The right to have a say: a theory of justice for disagreements

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The central claim of this work is straightforward: if one endorses a non-exclusionary standpoint, then one ought also to avoid excluding people from disagreements. This is valid even if these people hold particularly deplorable worldviews. In political theory, this is not the generally held view. Political liberalism has endorsed the exclusion of unreasonable people. More or less explicitly, modus vivendi theory also limits access to the relevant constituency for those people who do not share the higher good of peace, or who are unable to meet other requirements. In this work, I aim to demonstrate that exclusion is bad. Therefore, the point of this project is to begin with the debate on pluralism and disagreement in order to affirm a novel normative standpoint – a non-exclusionary political theory. This theory defends a general right to have a say. To do so, I divide the argument into three parts. First, I define the non-exclusionary desideratum. I also pay attention to conceptual difficulties in existing responses to pluralism in political theory. Then, to answer the need to construct a normative standpoint that people with different worldviews can affirm, I develop a perspectivist political theory. In the second part of this work, I recognize two orders of normativity, and I idealize an ideal position of disagreement – the many-to-one relationship. At the heart of this normative proposal, there is a general standpoint of justice (the right to have a say), and a conception of legitimacy for societies where all members have a right to have a say. For me, a decision is legitimate when all members can recognize their individual subject-object relations in the outcome. Finally, in the third part of the dissertation, I consider the pluralistic society – an ideal society where all members have a right to have a say.

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I

EXCLUSIONARY AND NON-EXCLUSIONARY POLITICAL THEORIES

Chapter 1
Introduction

This work begins with pluralism, but it is mostly about exclusion and disagreement. To rethink exclusion, I examine existing theories of pluralism. I suggest that the capacity to put people in the position not to be excluded – the non-exclusionary desideratum - is a metric to comparatively evaluate normative theories. To define this desideratum, I argue that the fact of pluralism, reasonable or deep, is the wrong starting point. And I focus on disagreements as the instances in which there is variance of opinion on a matter. At the same time, I construct a novel account – a perspectivist political theory – and a general standpoint of justice: the right to have a say. The right to have a say is not a generic permission to say and do what we like in public. It states that a just society is a society where all members have all the required means to have a meaningful mark on objects of disagreement.

The argument points to new ways to improve and deepen political arrangements and further inclusion of the most marginalized segments of society, without taking liberal and democratic values as the necessary and natural framework. Though several political theorists have uncovered the pluralist character of our societies, and most particularly of Western liberal democracies, these exercises in political philosophy have naturalized the liberal framework and the assumption that no normative arrangement can accommodate all forms of life. The pairing of pluralism and liberal democratic values has become so pervasive that almost all contemporary political theorists, who work on pluralism, seem to be liberal. Since liberalism promises individuals an array of choices, and pluralism multiplies the options on the menu, liberalism and pluralism seem to make, as someone writes, a handsome pair.[1]

[1]Robert Talisse, *Pluralism and Liberal Politics* (London: Routledge, 2013).

In this vein, several liberals treat difference as the starting point, but this diversity is not total. By dealing with difference on the assumption that not all worldviews can be accommodated, existing responses envisage pluralism as a feature that we must somehow govern, accommodate, overcome, or manage. This narrative gives us the impression that exclusion is somehow an undesirable externality in heterogeneous and diverse societies. Or it fosters the imaginary narrative that those who are left at the margins are only Nazi, fanatics, critics, and the unreasonable, whose exclusion does not affect readers as an injustice.[2]

Disputes about pluralism associate pluralism with the realization of other public goods, such as equality, liberty, and justice, or with some higher epistemic qualities – like truth.[3] In this frame of mind, political theorists have explored different avenues. Some have approached pluralism by emphasising the connection between pluralism and some liberal assumptions.[4] Common to these comprehensive variants of the liberal tradition is a precise conception of man and society. It includes a fundamental worry with systematic ethical and political theories, and a defence of freedom of choice between competing ways of life.[5] As his work evolved, John Rawls insisted that his liberalism was not a 'comprehensive' doctrine, that is, from his own perspective, a theory that includes an overall theory of value, an ethical theory, an epistemology, or a controversial metaphysics of the person and society. In diverse and complex societies, he argues, comprehensive liberalism (and perfectionism) is sectarian and authoritarian. For him, the fact of pluralism is the proof that a particular ideal of what constitutes a valuable and worthwhile human life, or other metaphysical beliefs, seems untenable, both at the normative and descriptive level.[6] For this reason, he seeks to found the principles

[2] On this issue, see David Enoch, "Against Public Reason," in David Sobel, Peter Vallentyne, and Steven Wall (eds.), *Oxford Studies in Political Philosophy* (Oxford: Oxford University Press, 2015).
[3] For the fundamental epistemic argument in favour of diversity, see John Stuart Mill, *On Liberty* (Cambridge: Cambridge University Press, 1989). See also, Scott Page, *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies* (Princeton: Princeton University Press, 2007). Recently, his work has inspired Gerald Gaus, *The Tyranny of the Ideal* (Princeton: Princeton University Press, 2016) and Ryan Muldoon, *Social Contract Theory for a Diverse World: Beyond Tolerance* (London: Routledge, 2016).
[4] William A. Galston, *Liberal Pluralism* (Cambridge: Cambridge University Press, 2002).
[5] Galston 2002. See also William A. Galston, *The Practice of Liberal Pluralism* (Cambridge: Cambridge University Press, 2004). See also George Crowder, "From Value Pluralism to liberalism," *Critical Review of International Social and Political Philosophy*, 1 (3) (1998): 2-17.
[6] John Rawls, *Political Liberalism: expanded edition* (New York: Columbia University Press, 2005), 13.

of fair cooperation upon a core political conception of justice that suitably constructed people can accept despite a tendency to disagree on values. The search for consonance between prescriptions of justice and pluralism leads to argue that, together with the fact of pluralism, abstractly characterized agents, because of common moral traits, agree with the principles of justice as fairness.

Rawls's idea that pluralism can accord with more or less explicit normative pre-commitments has attracted criticisