features affect social concord and the moral quality of public life. ... an *overlapping consensus is not a mere modus vivendi*”¹⁰.

Toleration in RMV is not endorsed as a shared political value, as instead are principles of justice in political liberalism, rather it is *instrumentally* endorsed and individuals' compliance to it comes from *prudential* reasons and not from moral ones. The lack of moral support for maintaining RMV leaves the door open to a renegotiation of the most fundamental political settlements every time circumstances change, i.e. every time contingencies modify the balance of powers and interests among individuals or push them to revise their goals. Their allegiance to RMV can be read as a weak consent that expresses itself in activities aimed at maintaining order but not in an endorsement of the political settlements *per se*. RMV is a matter of convergence around a status quo which is considered the most adequate on prudential grounds (without corresponding to any moralistically given standard of justice), and it has to be maintained without explicit (and/or morally grounded) approval from the parties involved in it. RMV lacks what has been defined by Jean Hampton an “endorsement consent”. I borrow here her words to better specify how the kind of consent typical of RMV “may not express a

¹⁰ Rawls 2005, 146-147, my emphasis.

person's approval of her regime. To accommodate the notion of approval, we need a meatier idea of consent that expresses not merely acquiescence in a political regime but also explicit approval of and support for it. A regime that endorsement consent gets from its subjects not just activity that maintains it but also activity that conveys their endorsement and approval of it. A regime that attains the realisation of endorsement consent from most of its citizens will do more than simply survive: The considerable support from its subjects will make it vibrant and long-lived, capable of withstanding attacks from without and within. Beyond a kind of attitude toward the state, endorsement consent is a decision to support it because of one's determination that it is a good thing to support. By giving this form of consent, the subject conveys her respect for the state, her loyalty to it, her identification with it, and her trust in it¹¹. Because compliance is so conceived, individuals living under RMV institutions do not support the existence of such institutions because they are perceived as a good in themselves. Institutions maintaining a status quo are no more than the expression of a will not to start (or fall back into) conflictual circumstances.

The weak agreement underpinning RMV is the result of individuals' limited agency in the public space, conceived as a happenstance only necessary to play the game to secure or at best maximise their particular (individual or related to specific group identified by a common comprehensive doctrine) benefit. Parties in RMV are not subject to any moral or cognitive demand *à la* public reason (let it be of a highly ideal stance as in political liberalism or otherwise conceptualised). As representatives of comprehensive doctrines, they do not need to revise their position to make it fit to a moral standard that is external to the doctrine itself, neither they have to accommodate the demands of a commitment of political sort (referring to fundamentally shared political values or a historically established agreement). As a result, they are not expected to attribute any special value to social cooperation that go beyond the preservation of their fundamental interest in peace and order. On the contrary, they will continue to stick to the agreement if and only if the continuation of cooperation pays off better than desertion of cooperation. In this sense, the political approach of RMV is deeply Hobbesian.

¹¹ Hampton 1997, 96.

Toleration *is* a liberal principle but it is only understood as a suitable alternative to disorder and discord¹².

This represents a problem from the Rawlsian point of view because the absence of moral or morally connoted reasons coincides with the impossibility of reaching the solid stability a society should secure. More than this, not only is RMV incapable of achieving stability for the right reasons (in Rawlsian terms), but it is to be considered equally unstable outside the Rawlsian framework because it *inherently* depends on circumstances: that precarious equilibrium among powers, interests and goals can at anytime collapse or, in a best case scenario, shift. Such a modification would then require a more or less deep and broad re-negotiation of the fundamental terms of political life (rather than a deep and broad consensus around them¹³). In a RMV framework, then, “stability is contingent on circumstances remaining such as not to upset the fortunate convergence of interests”¹⁴, because citizens do not endorse the shared framework in a moral sense, they simply see it as a viable option in order not to lose the minimal conditions for social life. The problem with RMV lies in the direct consequence of such a lack of endorsement: individuals who agree to be citizens in a RMV are not just ready to stop sticking to the agreement as soon as they (or their respective group) comes to power, but they are also ready to live under a more or less intrusive degree of coercion when they happen to be part of a minority or a disempowered group.

In this sense, RMV seeks for peace and order not as ideals or values that politics has the task to realise, but rather as minimal conditions for political life. For this reason, the benefit of one’s possibility to fulfil a particular goal or to gain power might in principle outweigh the costs of a shared peaceful social and political environment. This is the intrinsic instability of RMV.

1.5. *Is RMV a realistic settlement?*

RMV is a model of cooperation that, as said, refers to the *modus vivendi* descriptive notion typical of international relations, in which context political actors are States. Since RMV represents an application of this mechanism to one society, political

¹² So far I have referred a lot to the toleration as the object of RMV consent without further detailing it. In the second part of this chapter I will reflect more in deep on *what* notion of toleration *modus vivendi* theory calls for.

¹³ Rawls 2005, 164-167.

¹⁴ Rawls 2005, 147.

units are defined by individuals or groups¹⁵ living under the same set of institutions and within the limits of one political body. So, in order to define the merits and flaws of RMV the account of the individual (citizen of that political body) it embodies needs to be analysed. In discussing consensus and instability in RMV, I have clarified the quality of the motives and reasons guiding single behaviour in the political realm of RMV. In this section I tackle RMV's account of the individual, claiming that RMV shares, in this respect, the same distance from accuracy that affects political liberalism.

RMV relies on an account of the individuals as participants to an aseptic game for the balance of power while needing at the same time a tolerant attitude towards their opponents. Rawls seems to assume that citizens in RMV have their own conception of the good and therefore a more or less complete moral view (in his own terms, they embrace a more or less fully comprehensive doctrine). Nothing suggests that they are somehow prevented from endorsing one. In RMV citizens' moral capacity is only applied to their private sphere or at least in their particular perspective but not in the public sphere. In fact, the agreement underpinning RMV is maintained only thanks to citizens' prudential considerations based on their own interests, let them be the preservation of relative power or the survival of the most powerful groups or individuals¹⁶. Because RMV relies on toleration as the means to preserve minimal conditions of cooperation, it fails to account for those moral standpoints that may imply forms of commitment and moral imperatives, typical of fundamentalist religious attitude or fanaticism, to convert those labelled as sinners or evildoers to the right side. More precisely, any moral standpoint which imperatives cannot be fulfilled within the specific limits of a tolerant framework (namely those stemming from the mutual recognition of the fundamental liberties) does not fall within the limits of RMV. Should a group or individual break the boundaries of toleration, RMV would have no institutional resources to cease or contain the imbalance.

If, on the one hand, fundamentalists and fanatics are excluded by the picture of RMV, it also does not account for individuals actively engaging in building and

¹⁵ By groups I am referring here to associations or sets of individuals held together by homogeneity of moral and cognitive beliefs and ideas, in other terms of bearers of the same comprehensive doctrine. Even though the term "community" might be fitting for the purpose, I avoided it in order not to imply any reference to the communitarian theory.

¹⁶ "We simply suppose that historical circumstances have so turned out that for the time being at least, the balance of forces keeps all sides supporting the current arrangements, which happen to be just to each of them" (Rawls 2005, xl-xli).

maintaining an agreement (as citizens of a well ordered society instead do), and it does not formulate any normative requirement in this regard either. But because individuals are still seen as bearers of moral commitments, it relies on a dualist, artificial imagining of the agent in the political context. In fact, RMV assumes that citizens' morality is sharply split: in the private realm they are supposed to apply moral reasoning as based on their respective comprehensive doctrines, while all principled (morally substantial) aspirations vanish as soon as they step in the public realm, thus leaving space for self-interested prudential considerations oriented by the principle of a rational choice rather than a moral one. In other terms, citizens of a RMV lack any sense of belonging to the political society, and loyalty to the institutions that govern their life together. The absence of any kind of will to maintain the cooperation (even a minimal one) independently from self-preservation calculus, brings in the picture an idea of citizens that is immune to any form of participation in political life. On one extreme, political liberalism delegates the definition of modes and fashions of such participation to the normative demandingness of public reason. On the other, RMV radicalises the absence from the public sphere of any preference that goes beyond the preservation of relative balance (via the protection of self-interest). If citizens in the Rawlsian well-ordered society were to only formulate their public claims in a reasonable way freestanding from their more private beliefs (they *ought* to do so), citizens in RMV are supposed *not* to have claims to be made public. Not only they do so out of lack of public morality (specified by a greater or lesser level of public reason or sense of belonging to a polity) but they are also expected not to have any reason (moral or prudential) to give public expression to what they maintain to be their position.

Not only does RMV reject the model of an evolving society that develops towards a more idealised and stable situation; rather, the utter absence of principled morality in public life makes RMV the archetype of this same absence. RMV ends up with instrumentally tolerant and instrumentally liberal citizens. I am not claiming here that this would be a problem *per se*. In criticising political liberalism I follow Onora O'Neill objection to idealisation (that she defines as the practice of adding too much to the cognitive abilities and will of human beings as political agents). I identified idealism, and the lack of descriptive accuracy it carries, as a shortcoming of political liberalism. It seems to me that RMV is affected by a similar weakness. The design of the citizen

trespasses the abstraction line, by overlooking too much of how humans *actually* behave in the political space¹⁷: not only does it exclude the ordered expression of moral commitment political liberalism wishes for, but also any unrefined, and often indicated as irrational, expression of passion and partisanship. However, the reduction of political behaviour to a series or collection of rational choices does not affect RMV theory only in terms of excessive abstraction. The expectations RMV puts on individuals might seem low because of the minimisation, if not annihilation, of the expression of morality in the public sphere. As a result, citizens' *epistemic* performance is expected to go way beyond what is the common standard. If expecting strict compliance to principles of justice is clearly idealistic, nonetheless it seems problematic to assume that citizens are able to collect perfect information and to reach a detached view of their participation in society in order to strategically act on the grounds of power balances and particular (ascribable to individuals, groups or communities) interests. The way Rawls designs political behaviour is so far from a rigorous description that, although commonly labelled as realist, it ends up being unrealistic.

RMV's distance from reality makes it a political paradigm that has little to say to contemporary democracies about the management of pluralism, but this does not have to be true of *modus vivendi* theory *tout court*. If *modus vivendi* has to fulfil this task, it should be aware of, and be clear about, the fact that individuals cannot be supposed to always act justly in a moral sense, neither to have a strong commitment to prioritise the life of the political society over their individual interests or even their moral aspirations. In other terms, it should not entail unrealistically high expectations from political actors. If on the one hand, it should not assume the behaviour they may display to be perfectly oriented by a set of moral principles always prioritised over self-interest, on the other hand taking *modus vivendi* seriously means not to assume that individuals would not behave emotionally, expressively and to some extent irrationally in their social space.

1.6. Modus vivendi: an independent political project

I used the previous section to set out the core features of RMV and to analyse what I see as its merits and above all its shortcomings. For *modus vivendi* theory to be a valuable candidate in solving the management of the undesirable consequences of

¹⁷ O'Neill 1987.

pluralism, it has to overcome what I considered to be the weaknesses of political liberalism, mainly the refinement of the scope and depth of pluralism, and at the same time be able to secure minimal political conditions of peace and order. I presented RMV as the black mirror of political liberalism, firstly following the way Rawls introduces and interprets the notion of *modus vivendi* as a model for the representation of the management of pluralism in domestic politics. The Rawlsian outlook on *modus vivendi* serves the purposes of political liberalism and thus shows several concerns on the inability of the RMV model to fulfil what from a political liberal perspective are the main goals of theorising, i.e. designing a way to assure stability while realising justice. RMV is unequipped to achieve the standard political liberalism sets for justification, consent and public discourse (through reasonableness and public reason), but at the same time it represents the origin of a path to that standard. In order to move way from RMV a significant shift in individuals' attitude towards the public space is required. They essentially have to turn from amoral player in a shared space into morally engaged citizens who cherish their institutions and political space as their highest value. RMV serves political liberalism as a useful counter-image to maintain the myth of desirability and attainability of stable consensus and public justification.

I then identified what are the main shortcomings of RMV. A first relevant weakness (already emphasised by Rawls) is its substantial *instability*. More specifically, I analysed how the agreement underpinning RMV is no more than a happenstance, dependant on a thin conceptualisation of toleration. The reduction of the attainment of consent and the fulfilment of toleration to a fortunate coincidence (balance of powers, goals, interest) combined with a purely instrumental attitude makes RMV entirely subject to changing circumstances. In this sense, while political liberalism secures stability at the price of curbing pluralism, RMV preserves pluralism at the price of jeopardising stability. Now, even if the main goal of a *modus vivendi* agreement is *at least* the preservation of peace and order, it cannot afford the kind of instability of RMV because it would constitute the abandonment of to the minimal condition of order. This is the outcome of the utter lack of any reasons for supporting whatsoever RMV arrangements. Not only RMV does away with philosophically defined right reasons, but it sweeps away the political questions of why people should stick to *modus vivendi* institution and how they should do so.

A second problem I analysed lies in the picture of the political agent implied by RMV, a radically dualistic one, resting on a clear-cut distinction between the citizens' private and public behaviour. The reduction of the public space to an arena of self-interested calculus segregates the expression of citizens' beliefs from the public discourse, *de facto* resulting in the absence of any public discourse that may contemplate the discussion of moral, religious or philosophical opinions and beliefs, but also one that includes the expression of feelings, partisanship, ideology. So, once again, RMV is positioned at the very opposite pole of political liberalism. In fact, while political liberalism demands reasonableness by suppressing any other form of political behaviour (by attributing political agents an unrealistic moral capacity), RMV relies on pure and perfectly performed rationality by overlooking crucial aspects and distorting the complexity of political interaction.

It seems to me that the major differences between RMV and political liberalism underline how they cannot be thought as stages that come in succession, but they rather reflect two distinct political *projects*. The fact of pluralism as it is calls for a political response, that is a strategy to *alternatively* contain, discipline, regulate, or more minimally manage pluralism. While in the Rawlsian project the management of pluralism is directed at a settlement of disagreement through the *reconciliation of viewpoints*, RMV abstains from governing the interaction amongst such viewpoints. Its purpose, as *modus vivendi* theory, is a *pacification of the political circumstances* that leaves the spectrum and depth of pluralism untouched. This fundamental gap between RMV and political liberalism remains overlooked in the Rawlsian work.

This evaluation of RMV leads to the conclusion that it cannot be a satisfactory alternative to political liberalism. However, this does not necessarily suggest that *modus vivendi tout court* cannot be one. In this sense the analysis of costs and benefits, vices and virtues of RMV cannot be exhaustive of *modus vivendi* as a distinct political project. Several reflections about how to conceive *modus vivendi* have emerged in the debate following Rawls's original conception and its definition and dynamic are the object of a lively contemporary debate. I will discuss the current literature on *modus vivendi* in the next section.

2. Taking modus vivendi seriously: normative perspectives

2.1. *The non-ideal vocation of modus vivendi*

In concluding my critique of RMV I highlighted how the most fundamental difference between the Rawlsian vision of modus vivendi and the political liberal outlook to politics is grounded in the nature of the normative projects that the two theories engage in. On this basis, I identified political liberalism and RMV as responding to antipodal urges of political theory: the achievement of justice and stability, only performed through the discipline of pluralism, and the protection of pluralism in its factual form. In this sense, despite considering RMV a dissatisfactory response to the fact of pluralism, political theory shall take interest in the fact that it indicates *one* way to tackle the undesirable consequences of pluralism, that is the search for a genuinely *political* solution to a political question (pluralism) rather than a theory-driven rephrasing of the original question itself (political liberalism avoids answering the question of pluralism to answer instead the question posed by reasonable pluralism). The potential of modus vivendi, left undeveloped by RMV, consist in bringing the focus back on the search for a political answer rather than a moral (and so moralistic) one.

Now, another merit of RMV is to bring the attention back to the question of actual pluralism but the answer it provides is still not decently fulfilling the purpose of the management of pluralism, or at least cannot be considered a significant competitor to political liberalism. As seen, RMV is designed to be entirely functional to the specification of political liberalism, but most importantly it is a picture of a possible political scenario in the absence of political liberalism or its forerunning steps. In this sense RMV is a fundamentally *descriptive* project that does not aim at indicating what ought to be done (what individuals ought to do and what institutions ought to do) to maintain modus vivendi conditions. RMV just happens and does not have to be maintained (hence the Rawlsian appeal to overcome it), in fact it is not endorsed. Large part of my dissatisfaction with RMV lies in its substantial lack of accuracy, that is it fails in fulfilling its own descriptive task, by relying on high abstraction. I have highlighted how this weakness of RMV results in its intrinsic inability to be regarded as a valuable response to pluralism. But most importantly, the essentially descriptive character of RVM does not convey the full potential of modus vivendi theory. If the task of political theory (or at least one of them) is to find a political answer to the question of pluralism

as it is, this does not mean that its answer is doomed to be an account of politics and political mechanisms *as they are*. On the contrary, the answer modus vivendi gives to pluralism can and *should* take the shape of a normative one if it aims at being an appropriate alternative to political liberalism.

In fact, modus vivendi theorists see such potential and advocate for modus vivendi to be a *normative political* project. This literature constitutes a strand of normative political theory that reflected and reflects on how modus vivendi should conceptualise the dynamics of consensus, legitimation, institutional stability, individual compliance in order (and to my purpose now most importantly) to conduct the research for terms to face the fact of pluralism. But because reflection around modus vivendi is nested in the debate around liberalism and proceeds from an intellectual impulse to establish a distance from political liberalism, I take it to be fastened (at least in the long term) to the major objective of outperforming the Rawlsian project in the management of pluralism in contemporary societies. For these reasons, modus vivendi cannot do away with normativity, but it has to overcome the obstacles that political liberalism faces.

As such, much of the modus vivendi debate features a reaction to ideal theory, especially in the respect of its being a hardly feasible and an essentially exclusive solution: “The idea of modus vivendi has been, in recent years, revived by theorists that scorn the rigidity and all too idealistic aspirations of contemporary liberal theory and would like to see it replaced by a more realistic approach to politics”¹⁸. Alongside the aversion to ideal theory, and the pronounced commitment to non-ideal theory that comes with it¹⁹, modus vivendi theorists often resort to the semantic sphere of compromise and negotiation to structure the dynamics typical of modus vivendi, in order to highlight its pragmatic, contingent and inclusive character: “At the centre of the idea of a modus vivendi are notions such as prudence, judgement, negotiation, compromise, bargaining and such like. These are notions that can certainly be explicated in general terms but by their very nature are resistant to any attempt to set out precise criteria for their proper

¹⁸ Wenner 2017, 1, *forthcoming*.

¹⁹ See also (Sala 2013), (Wendt 2013), (Westphal 2017, *forthcoming*). As it happens in the quotation, many refer to non-ideal approach in considering the term as a synonym with realism. I analysed in my first chapter how the two concepts have to be kept separate and how they do point at two different aspect of theories. Yet, they both belong to a style of doing political theory that corresponds the ambition of bringing the focus of political theory back to its political dimension, to say it in a slogan. I will try to explain, in the last part of this work, how these two variables of non-ideal and realist theory are to be applied to modus vivendi and whether modus vivendi theory has something to say about the meaning and status of such categories. See Valentini 2012 and Sleat 2014.

application. They can be instantiated in many different ways; and, although weakly normative, how they are to be interpreted will largely depend upon circumstances and context”²⁰.

The idea that modus vivendi institutions and its normativity should not envisage a space for shared public reasons but rather a shared space (the one amongst opponents) for public discourse is tied to the argument that stresses the effectiveness of modus vivendi solutions: "Precisely *not* making an issue one of fundamental principle may lower the political temperature and make it more amenable to an effective *modus vivendi*. [...] it is more important that the outcomes be seen on all sides as rough and ready compromise, a trade-off of interests and opinions, in which all the parties have been given something and each has made concessions”²¹. If, as I have shown, the architecture of political liberalism durably ensures stability at the price of the idealisation of pluralism and of political institutions and agents, modus vivendi theory shall target the same goal (the design of a successfully stable political solution) for a lesser cost. In fact, modus vivendi debate goes in the direction of reconsidering the normativity of non-ideal theory as even more performing than the Rawlsian solution from the point of view of relevance in actual political matters and debates: “[o]nce political theorists probe possibilities of political cooperation on the basis of the idea that a shared understanding of political justice is not available (at least not to a degree that is reliable enough to ground a general argument), modus vivendi solutions lose their appearance as deficient political outcomes”²².

The almost unanimous recourse to the notion of compromise in modus vivendi literature strikes me as the normative core of modus vivendi, as the conceptual kernel where the need of non-ideal theory to rely on political facts rather than ideal meets the call for the formulation of a proposal that suggests how politics should be. As such, it seems to me worth being understood as part of the programme of modus vivendi theory, rather than just a consistent part of its narrative. The proposal I will investigate in my final chapter nestles in this branch of the literature: I will first examine the dynamics of

²⁰ Horton 2006, 163.

²¹ Horton 2003, 20. See also the continuation of Wenner’s sentence: “if a certain normative standard is simply not achievable, it might lead to disaffection with the facts of political life and thus either to apathy or (as the claim goes) an excessive zeal in fighting for alleged absolute rights that are not open to negotiation. This, then, might result in an ever more entrenched and uncompromising political landscape, something both liberals and modus vivendi theorists should seek to avoid” (Wenner 2017, 1, *forthcoming*).

²² Westphal 2017, 4, *forthcoming*.

compromise in order to afterwards apply them to *modus vivendi*. But first, I shall look into what for the current debate is essential to the definition of *modus vivendi*.

2.2. *Citizens of a modus vivendi*

A large part of my criticism of both political liberalism and RMV focusses on the account of the individual (person, citizen) that the moral demands of the former and the epistemic expectations of the latter embody. I claimed that the understanding of citizens of the well-ordered society is flawed by idealisation, whilst the one of individuals in RMV is the result of an unrealistically abstract misrepresentation. What I called the non-ideal vocation of *modus vivendi* calls instead for an account of political agents true to reality²³ enough to avoid both extremes. A specification is needed here: of course, a thorough account of citizens' behaviour as moral and political agents (and so their modes of participation in the public sphere) can only be contextual and as such the description cannot be singular nor definitive. Surely *modus vivendi* theory will have to rely on a certain amount of generalisation but bearing in mind that its task is normative, a refined, extensive but above all descriptive sociological reconstruction of contemporary societies falls outside the scope of it (if not of normative political theory in general). But because *modus vivendi* theory aspires at being non-ideal, such descriptive moment, however limited, has to be built in. In other words, there has to be at least a grasp of a common intuition or an immediately acceptable understanding about how people effectively *are*. For instance, they are neither perfectly reasonable nor aseptically rational, neither saints nor egotists. The search for a good balance in accounting for how political agents are does not depend just on finding a middle path between a more optimistic and a more pessimistic drive. Individuals in a *modus vivendi* are to be socially embedded individuals entangled in relationships of manifold sorts (depending on moral commitment, but also sense of membership and identity, loyalty, affection and last but not least power) whose judgements and reasoning can easily be and often are affected by bias tainted with ill-founded preconceptions (let them be more or less in good faith). In John Horton's words: "a mass of poorly informed people with a very limited interest in politics and

²³ I will use the term "realistic" as a predicate for descriptive accuracy and, as such, as a synonym for "non-ideal". I will use instead the adjective "realist" as a reference to political realism, as the opposite of "moralist".

with diverse and complex motivations, including not a few prejudices of one sort or another”²⁴.

One important aspect of *modus vivendi* is that it has to deal with real agents, whose political behaviour is driven by epistemic and moral beliefs that cannot always overlap but neither dovetail, but also by passion, willingness to express themselves in the public space and sometimes feelings of partisanship. Once again, counterbalancing the idealism of political liberalism helps in finding the focus for a theory of *modus vivendi*. In a 2013 article, Roberta Sala identified, under the label of “non-reasonable”, a set of citizens who were left overlooked in the Rawlsian project. The notion of non-reasonableness is representatives of those people in contemporary democratic societies who do not comply with the over-demanding standard of Rawlsian reasonableness and yet do not threaten liberal institutions and do not fit in extreme (or extremist) comprehensive doctrines or viewpoints. In Sala’s words: “There may well be persons who will never end up adopting public reason and its requirements to defend their positions in the political domain. However, this does not mean or imply that they are unreasonable in Rawls’s strict sense: that is, that they are also ready to impose their beliefs on others”²⁵. A theory that does not want to be fully idealist or utopian or, on the contrary, one that does deprive politics of some of its most essential features, has to take into account that actual people are most likely to correspond to such a picture: “the problem of how to deal with the ‘non-reasonable’ is not a mere accidental matter, but is *a crucial fact of politics with which our theories should concern themselves*”²⁶.

I do not want to suggest here that *modus vivendi* theory should be reduced to a response to the non-reasonable (and neither is this Sala’s goal). One main reason is that such a move would draw a line between sets of people that theory should and should not take into account, falling into the same pattern of exclusion that impinges the unreasonable in political liberalism. Another reason is that there is more to *modus vivendi*: if it is to be a satisfactory normative alternative to political liberalism, it has to be conceived as a mode of political interaction able to face the fact of pluralism and the type of disagreements that occur amongst real people, virtually including any category of viewpoint, which means by overcoming categorisation at all.

²⁴ Horton 2010, 434.

²⁵ Sala 2013, 7.

²⁶ Sala 2013, 11, my emphasis.

The notion of non-reasonableness helps to define the call of *modus vivendi*, as an inclusive and context-sensitive political framework. In fact, “the non-reasonable’ can be thought to share something like a project of cooperation with other citizens, although they do that on other grounds than those belonging to a liberal political culture (for instance, as they value social cooperation as a means to accomplish peacefully their preaching mission). In other words, they are ready to endorse liberal institutions in so far as they guarantee them the conditions for pursuing their mission. Their engagement in society is therefore a kind of *modus vivendi*”²⁷. The citizens of a *modus vivendi* are then by definition not subject to the moral requirements of a cooperation model that aims for the attainment of a set of shared and prioritised values. Instead, the theoretical embracing of people as they are is meant to lead to a model that takes into consideration, even without offering a full account of it, the multidimensional character typical of the political interaction of moral agents. In this sense, a first and fundamental tenet of *modus vivendi* as a non-ideal normative project is that the aforementioned kind of consensus presupposing an endorsement cannot be the model of convergence. *Modus vivendi* is characterised in first instance as a response to the political need for peace and order and as such it has to embody a prudential element.

2.3. A “*modus vivendi liberalism*”: why not?

This section is entirely dedicated to the discussion of David McCabe’s *Modus Vivendi Liberalism*²⁸. The reason of this cameo is that his work is an attempt to revalue *modus vivendi* theory by working on the kind of morality the agreement to live in a *modus vivendi* may imply. I report McCabe’s attempt to develop a version of *modus vivendi* different from the Rawlsian one, but arguing that it ultimately results in a deflated version of political liberalism, because it presupposes a morally principled consent around a set of values and principles. My main goal is to use McCabe’s *modus vivendi liberalism* to deepen the understanding of what is the consensus needed for a theory of *modus vivendi*.

McCabe’s starting point is that *modus vivendi* cannot set theoretical limits on the scope of toleration, that is to say it cannot draw the line between tolerable and intolerable

²⁷ Sala 2013, 12.

²⁸McCabe 2010.

claims (or comprehensive doctrine) or on acceptable and unacceptable moral conduct. One goal of modus vivendi liberalism is to overcome the approach political liberalism has towards the fact of pluralism and to preserve pluralism as it is. For this reason, the boundaries of the agreement on toleration have to contingently vary according to the actual balance amongst the requirements of consenting parties. So far, McCabe's account is consistent with my original intent and the intuitions about modus vivendi grasped by literature: actual conditions of cooperation are contextually decided and the consequences of pluralism are not managed by the imposition of limits on it.

The distinctive trait of modus vivendi liberalism is the introduction of an underlying moral commitment for the support of modus vivendi institutions. In fact, modus vivendi liberalism endorses a thin morality, thought out as a form of minimal moral universalism, i.e. a set of fundamental assumptions about what is likely to be universally endorsed and that can therefore be considered as an integral part of every moral standpoint and all ways of life. McCabe distinguishes values between thick and thin ones and observes that thin morality is likely to be widely endorsed and therefore can be considered as an integral part of every moral standpoint and all ways of life: "That liberal democracy is the only legitimate form of government, that capital punishment is cruel, that political institutions should be resolutely neutral regarding religions – these are relatively thick ideas, endorsed by some viewpoints but rejected by others. That rulers ought in some way to be accountable to the ruled, that punishment should be appropriate to the crime, that no person should be forced to worship in a manner they reject – these are *thin moral values that any morally decent person must endorse*. While people can reasonably differ over the content of thick morality, they cannot plausibly deny the requirements of thin morality"²⁹. Now, minimal universalism is essential to modus vivendi liberalism, because in McCabe's project, the redefinition of modus vivendi depends on abandoning the rejection of moral ideals, typical instead of RMV, for the "presumption that the interests of all persons matter equally"³⁰.

If modus vivendi is supported on the basis of thin morality, this would not represent an imposition of a specific moral framework. In fact, the relative weight of thick values is not once and for all decided and their implementation leaves room for

²⁹ McCabe 2010, 138, my emphasis.

³⁰ McCabe 2010, 138.

different possible policy designs. This flexible character of thin morality answers, according to McCabe, the question risen by value pluralism: since no value is *a priori* overriding (with the exception of minimal *thin* ones), the relationship between the modus vivendi liberalism framework and the particular moral demands (e.g. coming from religions or traditions in cultural minorities) is contingently adjusted. In McCabe's perspective, the availability of thin morality, so thought out, is the solution to the problems that Rawlsian modus vivendi shows. On the one hand, the thin core of values plays an active role in the political reasoning of citizens and their individual moral connotation coherently avoids that rupture between their moral private and a-moral public attitude, presupposed by the RMV. On the other hand, the plasticity of thin morality is supposed to respect the contingent and precarious character of modus vivendi: the set of values embodied by thin morality, their rank and their implementation in terms of policies is subject to the circumstances and available for negotiation.

It seems to me that thin morality plays in the economy of modus vivendi liberalism the same role that the principles of justice play in Rawls's political liberalism. Agreement around toleration, endorsed *per se* as a value, generates stability because toleration is *ex ante* supposed to be a fundamental good from *all* standpoints. If there is an already shared morality, even minimal, then a minimal overlap amongst point of view is already there. Such presupposed overlap amongst the viewpoints together with the presumption of such commitment being already embedded in contemporary societies configures modus vivendi as a weakened version of political liberalism. Of course, modus vivendi liberalism defies the political liberal problem I defined as over-demandingness, but it does so by deflating the same theoretical structure. Rather than relying on reasonableness, it draws the line of acceptable pluralism on a form of moral decency rather than just referring to the basic political interests that people have in common: peace and order.

In so doing, modus vivendi liberalism ends up resembling the stage of constitutional consensus in so far as the *prudential* nature of the agreement underpinning modus vivendi institutions goes missing. In this sense, modus vivendi liberalism is answering a question asked by a form pluralism that is already moderately converging on some core principles and loses the inclusive capacity to potentially control the full scope of pluralism. An important distinction has to be drawn in order to show how it is

theoretically relevant to give up with a presupposed consensus. A look at contemporary democratic societies will show that the *de facto* political preconditions of peace and order are relatively secured and even those moral viewpoints that might at a first glance be considered unreasonable, actually comply with the institutional structures in place and in fact corresponding the model of non-reasonableness rather than unreasonableness. Now, should modus vivendi theory refer to (and in so doing only be relevant for) the present context? Modus vivendi liberalism rightly acknowledges this, but incorporates this aspect of the status quo amongst the premises of its case, thus turning it into a *de iure* condition. For this reason, modus vivendi liberalism falls into the same moralistic paradigm that affects political liberalism: it endorses a redefinition of pluralism that is backed by a theoretically anointed and not politically decided morality.

2.4. *The place of toleration in modus vivendi*

The project of modus vivendi stems from the idea that there cannot be an original *moral* commitment to a certain set of institutions or form of cooperation (let it be the most just, or most efficient, or any ideal type of coexistence). Modus vivendi is the minimal reply to the need for peace and order that is intrinsic to politics and that can only be achieved through mutual toleration. This is the *idea* of toleration serving modus vivendi. If on the one side toleration can be conceptualised as the pursuit of an *ideal* form of life as in Locke and Kant, on the other side it corresponds to the most efficient outcome of the search for terms of peaceful coexistence. I support the view that it is in this latter and thinner sense that it has to be regarded as an essential aspect of modus vivendi: toleration is the best strategy to achieve a decent level of order. I shall begin by ruling out thicker ideals of toleration as adequate for the purposes of modus vivendi.

John Gray touches upon the multileveled nature of toleration and its relationship with value-pluralism at several points, identifying two ways of thinking of it: “In the form that we have inherited it, liberal toleration is an ideal of rational consensus. As heirs to that project, we need an ideal based not on a rational consensus on the best way of life, nor on reasonable disagreement about it, but instead on the truth that human will always have reasons to live differently. Modus vivendi is such an ideal”³¹. The first

³¹ Gray 2002, 5.

definition of toleration comes from the Modern era and points at an agreement among individuals, due to them possessing the attribute of *rationality*, on what is the *best* way to live, thus implying that it would be irrational not to live like toleration indicates. Gray refuses such notion as the cornerstone of a project that is structurally incompatible with value-pluralism. In fact, he argues that “[l]iberal toleration was *not a project of coexistence among different forms of life*, mutually acknowledge to be legitimate and worthwhile. It was one of restraint in relation to beliefs and practices confidently judged to be false or wrong. ... toleration expressed a common form of ethical life. It made moral disagreement possible for those within it while those who stood outside it were consigned to unintelligibility”³². In this sense, the exclusivist character of liberal toleration is conceptually close to the one of reasonableness or of a liberal vision that prioritises a specific conception of good (to use a Rawlsian terminology). For these reasons, Gray argues, liberal toleration as inspired by classical liberalism is the root of contemporary liberalism: it evolved into the notion of neutrality or into a perfectionist point of view.

The second definition, that Gray instead endorses, is fully built upon the doctrine of value pluralism. Toleration is the response to the idea that to flourish in manifold incompatible ways that reflect just as many sets and ordering of values is part of what *human nature* consist in. Once again it is important to keep in mind the distinction between the fact of pluralism and the doctrine of value pluralism. The fact of pluralism, says the phrase itself, is an empirical *fact*: one can observe that contemporary societies are plural, i.e. they host different incompatible viewpoints. The doctrine of value pluralism, says the phrase again, is a *doctrine* about the metaphysical status of such viewpoints. Although I made this distinction clear (I already stressed that my case against political liberalism does not rely upon an endorsement of value-pluralism and so I will do in my case for *modus vivendi*), Gray looks at the interplay between the doctrine of value-pluralism and the fact of pluralism by reducing the former to the latter: “[n]ow, as in some times in the ancient world, value-pluralism is not much so an ethical theory as an established social fact”³³. It is undeniable that Gray’s argument for an alternative to outlook on liberalism steadily rests on a commitment to the truth of value-pluralism. His

³² Gray 2000a, 324, my emphasis.

³³ Gray 2000a, 325.

vision of *modus vivendi* as an ideal that is “the natural successor of liberal toleration”³⁴ comes from this place. *Modus vivendi* is seen then: “an alternative agenda for contemporary moral and political philosophy”³⁵.

The first of Gray’s notions of toleration is as said the historical product of the Modern era and has been formulated as a response to a set of contingencies of deep disagreement, or better, discord and conflict. It has thus the merit of being a political answer to facts, but it relies on a theoretically given *unique ideal* of the best way of life and on a broad consensus about it. But *modus vivendi* represents an institutional set that embodies toleration as its *method* for a peaceful and ordered coexistence within its limits of incompatible claims. As much as public reason worked as a tool for political liberalism, toleration is the tool of *modus vivendi* for the management of pluralism.

In order to be an efficient mean in maintaining the political conditions of peace and order, and thus preserve the fact of pluralism, *modus vivendi* toleration has to realistically reflect the circumstances of disagreement that pluralism generates. Horton defended a minimal notion of toleration (that he called “traditional toleration”) as adequate for the purposes of *modus vivendi* politics also on the basis of its representation of actual political circumstances. “[Traditional toleration] is the willing putting up with the beliefs, actions and practices of others, by a person or group that disapproves them, and who would otherwise be inclined to prohibit or suppress them, if they had the power to do so. Toleration in this sense is a deliberate exercise of self-restraint, a willed refusal to interfere coercively with what is regarded as the objectionable behaviour of others. [...] [It] has the merit of including within a political accommodation that incorporates a measure of toleration, the antagonistic nature of many conflicts between divergent values and ways of life. It also allows some play for the inequalities of power that are typically airbrushed out of ideal political theory, whether this be conceived in terms of liberal impartiality or discursive democracy or an ideal speech situation, although it is not reducible to a mere balance of power or a mechanical calculation of interests. It acknowledges that the complex interweaving of interests, ideals and power, of self-interest, prudence and morality, is an ineliminable feature of any plausible understanding of political life, and that any adequate theorisation of politics

³⁴ Gray 2000a, 329.

³⁵ Gray 2000a, 326.

needs to take this complexity into account. Inevitably, on this view, the precise form that toleration takes in any actual political accommodation will be in large part a function of context and circumstance”³⁶. It seems to me that this long quotation highlights a subtle but crucial difference from the second of Gray’s formulation of toleration. If toleration embodies the idea that the different claims constituting pluralism are not only incompatible but can potentially be expressed in the form of a competition in the public sphere, then it is a thinner and therefore less theoretically compelling concept to serve *modus vivendi* theory. Rather than making an assumption about the truth of value-pluralism or about moral disagreement being an essential trait of human nature, Horton’s toleration only looks at the bare *fact* that *political* disagreement is an observable trait of contemporary societies and that pluralism seems for the present time impossible to overcome.

If committed to this idea of toleration, *modus vivendi* can leave unaltered the fact of pluralism, but it also accounts for the potential (often actual) imbalances of power, the unresolved disagreements that come with it together while at the same time embracing an accurate picture of individuals’ behaviour. In fact, toleration acknowledges the position that citizens hold with respect to one another’s opinions and moral standpoints: “What is tolerated is in some respect rejected as improper, lacking value or undesirable: the tolerant person or group is to some degree characteristically opposed or antagonistic, and sometimes actively hostile, to what is tolerated”³⁷. Citizens are and know that they are at one time tolerant and tolerated political agents. Reasonable citizens with a high sense of social and political unity and sufficient competence to conduct the public debate in a rational and organised way are far from the realistic picture of contemporary societies which *modus vivendi* wants to mirror. Toleration is endorsed in a fashion that entails no more than the acknowledgement that it is the most powerful mean to maintain a decent level of peaceful coexistence and as a good strategy to go along with fellow citizens in a situation of enduring disagreement.

³⁶ Horton 2011, 296.

³⁷ Horton 2011, 290. See also Nicholson 1985 and Susan Mendus: “the problem of toleration arises in circumstances of diversity ... toleration is required where the nature of diversity is such as to give rise to disapproval, dislike, or disgust”(Mendus 1989, 8).

3. Provisional conclusions

The goal of this chapter has been a critical analysis of the available literature on *modus vivendi*, starting from the Rawlsian outlook on it. I have started by highlighting how the dismissive position of political liberalism towards *modus vivendi* is dependent on the fact that the latter has been only conceptualised in relation to the former. The result, RMV, is a political proposal that is insufficient under several points of view. Contrary to political liberalism RMV is deeply unstable, but similarly to political liberalism it is inaccurate in accounting for political reality. As a result, despite being free from any moral demand, RMV places the burdens of epistemic demands on individuals. In so doing, RMV fails in its alleged aspiration to be a descriptive theory.

The second part of this chapter is devoted to the identification of what should be the essential characteristics of *modus vivendi* theory once it is perceived and thought out as a normative political project. The state of art of research on the theory of *modus vivendi* is characterised by a rich variety of contributions focussing time after time on the potential stability of *modus vivendi*, on what institutions should be typical of *modus vivendi*, on how is political interaction conceptualised in *modus vivendi*, above all what type of theory should *modus vivendi* be. There is wide agreement around the idea that *modus vivendi* should be a representative of non-ideal theory, but even more importantly the strive is visible to emancipate *modus vivendi* from political liberalism.

The idea I want to pursue is to answer the question of what *modus vivendi* is, by looking at it as an independent theoretical project and not anymore as a response to political liberalism. In order to do this, I had to examine what are considered the fundamental tenets of *modus vivendi* theory. My goal, starting from these points, is to formulate a theory of *modus vivendi* that be resistant to the objection I formulated against political liberalism, by at the same time maintaining the ambition to answer my initial question about the management of pluralism. What I am looking for is a theory of *modus vivendi* that be non-ideal, realist, but that most importantly possess the ability to preserve the fact of pluralism (*pluralism as it is*) without allowing the undesirable consequences of it to take over on peaceful and liberal conditions that are necessary for a pluralistic society to exist. Such *modus vivendi* should be able to conform to the political dynamics typical of real, and non idealised, citizens, that is complying to their potential unreasonableness (in Rawlsian sense), but also to their ability to cooperate for

the keep up of peace and security. The outcome, should be a theory able to balance the demands of desirability, by guaranteeing satisfactory political conditions, and feasibility, by relying of the actual moral potential of people. Being so thought out, this form of normative modus vivendi should turn out to be fitted and relevant for the present political practices.

The most important findings of this analysis of literature on modus vivendi go beyond an initial commitment to non-ideal theory. First, I hope to have sufficiently underlined how modus vivendi should look at peace and order as fundamental means, rather than ends, that *create the political space*. In this sense, the ancestry of modus vivendi is Hobbesian: peace and order are maintained as the necessary conditions for citizens to pursue their divergent plans of life. But because modus vivendi is also thought out within the debate on liberalism, peace and order are also the conditions for citizens to express in that political space their difference, ultimately potentially condensed in competitive political agendas. Second, and consequentially, the permanent effort for the preservation of order and peace, i.e. a refrain from resorting to violent means to pursue one's ends, has to be seen in modus vivendi as an unexpressed agreement to do so. The form of consent fitting the purpose of modus vivendi is of a *prudential* nature, free from a commitment to any form of morality, even a minimalist one as in McCabe's proposal. Nevertheless, modus vivendi theory should not exclude that moral or expressive reasons to comply to institutions could be real: a reduction of the complexity of the political life of contemporary societies to mere instrumentality would represent a withdraw into RMV. Such is the contextual character of modus vivendi.

Chapter 3

Compromise modus vivendi

The goal of this final chapter is to introduce my own proposal of modus vivendi theory. As I have previously suggested, I intend to use the concept of compromise and its structure as the privileged starting point to look into the definition of modus vivendi. The proposal I am about to outline represents the *pars construens* of this work, aimed at being a valuable alternative to both political liberalism and RMV. Because it refers to the dynamics and structures of the concept of compromise, but it is also built upon what scholars consider the fundamental characteristics of modus vivendi, I will label it “compromise modus vivendi”, hereinafter CMV. The aspiration of CMV is to contribute filling the gap between the political liberal solution and the one depicted by RMV, by relying on the findings of the debate around modus vivendi¹.

In order to be considered a valuable option, first, CMV should be able to resist the objections that I have raised against political liberalism and RMV. So, on the one hand, it has to be committed to non-ideal theory (alongside the implication of the available literature on modus vivendi). On the other hand, it should be a representative of normative political realism, thus avoiding the moralistic obstacles of the Rawlsian theory. This is to say that CMV should be sensitive to the reality of contemporary democratic societies and also make sure that politics (and not theory) is the place where the political community has to find the shape and substance of its foundations. Second, CMV should be able to pass the test of desirability and feasibility, under the scrutiny of which both political liberalism and RMV have proven to be dissatisfactory solutions: the former by falling short of practical relevance while resting on a mechanism of exclusion (of the unreasonable), the latter by being a highly undesirable cynical distortion of political coexistence, overlooking the complexity of its dynamics. Third, and possibly most importantly, what CMV should be is a worthy answer to question raised by the fact

¹ In this sense, the use of the label “CMV” should not give the reader the impression that I believe my proposal to be groundbreaking in the field of modus vivendi theory. My aim is, much more modestly, to figure out what constitutes the idea of compromise and how it can be used to define modus vivendi, rather than tackling modus vivendi in the first place and then incorporating the language of compromise. The wording “CMV” has the convenient aim of enhancing clarity.

of pluralism and its potentially unwanted consequences. CMV should aim at the preservation of pluralism as it is, in harmony with peace, order and stability.

1. Faces of compromise

1.1. *Compromise and modus vivendi*

This section is directed at clarifying what is meant by compromise and how it should be applied to modus vivendi (in order to obtain the CMV model). Literature on compromise is often committed to design a taxonomy of compromises thus conducting an analytical work about how to define compromises. Amongst others, the debate draws a distinction between compromises of principles and compromises of interests, moral compromises and political ones. My goal here is not to question the theoretical robustness of these distinctions, rather it is to find what could be the most informative idea of compromise for modus vivendi.

The notion of compromise entails the idea that the compromising agents have moral aspirations, i.e. they also reason and act, alongside with their beliefs and possibly feelings, in compliance to principles that may also have moral character. Compromise shares the structure of trade-off, negotiation, and bargain but it specifically reflects the idea that moral motives are involved. Notions such as trade-off and bargain only denote the willingness of involved parties, who have competing or not fully compatible goals, to meet halfway or to reach an equilibrium point amongst their relative aims, that be at least partially satisfactory in terms of costs and benefits but that does not involve any moral loss. This definition of compromise is not of course definitive, nor it is necessarily shared, but it grasps the general minimal intuition about what a compromise is, and most importantly it shows how working on it can be relevant for the study of modus vivendi². In fact, the underlying idea of modus vivendi theory, and more broadly of non-ideal political theory, is to be able to mirror the complexity of social interaction in pluralistic societies (the entanglement of moral viewpoints, but also goals, interests and expression

² An example of broad and intuitive largely acceptable definition of compromise in literature could be Philippe Van Parijs's one: "I shall here adopt a broad and value-neutral definition which is in line with the common usage of the French noun 'compromis' and the English noun 'compromise': *a compromise is an agreement that involves mutual concessions*" (Van Parijs 2012, 467). Another is provided by Fabian Wendt: "[c]ompromises, in my view, have two defining characteristics. First, they are agreements between two or more parties, occurring against the background of a conflict. ... What is distinctive about compromises is that all parties regard some other arrangement (not the one agreed upon) as the optimal solution – this constitutes the background of conflict. ... The second defining characteristic of compromises is that the parties to a compromise make mutual concessions" (Wendt 2013, 577).

of feelings) while offering a paradigm of political cooperation that stays true to such complexity by at the same time guaranteeing the fundamental conditions to preserve the intact political space.

In this sense, RMV represents a bargain whilst, on the contrary, *modus vivendi* should conceive the fundamental agreement on terms of coexistence as a practicable compromise among parties, hence CMV. Thus, CMV should be sensitive to the variety of moral commitments held by individuals and groups while, at the same time, encompassing the fact that the political space hosts considerations of relative interests and powers. Let me stress once again that CMV, as a *modus vivendi*, aims at being a model of cooperation and as such it is a *normative* theory, seeking to define terms of political interaction that do not strive for being the most just, rather the most adequate for the mutable context of contemporary liberal democracies.

1.2. Interests and principles

One analysis of the notion of compromise comes from Theodore Benditt's distinction between compromise of interests and compromise of principles. His idea of compromise implies some considerations about the structure of it and about the disposition of the parties. First, in a compromise none of the parties ends up capitulating, meaning that one side do not get to fully win over the other and there is no surrender to one of the two or more positions originally held. Those who take part to a compromise, all have to make steps further towards an agreed solution. Second, compromise is to be distinguished from appeasement because parties do not end up converging on one of the two or more originally held positions. In this sense, compromise must entail the idea that an in-between solution is the outcome of a compromising process. The idea of "meeting halfway" is necessary to the constitution of compromise but still not sufficient. In fact, according to Benditt, if parties are involved in a mere bargain, they will find a solution to the distance between their interests by meeting halfway, but in this case their relationship will be limited to mutual inducement, while there will be not recognition of the opponent as a moral peer³.

What Benditt labels a "compromise of interests" is reduced to a resource-allocation model and the reciprocate acknowledgement of moral peerhood among

³ Benditt 1979, 26-27.

compromising parties is essential because the parties' claims are to be regarded as equally legitimate⁴. In fact, "if the opponent's interests are different in kind from one's own, compromise is possible only if one recognizes a plurality of interests or some principle of tolerance"⁵. It seems to me that the message conveyed here leaves room for a minimalist interpretation, i.e. that the parties should be aware that interests are plural and that they can and indeed might be competing and that such plurality should be taken into account⁶. Now, this shows how it makes sense to apply the pattern of compromise to *modus vivendi*: it embodies the idea that competing interests can coexist insofar as there is some form of toleration or mutual recognition. For the moment, suffice to observe that the task of CMV theory would be to unfold for what reasons and how stably this paradigm can be performed in politics.

What, on Benditt's account, distinguishes the compromise of principles from the one of interests is a reliance on democratic procedures which outcome will embody a paradox: the implementation of the choice resulting from democratic deliberation is to be considered, even if is the result of a compromise, just, because it is democratically legitimated. Now, I take this to be a too bold conclusion for CMV (but also for *modus vivendi* more broadly). The definition of a just political outcome and more fundamentally of a standard of justice should not part of the project of CMV (again, nor of *modus vivendi* in general). Moreover, the outlook on the result of a compromise cannot be expected to be considered by the parties as the standard of justice. If the process of compromise leads them to reciprocal acknowledgement as well as to the search of a midway solution, it makes more sense to expect parties to predicate justice of their originally held positions rather than of the results of the compromise.

Another relevant taxonomy of compromise is the one designed by Chiara Lepora, according to whom a compromise is defined by a mutual sacrifice of one or a set of principles for the sake of another or another set of principles, whilst a sacrifice of

⁴ I will enquire more in detail in the notion of moral peerhood in the last section of this chapter.

⁵ Benditt 1979, 31.

⁶ Notice that, in his work, Benditt does not found his argument just on pluralism, rather on value pluralism. I have already explained how I intend to position my argument with respect to the distinction between the two. However, the case for competing interests and principle also works without endorsing the truth of value pluralism, but most importantly it reflects the dynamics of actual pluralism. Notice, anyway, that here my use of Benditt's reflections is limited to how they can be relevant for CMV.

material interests for other interests is just labelled as “choice”⁷. Lepora’s taxonomy of compromise envisages three different scenarios: substitution, intersection and conjunction⁸. “Substitution compromise” takes place whenever two actors, call them i_1 and i_2 , hold entirely different sets of principles, i_1 believes $\{a, b, c\}$ and i_2 believes $\{d, e, f\}$, but they both backpedal to $\{x\}$ that is acceptable but at the same time entails a renounce to the first stance from both sides. It seems to me that the democratic solution proposed by Benditt might be assimilated to the substitution kind of compromise: the agreement on $\{x\}$ shows that $\{x\}$ takes priority over both originally held sent of principles, so however $\{x\}$ is defined it possesses a characteristic (for instance procedurally defined justice, as in Benditt) that makes it acceptable from all standpoints. Notice that substitution compromise may well represent a compromise of interests: $\{x\}$ may be a halfway solution among competing non-moral aims⁹. However, even by accepting this interpretation of substitution compromise, the language of justice can be avoided. If $\{x\}$ is meant to represent the democratically reached decision, all that is said about it is that it has to be implemented and it will have authority, not that justice has been achieved or that it has to be approximated. In the second kind of compromise, “intersection compromise”, i_1 believes $\{a, b, c\}$ and i_2 believes $\{c, d, e\}$, therefore they will converge on $\{c\}$. It seems to me that intersection is a case of plain convergence and cannot really be thought as a compromise: parties are already agreeing and do not need any further adjustment to the original situation¹⁰.

An important consideration is to be done here: substitution compromise and intersection compromise seem to be adequate models when circumstances correspond to the Rawlsian ideal of reasonable pluralism and not in a situation of actual pluralism. The idea that parties find a solution that overrides their initial standpoints is fitting with the idea of the revision of comprehensive doctrines in a more reasonable direction (in the case of substitution) and with the idea of an overlapping consensus (in the case of intersection). In these cases, it does not seem fully adequate to use the notion of

⁷ Lepora 2012, 5-6. It seems to me that the exclusion of trade-offs among principles from the category of compromise is a mere matter of labels. The taxonomy traced by Lepora is applicable to conflicts of principles as well as to those of interests.

⁸ Lepora 2012, 7-12.

⁹ The interpretation I am giving is excluded from the beginning by Lepora, because in her language compromise can only be among principles. As I said, I do not hold this distinction to be valid for the purpose of my argument.

¹⁰ For this reason, Benditt rightly uses the term “appeasement” for this pattern.

compromise, but this is a mere question of definition. What is important is that neither the substitution pattern nor the intersection one address in depth the fact of pluralism. In the substitution case, there is no indication about the (in)compatibility of the two sets of claims, and in fact the two parties are able to agree on a solution that is alien to both. In the case of intersection the background of compromise is a partially pluralistic scenario since an agreement is already at hand.

Finally, “conjunction compromise” is the scenario in which i_1 holds $\{a, b, c\}$ while i_2 holds $\{\neg a, \neg b, \neg c\}$, there is no intersection and no room for a further principle able to accommodate both demands, because they are deeply irreconcilable. This is the most interesting and relevant case especially because pluralism is well reflected in the incompatibility of claims and beliefs. The solution to the conjunction scenario may indeed take the form of all possible conjunctions of affirmative and negative claims (that would be $\{\neg a, b, c\}$, $\{a, \neg b, c\}$, $\{a, b, \neg c\}$, $\{a, \neg b, \neg c\}$, $\{\neg a, \neg b, c\}$, $\{\neg a, b, \neg c\}$). In all cases both parties are lead to what from their starting point is considered wrongdoing and to partial, although mutual, sacrifice. This is the form of compromise that mostly requires the application of toleration, because it discloses the idea that, from one’s principled standpoint, some moral loss takes place. The partial sacrifice that the parties face is inherent to compromise: the only way to avoid the loss would be not to take part to the compromise. It seems to me that this is an aspect of compromise that is pertinent to *modus vivendi*, since it shows how if the fact of pluralism is taken seriously and not restricted to a circumstance that already embodies agreement (as in the intersection pattern). In circumstances of real pluralism the decision agreed upon will always carry a measure of loss from the different standpoints, a loss that is due to the very presence of others, sharing the same political space. This is the reason why *modus vivendi* requires a form of toleration that, unlike classical toleration (discussed in Chapter 2), does acknowledge the absence of a final common solution, unlike what is suggested in the substitution pattern. The kind of compromise that CMV should take into consideration is one that involves principles and follows the pattern of conjunction.

1.3. Principled standpoints and prudential reasons

Another important aspect of what defines compromise that is especially relevant for *modus vivendi* concerns the quality of the reasons why agents take part or should

take part to a compromise. By looking into this debate (especially in the disagreement between Simon May and Daniel Weinstock) I show in what ways the instrumentality that I have predicated upon *modus vivendi* can be (at least partially) drawn from the semantic sphere of compromise. The goal here, is not to rule out principled or morally inspired reasons, rather to show that they are not necessary to prove that there is a sufficiently substantive reason to enter a *modus vivendi* in the form of a compromise¹¹. This section should prepare the path to the understanding of what kind of agreement should support CMV.

One prominent position in the debate about the definition of compromise dynamics is May's thesis that agents are only ready to compromise their moral positions for prudential reasons¹². In fact, he argues that "[p]olitical compromise occurs when a political agent invokes the fact of disagreement as a reason to accept an alternative that she perceives to be worse on its own merits than her initial position. Although prudential compromises can arise between political agents motivated purely by their self-interest ... moral compromise ... occurs when disagreement is invoked as a reason to accept a political position otherwise perceived to be morally inferior"¹³. The idea underlying political compromise is that parties perceive their originally held position as better than the others' ones as well as better than the midway solution that the compromise represents. This is consistent with the thin notion of toleration I argued to be adequate for *modus vivendi*. Under circumstances of pluralism, like the ones depicted by Lepora's conjunction compromise, one cannot expect that citizens consider their opponents' position as equally valuable as their own. Neither it would make sense to determine that a modification to one's position triggered by the necessity to find a conjunct decision should be, from that particular point of view, equally good or even better. Such a

¹¹ A final specification that needs to be done preliminary to the debate on principled and prudential reasons has to do with the similarity and difference between moral compromises and political compromises. Once again the organisation of the taxonomy is a question of labelling. Suffice to say that some identify compromises made for prudential reasons with political ones, and principled compromises with moral ones. I will not discuss the details of this distinction here. I follow Antonella Besussi's identification of moral compromise as one dependant "on a strategy that underneath a pact of pacification leaves intact disagreement admitting its impossible extinction" (Besussi 2016, unpublished manuscript). Such definition seems to me especially explanatory of how I could, for the sake of the argument for CMV, overlook the difference (if there is any) between moral compromise to political compromise. Recall that my original question is to look for a satisfactory strategy to manage the undesirable consequences of pluralism. In this sense, CMV should be a strategy that is able to preserve pluralism in its factual shape by reaching political conditions that do not jeopardise peace and order. The idea that citizens in a society hold different moral positions and compromise in order to reach a political decision, *de facto* reduces political compromise to a subspecies of moral compromise.

¹² "moral compromise in political life is only ever warranted for pragmatic reasons" (May 2005, 317).

¹³ May 2005, 318.

scenario would represent a correction and not a compromise¹⁴, a situation that can surely occur in circumstances of pluralism, but that falls outside the pattern of compromise. Compromise implies mutual loss and even if it can potentially lead to an improvement, such assessment will come from a view from nowhere, certainly not from the parties involved, that have to make concessions¹⁵.

What instead May considers the correct pattern is *pragmatic* compromise, that is one promoted by the extrinsic condition of disagreement (in political settings, pluralism) and which reason to be carried on is an important goal, as peace and order can be for a political society. In this sense, compromise is carried out for prudential reasons. When applied to *modus vivendi*, citizens must have reasons to accept that not all of their moral beliefs will always be fully mirrored in legally binding policies or comprehensively and exclusively taken into consideration in the institutional process of designing and implementing such policies. Their alternative options would be to resort to conflict (in more or less violent forms) or to exit from the political community¹⁶. The decision to continue their life under the umbrella of the same institutions implicate a pragmatic compromise, instrumentally directed at the preservation of their possibility to pursue their goals in a peaceful and at least decently ordered environment¹⁷. What citizens share is not a moralised commitment to realise justice or a supererogatory duty to preserve their political society for reasons dependent on their sense of belonging to a community. In other terms, they do not share a responsibility¹⁸ to care for the public good: first, it is a fact that not all people are easily ready look at their political community as an overriding

¹⁴ May 2005, 319.

¹⁵ The difference in perspective is, I think, crucial for the understanding of what compromise and more specifically CMV demands of citizens. The idea that from an individual viewpoint compromise will always represent a loss is challenged by Van Parijs's idea of "good compromise". According to him, one of the conditions that make a compromise good is that "it must make both parties better off than under the status quo, not just better off than in the absence of compromise" (Van Parijs 2012, 479). First, the burden of the assessment of the compromise should not and cannot be on the involved parties, as it would *ipso facto* imply a correction of the originally held position. Hence the change of perspective: only an external viewer (and possibly only afterwards) can judge the goodness of a compromise. Second, as I will explain more at length in the following sections, CMV does not exclude that the outcome of compromise can turn into an established and widely accepted solution, but this cannot be a fundamental condition for it.

¹⁶ See Van Parijs 2012, 467-468.

¹⁷ An important remark is needed at this point: unless CMV is thought out within the boundaries of contemporary liberal democracies, it cannot guarantee that all parties of the compromise, i.e. all citizens, will be able to pursue their specific plans of life in a society in which they might happen to be a minority. To find the solution to this potential *impasse* CMV has to hold onto what I called the non-ideal vocation of *modus vivendi*. The specific shape of institutions of CMV is politically (thus contextually) decided and theory has no place in determining it. Otherwise, CMV would be a form of moralism and as such hardly preferable to political liberalism. As a theory relevant for the present conditions in contemporary democracies, CMV is already constrained by the framework of liberalism.

¹⁸ See May 2011.

good or value (and non-ideal theory cannot imply it); second, CMV should not, as a theory, aprioristically impose such a demand concerning what citizens should hold to be good (because this would be inconsistent with pluralism).

In order to finalise my case for pragmatic compromise, I shall now address Weinstock's four counterarguments to the possibility of compromising on the basis of a principle rather than for prudential reasons. Weinstock's first case relies on the idea that citizens should think of each others as epistemic peers and be confident that the outcome of the compromise could be "a position that integrates a broad range of relevant considerations [and] better captures the stakes involved in a policy decision"¹⁹. The second case refers to the gap between democratic institutions and democratic ideals: because democratic institutions are imperfect, the goal of compromise is to realise higher democratic ideals (rather than, as I argued, rely on the democratic standard as a constraint for the outcome)²⁰. Once again, the immediate answer to these first objections comes from the place of non-ideal theory. As much as it is desirable that citizens conceive public discourse as a forum to perfect their moral viewpoints and to perpetuate the realisation of democratic ideals, it is visible how they instead do not equally distribute skepticism on their and others' views and are often not alien to depicting each others as misinformed or ill-faithed. Moreover, the demands raised by such conditions are supposed to trump any consideration of what is good involved by the plural moral standpoints of citizens. Thus, not only the complexity of political interplay is overlooked but pluralism is tamed in principle. While CMV is thought out within democratic liberal settings it does not require that once and for all citizens should commit to put an effort in the enhancement of democratic ideal.

Weinstock's third case appeals to the supposed duty citizens might have to each other as members of the same polity. I have already ruled out this objection, following May in stating that citizen should not be held responsible for the preservation of the political community. They have an *interest* in it being peaceful and stable, and they might develop a sense of responsibility, but this should be no more than a possibility. The fourth case concerns the consequentialist justification of compromise: "[c]ompromises made for reasons of 'principled consequentialism' have this structure. They are

¹⁹ Weinstock 2013, 546.

²⁰ Weinstock 2013, 550.

principled, in that they are done for the sake of the advancement of a moral value or set of values. But they are also consequentialist, and thus partially prudentially based, because they account for the circumstances of the real world in order to determine the extent of the compromise that is required in order to optimize the realization of a value given circumstances”²¹. Certainly, one could argue about the nature of consequentialism, and I believe indeed that it is possible to build a consequentialist argument meant to promote a value or a principle. However, I do not believe that this would make the argument prudential, neither that accounting for circumstances corroborates the supposed prudential nature of the argument. Of course, this is a large debate that falls outside the scope of this work. But it seems to me that Weinstock overloads the nature of compromise by demanding that it is addressed at promoting a value or principle, after all an end, rather than, more modestly, a mean. Again, I have to clarify the relevance for CMV: the fundamental reason to compromise is to promote peace and order, but this does not *necessarily* mean, that peace and order are overriding political values. In fact, they are conceptualised in CMV as mean, instruments to *allow* the fact of pluralism to remain untouched.

In conclusion, I have shown how the pattern of compromise that CMV should challenge is one (labelled as conjunction) that embraces the possibility of disagreement to be, at least temporarily, insurmountable. I have insisted that the reason to enter the mechanism of compromise in such circumstances is prudential and so CMV would take the form of a pragmatic compromise.

2. CMV, consent and stability

At this point I have analysed how and in what sense CMV combines aspects that have been typically ascribed to *modus vivendi* and to compromise. I have shown how CMV is committed to non-ideal theory, as it endorses a type of compromise that does not involve any idealistic expectation on the compromising parties, i.e. the citizens of CMV. In this section, I intend to focus on the desirability and practicability of CMV. In order to be a plausible and also satisfactory solution, CMV should provide reasons to be endorsed and maintained as well as guaranteeing a decent level of stability. The initial intention of CMV is to be a strategy to face the fact of pluralism. In order to do this, it

²¹ Weinstock 2013, 553-554.

has to prove to be a viable pattern of cooperation that leaves pluralism untouched while providing peace. After all, “[t]he aim of *modus vivendi* cannot be to still the conflict of values. It is to reconcile individuals and ways of life honouring conflicting values to a life in common. We do not need common values in order to live together in peace”²².

*2.1. Between a balance of power and overlapping consensus: reasons for a *modus vivendi* agreement*

I have insisted already on the idea that compromise highlights how peace and order should be conceived as having instrumental value, and how the commitment to *modus vivendi* institutions is brought about first and foremost by prudential considerations. I have argued that such prudential motives are essential to *modus vivendi* and that, for this reasons, it entails a thin notion of toleration. All such consideration are meant to contribute to the design of CMV but they leave open the question about the stability of it. More specifically, such question asks how stable could potentially be the agreed solution of compromise represented by CMV, i.e. its institutional settings. In order to grasp the kind of stability CMV is capable of providing, I firstly have to reflect on the kind of consensus that can potentially arise around CMV.

CMV is a consensual form of political arrangement, but, unlike political liberalism, it does not aim at an agreement around principles supposed to be the most just or most justifiable ones. Since the consent underpinning CMV does not need to make a selection of reasons, moralistically considered more or less adequate, CMV does not define *ex ante* what should be the fundamental set of principles or rules to be agreed upon. The shape that the framework of coexistence takes is contextual and politically decided, embodying toleration as the necessary means of peace. Such an agreement does not depend on the capacity of political institutions to reflect a specific conception of justice, rather on their “ability to reconcile, thought not perennially eradicate, conflict, and in doing so provide a means for the peaceful coexistence of people with different and conflicting moral, political, and religious views”²³. CMV is not aimed at overcoming disagreement, only the conflict. Citizens in a CMV do not set aside their beliefs for the sake of consensus, they only set aside the struggle for the sake of peace²⁴. The one

²² Gray 2002, 5-6.

²³ Sleat 2011, 482-483.

²⁴ “compromise has nothing to do with the abandonment or the mere denial of conflictuality, but rather concerns a change in the *form(s)* of conflictuality. It is not “peace” in the Kantian sense of a suppression of any cause of future conflict” Arnsperger and Picavet 2004, 168.

instrumental reason that motivates the search for peace is that everybody (or at least the vast majority) has an interest in peace. It does not matter what viewpoint (or comprehensive doctrine) citizens come from, that is to say it does not matter what they take to be an important good or a fundamental principle in life, peace (the order, stability and security that come together with it) is the precondition for them to try to realise that good or satisfy that principle²⁵. Moreover, “peace has a specific instrumental value because it is a precondition for economic growth and wealth creation, something (almost) all people arguably want”²⁶. In this sense, peace is the one fundamental reason that justifies citizens to take part to CMV: they share an interest in peace because the fulfilment of their moral aspirations, expressed in their ways of life and plans of life, requires an adequately ordered political room. This does not exclude that they may eventually develop attachment to their political institutions but nevertheless, the starting point for its endorsement is of a prudential kind. Although the conflict (or potential conflict) is among principles (values, views of the world, forms of life) the agreement maintain CMV stems from a “partial coincidence on interests [because] [a]t minimum, both parties have an interest in terminating their conflict, because, presumably, remaining in conflict leaves them both worse off than one or the other possible settlement”²⁷.

In this sense, peace is a first-order prudential reasons to support CMV. However, if CMV limited its account of agreement to this, it would not be a model of cooperation too distant from RMV. Certainly the justification for sticking to the pact stemming from compromise (i.e., to modus vivendi institutions) is fundamentally instrumental. This focus on instrumentality leaves room for two other types of commitment to CMV institutions that *cannot* be exclude in principle. First, it is possible, and indeed likely, that other considerations of moral character might contribute to the maintaining of the agreement. CMV should be reticent about the reasons for the acceptance of its institutions. Contrary to political liberalism, that only elevates as acceptable the right reasons, and contrary to RMV that is entirely founded on a lucky conjuncture, CMV should not impose limits on what counts as a reason to comply to institutions. A similar limitation would immediately mean that the fact of pluralism is tailored onto the

²⁵ Horton 2010, 438.

²⁶ Wendt 2016, 9.

²⁷ Golding 1979, 13.

requirements of theory. When it comes to the selection of reasons, CMV has simply no requirement. Support to CMV can be animated by a variety of reasons as broad as the fact of pluralism is²⁸. Reasons that produce the acceptance and compliance to CMV are multiple and can be incompatible. It is in any case difficult to precisely identify what motives trigger political agents to perform an action. CMV is indifferent to the nature of such reasons, they are only normatively relevant if they contribute to the stability of institutions²⁹. Moreover, such reasons can be in reciprocal conflict as the backbone of the support to CMV is in any case prudential and oriented to the upkeep of peaceful political conditions.

Second, it is possible that conditions of stability might encourage a sense of loyalty and obligation to the political community. Like the previous kind of commitment this is also entirely contingent and relies on the intuitive idea that long-term cooperation and coexistence might result in a form of attachment. However, this kind of mechanism is also fundamentally grounded in the necessity of peace as a precondition. As Sala expresses it: “[a]fter the reasons or motives they [the citizens] may have to comply with laws, the *practice* of cohabitation work undoubtedly to cement a peaceful community of citizens, be they committed for the ‘right reasons’ or not. ... The special place of the goods of peace and safety does not mean that they are for everyone the supreme goods. That is, it is not necessary to conceive peace and safety as our final ends – or ideals – to feel committed to seeking them”³⁰.

CMV does not correspond to the negative idea promoted by the famous Rawlsian expression “a mere *modus vivendi*”³¹. The agreement on the institutional settings of CMV does not depend on a theoretically defined set of principles or reasons, rather it embraces the political circumstance of pluralism leaving it unaltered. The absence of whatsoever philosophical definition of consent enables CMV to avoid moralism and thus to qualify as an example of political realism. Unlike RMV, CMV is not narrowed to a specific set of circumstances, neither it embodies an intrinsic defence of a status quo.

²⁸ “I think that we can keep silent on the kind of reasons for accepting a compromise. It might, and often will be, prudential reasons, based on self-interest, that lead people to accept some particular compromise, but it might also be moral reasons” (Wendt 2013, 578).

²⁹ For these remarks I am indebted to Katharine Schweitzer, for the discussion on her outlook on *modus vivendi* at the conference “*Modus Vivendi*” held at the Centre for Advanced Study in Bioethics, Westphälische Wilhelms-Universität Münster on 8-10 July 2015.

³⁰ Sala 2015, 178.

³¹ Rawls 2005, 147.

On the contrary, it preserve the normativity of compromise by allowing the political mechanisms of pluralism to unfold.

2.2. Stability in CMV: the problem of robustness

I now turn to a defence of CMV as a strategy able to perform stability. I point out that CMV offers a satisfactory account of stability which has the advantage of not resting on the imposition of any limits on pluralism. For this reason, I argue that CMV should be considered preferable to both RMV, because it is condemned to instability, and to political liberalism, because it moralistically governs pluralism. CMV takes into consideration the preservation of conditions for a peaceful coexistence, therefore a certain level of order and stability is to be guaranteed. However, compared with the notion of stability embodied by political liberalism, the one implied by CMV should be radically different. The aim of CMV is not a strong and moralised stability for the right reasons, as in political liberalism, rather stability is related to the need for a decent level of order and conditions of cooperation. This indeed contrasts political liberalism in at least two senses, which I will call the robustness of stability and its content.

In the political liberal framework, the notion of stability is politically grounded in the ideal of an ongoing agreement that is supposed to last over time, not needing any adjustment or redefinition, deriving from what are thought as the ordinary political circumstances of the well-ordered society. The allegiance to the principles of justice is the cornerstone of such robustness, while their absence leads, according to Rawls, to the annihilation of any relevant reason to comply and therefore to profound instability, as in RMV. The kind of stability CMV aims at corresponds instead to minimal conditions of order, sufficient to set the terms of political society to exist over time. This does not necessarily mean that the fundamental institutional structure must be continuously renegotiated (a possibility that is instead coherent with RMV) or that it is desirable to do so. In fact, although CMV should not be conceived as a definitive achievement, it can be embodied in institutions (first and foremost in a constitution). One substantial feature of CMV is the assumption that they may *or may not* last over time, depending on contingencies and above all in how contingencies affect the acceptance of the compromise they represent by involved parties (i.e. citizens)³². CMV should reject, or at

³² Horton 2010, 440-441.

least give up with, a robust concept of stability because CMV is coherent with the idea that politics *and not morals* is the proper means required to deal with contingencies that are by nature unpredictable.

That is why the less ambitious notion of stability of CMV accounts better than the political liberal one for the flexibility that political life itself requires³³, without being completely deflated as in RMV. In fact, the citizens' availability to compromise, and therefore to CMV, secures citizens' commitment to the preservation of order. At this point, it is important to make two remarks. First, a reiteration: the commitment to order is instrumental and therefore it is not trumping other values that may be morally connoted and embodied in particular points of view. Pluralism is thus preserved in its factual shape by CMV. Second, the allegiance to CMV does not necessarily equate with an unconditional preservation of the status quo, rather the conditions for the citizens to comply or refuse to support CMV are to be contingently defined.

2.3. Light stability

The second sense in which CMV is different from political liberalism and RMV is the content of stability. Political liberalism aims at stability for the right reasons, where the rightness of such reasons is assessed in accordance with principles of justice (while by contrast RMV is associated with a complete lack of stability). That is why it is appropriate in political liberalism to speak of a kind of "content" of stability: reasons leading to stability are not conceived as historical or contextual causes stimulating political mechanisms, rather they are the effects of a precise set of conditions hypothetically occurring as the result of citizens' widespread moral commitment to principles of justice. In CMV the general requirements of order and peaceful coexistence do not need a set of principles of the sort political liberalism proposes and stability does not need to be founded on a strong consensus. At the same time, stability in CMV is not completely empty of moral content. In CMV, citizens are not required to rethink their moral allegiances and beliefs to make them fit into the agreement. Citizens are aware of living in conditions of deep pluralism and clashes amongst values and principles constitute a relatively enduring characteristic of their coexistence: CMV does not aim at altering this condition. On the contrary, CMV relies on the idea that from an individual

³³ Horton 2006, 161-164.

point of view, having certain protection of the fundamental liberties (as in happens to be the case in contemporary liberal democracies) shall be a sufficient reason to support the institutional set which citizens have compromised upon. Individuals are better off with the possibility of nurturing their plans of life even if they do not correspond to the majority's ones (while being aware that they might eventually become majoritarian) rather than with the certitude of oppression or chaos. Moreover, citizens know it is a genuine compromise (of sanguine kind, involving mutual sacrifice and acceptance of terms of negotiation) underpinning the CMV. Not only they should be able to tolerate living in the same political space with individuals and groups holding moral beliefs that can be incompatible with theirs, but also they would have to face the fact that such clashing moral claims can be represented in the public debate and therefore they must be ready to negotiation, in the sense I explored above.

So, CMV accounts for a notion of *light stability*: there's no principled ground and no political settlements or policies must be expected to perform in the long run and in a widely justifiable way. I think that light stability shows how CMV is preferable to both political liberalism and RMV. On the one hand, there is no morally decided principle that informs the reasons to support CMV. This means that citizens are not compelled to look for the right reasons Rawls wants, i.e. those conforming to principles of justice that are given from outside politics. Citizens of CMV can, paraphrasing Rawls, support the institutions for *good* reasons, i.e. those that are embodied in their moral point of view. In such a scenario there is no need anymore to regulate pluralism or to limit its spectrum. The plurality of claims may or may not flourish without being subject to any boundaries. On this ground, CMV is able to resist the objection I raised against RMV that I called "radical dualism", despite being a form of *modus vivendi*. On the other hand, CMV does not renounce any form of stability as RMV does. Citizens of a CMV are moved by the availability of negotiation to create stable conditions to let their ways of life free to unfold. Their willingness to compromise coincides with their willingness to cooperate and such awareness triggers the support to the compromise expressed by CMV, in a way that is more stable than a contingent (fortunate) convergence of interests. Briefly said, it seems to me that while political liberalism is able to guarantee stability at the price of pluralism and RMV instead preserves pluralism at the price of stability, CMV's light stability is able to account for the fact of pluralism without endangering order.

Some final reflections should be done about the notion of light stability and how it does not distinguish among the types of reasons in support of CMV. Such question concerns the relationship between the stability of CMV and its justifiability: should a justifiable order be in place for CMV to be stable? It seems to me that light stability depends also on the capacity of CMV to be justified to citizens and on the thickness of the consensus that can be built on CMV institution without affecting pluralism. This begs the question about the distinction between actual consensus and hypothetical consensus and also the one about the conceptual relationship between consensus and legitimacy. Now, the problem is that the search for a common shared core of beliefs and interests has always lead in the liberal tradition to an hypothetical account of consensus³⁴, that is unquestionably less satisfactory than actual consensus. Hypothetical consensus needs to be validated or at least corroborated by an empirical claim confirming that there is evidence for considering such consensus at least in principle possible. This is the reason why Rawls appeals to the public political culture³⁵. One way of avoiding the recourse to hypothetical consensus is to accept that no state or political arrangement will ever be fully justified. But one of the points of CMV is exactly to deflate the demandingness of political liberal legitimacy requirements (strictly dependant on public justification) and showing thus that the fact of pluralism can be really taken into serious consideration when no strong (and moralised) consensus is expected to be in place. The consensus form of CMV is, as said, contingent.

Hypothetical acceptability of political settlements is thus substituted by actual acceptance that can be grounded on various reasons³⁶, in fact compromise does not require to give up fundamental moral commitments and therefore the consensus on CMV is compatible with heterogeneity of reasons. In other term, CMV is accepted as a second best and compliance to it does not depend on a full agreement on its fundamental arrangement. This is possible because the institutional structure of CMV is not presented as the most just or the once-and-forever decided to be best one and so negotiation and adjustment to circumstances may make it change. Such acceptance is the basis for light stability of CMV, since there is no set of right reasons making stability robust as the

³⁴ Horton 2012, 132-137.

³⁵ Rawls 2005, 13-14, 462-466.

³⁶ "A *modus vivendi* is a practical accommodation that can be built around any number of factors and be accepted for a variety of reasons by those who are parties to it" (Horton 2010, 440).

political liberal one, but it also accounts for its contingency, that does not depend on consensus around just principles, being consensus at best broad and not necessarily universal (because actual rather than hypothetical). Thus CMV reconciles the need for consent with the realist ambition of avoiding a principled moralised base for it.

3. CMV: demands

As said, it is possible that citizens take in high value the fundamental liberal principles grounding their communal living, besides them being instrumentally endorsed. Nevertheless, citizens are expected to acknowledge that their allegiance to CMV normatively calls for a specific individual attitude, one that makes the compromise effective and stable. They should thus be aware that the survival of their moral standpoint in the public debate should not be taken for granted and therefore they should be ready to see their moral commitments being considered negotiable and possibly being openly put into question. Ultimately, citizens should be ready to accept that their moral adversaries have the real possibility of reaching a position of power and that for this reason some policies will not be entirely justifiable to them in the way that might be expected, and is indeed required, in political liberalism.

I began this work by criticising political liberalism for its being ideal and moralistic, especially blaming the notion for reasonableness. I claimed that the morality of reasonableness is *over-demanding* and that its scope being defined within the principles of justice makes it a moralistic ideal, thus undermining the authenticity of the *political* character of the Rawlsian theory for the sake of the highness of its moral standard. I explored the mechanisms of RMV, concluding that it lacks whatsoever normativity, and that for this reason it does not unravel the full potential of modus vivendi. Such endeavour has been endorsed by modus vivendi theorists, who all agree in committing modus vivendi to non-ideal theory and also look for a way of developing it as an independent theoretical field. I conceived CMV as tied in this tradition, relying on the literature on compromise in order to test its stableness in terms of desirability and practicability. In order to do so, I specified what ideas of consent and stability should be tied to CMV. Now I shall turn to the normative capability of CMV and reflect on whether the morality of compromise is compatible with the purpose of modus vivendi

and resistant to the objection of moralism. I articulate my point by pinpointing three broad demands, i.e. the duties that CMV requires its citizens.

3.1. Impossible dreams

The first demand of CMV regards the way citizens in liberal societies relate to their own moral standpoint, that is their disposition to live under institutions that might not fully realise or express what they hold to be just, good or true. CMV mirrors an idea of compromise that, in Avishai Margalit's terminology, is of the "sanguine kind" as opposed to the "anemic kind". While the anemic compromise is well described by the idea of bargain, or trade-off (which are closer to the model of RMV), the sanguine compromise implies a special attitude of the parties: the understanding of the point of view of the opponent, the readiness to mutual concessions and mutual sacrifice, the absence of coercive force and most important the psychological attitude of not considering one's own position as a dream to be realised³⁷. Treating particular positions as dreams is the obstacle to the availability to negotiate a common frame of coexistence. Compromise embodies the idea, consistent with pluralism, that the way we rank good and values is *contingent* and that no good or value will be once and for all established to be overriding. So compromise itself is the best we can achieve because reality will always fall short of our ideal (our irrevocable dream). A compromise is the best achievable agreement, although it is in principle a second best: reality will always fall short of our ideal, whatever this ideal is. It is important to a politics of CMV, that people disagree without taking debated issues as a matter of life and death and with awareness that their "principle[s], prudence and self-interest, means and ends, reason and emotion, are typically bound together in politics in a potentially inexhaustible variety of complex, confusing and unpredictable ways, always partly dependent on circumstance and context"³⁸.

Such a renounce represents a loss, inherent with the idea of a halfway solution. Every party (every citizen or group of citizens representatives of a moral viewpoint) partially loses because they will not be sure that their standpoint will be the majoritarian one, but also because they are compelled by the agreement to live together with fellow

³⁷ Margalit 2010.

³⁸ Horton 2010, 442.

citizens whose views they do not share but just tolerate (and perhaps dispraise)³⁹. However, they are at the same time better off with a sure but partial loss, rather than with running the risk, through exit or conflict, of also losing the liberty of expressing their ways of life⁴⁰. The disposition to give up with non-negotiability is the condition to achieve minimal agreement on the terms of coexistence. When compromising, i.e., when accepting CMV, citizens face the open possibility of belonging to a social minority or majority, i.e. to find themselves in an empowered or disempowered political position whilst *certainly* maintaining the liberty of leading the way of life they prefer. The compromising option secures stability and peace and thus keeps the possibility open for change. An alternative option for citizens would be to refuse to compromise (because of the sacredness or inviolability of their moral principles), thus choosing to run the risk of losing those conditions of order and security that guarantee them the ability to live according to their ideal. This loss they would be able to avoid only by constantly maintaining a position of power that may anyway be conditioned by manifold, but most importantly *unpredictable*, circumstances, let them be political or extra-political. It seems to me that the compromising option will always be preferable to the risk, because it enables citizens to preserve both their fundamental liberties and the possibility of gaining a position of power. The conquest and hold of power cannot be more than a possibility and, more than that, a temporary one.

3.2. *Provisional answers and peerhood*

A second duty of citizens of CMV consist of their readiness not to expect that political decisions will always be perfect solutions or impeccably mirror what they maintain to be justice or truth. From such duty derives a special requirement about the outlook on their fellow citizens as peers. I need to add at this point a provisory remark about the general idea of peerhood I am using. In reporting Benditt's and Weinstock's points of view on compromise, I referred to both epistemic and moral peerhood. CMV remains agnostic with respect to the debate about the structure and solution of epistemic and moral disagreement⁴¹. The purposes of CMV are genuinely political. So, the idea I

³⁹ "a concession does not consist of agreeing to receive less than one has an interest in obtaining, but rather in agreeing that one will receive less than what one regards as one's entitlement" (Van Parijs 2012, 470).

⁴⁰ Martin 1948, 121.

⁴¹ For an overview of such debate see Kelly 2005, Christensen 2007, Elga 2007 and Simpson 2013.

want to convey by the notion of “peerhood” is that political agents (citizens) are, from the perspective of CMV institutions, equally entitled to put forward their beliefs about the true, the good, the just. The way in which this minimalist, but above all political, connotation of peerhood affects individuals consist of their taking part to the same process (compromise), without an aprioristically determined judgement on the potential moral or epistemic imbalance among them. That is to say that no epistemic or moral, more or less authoritative, consideration can affect their entitlement to be a party in the compromise. Their duty is limited to the acknowledgement of such condition of peerhood.

Compromise acquires a positive connotation only insofar as the focus of the political decision is on the finding of an adjustment that be satisfying from all standpoints and that be able to show a common way to act. Compromise is instead thought as a betrayal of one’s principles when the focus of the negotiating parties is on the irreconcilable nature of standpoints and on the interests of finding *the unique correct solution* to the conflicts of views, leading to the only right choice⁴². Parties, should accept that the deliberation will possibly not reach a unique, definitive, rationally achieved truth about the best (or, as in political liberalism, most just) decision. In contrast with the aspiration to represent disagreement as an ordered and reasoned debate leading to truth, compromise is meant to give a solution about the best course of action to take under a variable set of circumstances. In this sense, the preservation of peaceful coexistence takes priority over the realisation or political expression of (what is considered to be) truth. Of course, nothing prevents the quest for truth to be pursued, but when political decisions have to be taken, agents should be able to cooperate, and this requires a special outlook on their fellow citizens.

Just as compromise entails peerhood amongst parties, agents involved in CMV should see themselves as equally legitimated in promoting their position. This has to be acknowledged in order to allow for a decision to be taken. It is important to highlight how this mutual recognition takes place although from the particular standpoints the others’ positions are not considered as equally valuable⁴³. Parties should then display an open mind-set towards the plurality of claims that are part of the compromise. Amy

⁴² See Fumurescu 2013.

⁴³ See Rintala 1969.

Gutmann and Dennis Thompson defined this mind-set as principled prudence and mutual respect as opposed to principled tenacity (if an agent looks for the unique right solution and thinks that she possesses it, she will not be available to negotiate it) and mutual mistrust (an agent does not consider my opponents' opinion potentially as valuable as hers, therefore she focusses on their being wrong rather than their being as entitled as her to participate)⁴⁴.

Such availability to negotiation is far less demanding than the moral effort individuals are required to do in order to achieve consensus in a moralistic sense. In CMV they are not compelled to rethink their position in order to elevate pluralism to a disciplined and *ex ante* regulated form. In other terms, unlike reasonableness, CMV does not require that they revise their beliefs in order to overcome pluralism. On the contrary, it is sufficient that they give up the aspiration to impose at all costs their vision of the world and that they are ready to accept that other visions of the world (that they might consider wrong or false) get to substantiate political decisions. In this sense, CMV *realistically* abstains from imposing a specific and highly demanding form of public reason, while maintaining *normative* power.

3.3. *Circumstances, variables, contingency*

Finally, CMV demands that citizens, as compromising agents, adjust their flexibility according to what present circumstances can allow. This duty calls them to broaden the potential possibilities conceded by their moral points of view and, consequently, implies the acknowledgement that this will not impinge on their quality as moral agents. Citizens of a CMV are aware of the possibility not seeing their deep moral convictions realised, but their compromise does not represent a betrayal or neglect of their morality: they are not giving up their moral commitment, they are only giving up resort to violent means to promote it in the public sphere. The higher goal of peace is the condition to keep the possibility open of having or not having to compromise again, and ultimately the possibility of promoting one's moral view. A present compromise opens possibilities for the future, rather than cutting them off for the sake of ideal integrity⁴⁵.

⁴⁴ Gutmann and Thompson 2010, 1130-1137.

⁴⁵ The resistance to negotiate some opinions that might be seen as too valuable to be compromised (pointing at the negative connotation of the term "compromise") might be motivated by a problem of preservation of integrity.

Agents should compromise because they take the circumstances of politics into account: “[f]actual uncertainty, moral complexity, the need to maintain a continuing cooperative relationship, the need for a more or less immediate decision of action and scarcity of resources constitute the circumstances of compromise”⁴⁶. CMV is thus the best response given the circumstances because the agreement on reciprocal toleration leads to enduring peace and order, which are the fundamental purposes of the political⁴⁷. Parties’ attitudes to negotiation are defined by their capability of taking the full context into consideration, that is to acknowledge their equal status as citizens (and not for an equal evaluation of their opinions). In fact, “[w]hen an issue is in dispute there is more to be considered than the issue itself – for example, the importance of peace, the presumption against settling matters by force, the intrinsic good of participating in a process in which each side must hear the other side out and try to see matters from the other’s point of view, the extent to which the matter does admit reasonable differences in opinion, the significance of a settlement in which each party feels assured of the other’s respect for its own seriousness and sincerity in the matter”⁴⁸.

CMV does not consist in the prioritisation of political values over moral ones, rather it is the realistic acknowledgement that an appeased context is the instrumental condition for the (various) ways of life to possibly coexist. In CMV citizens do not have to commit to some higher principles and revise their deep beliefs for the sake of a moralised consensus as in political liberalism, neither they are supposed to rely on mere balances of powers as in RMV. Their adherence to CMV, indeed, stems on the one hand from prudential considerations related to the actual possibilities of pursuing their plans of life and, on the other hand, it implies a commitment to keep the clashes among values

Compromise theorists have reflected on the issue, highlighting how compromise can be a solution that preserves integrity. “As a largely formal notion, integrity is compatible with base as well as with lofty values and principles. ... The notion of a pure or perfect integrity is at best a utopian ideal and at worst a recipe for fanaticism. ... The resulting agreement, peace and good will, we hope, will ultimately be more conducive to preserving the overall pattern of our lives than continued conflict and acrimony. ... Given a sufficiently complex characterization of the larger network of our values and principles, then, integrity – understood as wholeness as well as simple consistency and set in the context of an entire life – will occasionally require moral compromise” (Benjamin 1990, 73-74). “The involvement [compromission] is an immoral mixture of plans and principles of reference. There is no confusion in compromise [compromis] as in involvement. In compromise, everybody keeps her place, nobody is deprived of her justification order. ... Compromise ... is precisely the art of combining different levels of reference without confusing them” (Ricœur 1991, my translation).

⁴⁶ Benjamin 1990, 32.

⁴⁷ “Compromise between two equally tolerant and dynamic persons or groups is not doomed to point down and down to death through acceptance of the intolerable; it can point up and up toward infinite progress through mutual accommodation” (Smith 1942, 10-11).

⁴⁸ Kuflik 1979, 51.

be expressed in a civilized way, avoiding the disagreement to degenerate in conflict. Individuals accept to enter the compromise out of their necessity and urgency to find a solution to live together, aware that they are accepting a solution that might be, from their particular point of view, morally inferior to the one they would achieve without assuming a reciprocally accommodating disposition⁴⁹. They are ready to accept a morally suboptimal outcome because their compromising is about political circumstances and not moral beliefs and convictions: compromise enables them to look at politics as a sphere of life where negotiation is not outlawed⁵⁰.

4. Conclusions

I began this work with the intention to propose a version of liberalism that be also respectful of pluralism. Pluralism, the always evolving multifaceted variety of viewpoints about how life should be conducted (morally, culturally religiously, aesthetically) is a prominent character of contemporary societies. The disagreement it carries represents an ongoing challenge for politics: political decisions have to be taken that cannot always wait for the disagreement to be overcome or appeased. The question prompting my research was the search for a political strategy to cope with the unwanted consequences of disagreement without repressing the development and possible flourishing of pluralism. The answer must be a *normative* theory capable of addressing contemporary liberal democracies. I believe this theory is *modus vivendi*.

I conceived CMV after observing how the narrative of negotiation and compromise is a constant in *modus vivendi* literature and after the revival and renewed debate around realist political theory. The resort to the ideas of compromise and the focus on the capacity to take the circumstance of the world into account when theorising is a substantial element in the history of political thought. *Modus vivendi* offers a new paradigm to conceptualise this attention typical of realist political theory. Liberal theory has been for long time dominated and is still indebted to Rawls's work and to the ideal contractual model of political liberalism. *Modus vivendi* can be an alternative. Thus, for CMV to be a valuable alternative to the Rawlsian paradigm, it had to be conceived in a way that made it resistant to the most relevant objections raised against political

⁴⁹ Besussi 2012, 259-261.

⁵⁰ Margalit 2010.

liberalism. In order to accomplish this ambition, I looked into political liberalism, RMV, the literature on *modus vivendi* and the literature on compromise, identifying time after time, the *desiderata* that CMV should try to embody and the weaknesses that CMV should avoid. The framework in which I elaborated CMV is one of a non-ideal, non moralist and normative but moderately demanding theory.

The concept of compromise represented the bedrock of this construction, while the pluralism typical of contemporary liberal democracies its background. Compromise accounts for the fact that individuals are bearers of different, often incompatible, moral aspiration but it also requires that they are ready to make concessions to each others. Citizens in a pluralistic society can tolerate each other, but that kind toleration would realistically imply a sceptical look towards points of view that do not correspond to theirs. Compromise is the concept that captures the action of finding an agreement (however provisional or long-lasting it can be) that encompasses the original distance, without presuming to represent a perfect overcoming of it. So, political decisions and the design of policies, but most importantly the very structure of the institutions, reflect the mutual concessions and the respective aspiration in the form of a conjunct decision. Such conjunct agreement is the best result politics can achieve when an overlap of (or within) points of view is impossible, that is when pluralism is taken seriously. In this sense compromise is the first “ingredient” of CMV: CMV does not optimistically rely on the intersection of moral aspirations (as in overlapping consensus), it rather contemplates the possibility that such intersection simply does not happen and that an effort has to be done in order to make a political decision. This capacity of CMV to take into consideration the actual dynamics of political agents, while normatively indicating the requirements of the compromising attitude, I consider being a prove of its non-ideal character.

The second element of CMV is of course *modus vivendi*. While compromise tells about the disposition of agents to support CMV, *modus vivendi* informs, on the one hand, about the reasons they have to do so, and, on the other hand, about the reasons to support and maintain it in a decently stable way. I insisted in Chapter 2 on the idea that *modus vivendi* should not be a weakened version of political liberalism and I reflected on the role of the *prudentiality* of reasons in defining the very nature of *modus vivendi*. CMV (and its *modus vivendi* institutions) is accepted as second-best with

respect to the people's originally held moral positions (what I called their dreams), but, as said, the conjunctly reached agreement is the best that could be *politically* achieved. This agreement does not have to take place for a specific type of reasons (as, for instance, the right reasons). On the contrary, the scope of *good* reasons to accept and support *modus vivendi* as the result of a compromise is as broad as pluralism is. The lack of definition of reasons causes stability of CMV to be *light*. This concept I called "light stability" corresponds to the idea that political decisions (even those about the fundamental structure of institutions) can be made without the political society to degenerate into chaos or conflict. There are good reasons not to overthrow institutions, even when they significantly change. When modifications such as constitutional reforms, reforms affecting governmental institutions, adjustments of electoral law, major changes in established institutions (such as marriage), citizens have a variety of good reasons to stick to their institutions. Citizens *might* indeed prioritise democratic political values and choose to support an unwanted decision because of their moral belief in the highest importance of democracy, but they might also comply to *modus vivendi* for reasons stemming from their particular moral point of view.

Most importantly CMV abstains from categorising the multitude of plural reasons by at the same time proving *one* prudential reason that is sufficient to motivate compliance: the preservation of peace and order. It is this reason encouraging citizens to abstain from truly destabilising actions (for them, exiting from the society they live in, for the political society, conflict or revolution). The plural *reasons* to which CMV is open, mark its respect of pluralism as it is. The prudential *reason* by which there is an incentive to comply to CMV is the sign of its realist character. CMV is a normative realist theory as it highlights the distance between the role of political theory and the role of politics. Political philosophy can and should theorise about how political agents are and what is the just solution to their disagreement. However, in a realist framework, what the solution should be is to be left to *politics* to determine. CMV, without renouncing to normative relevance, brings back the focus of the political decision in context.

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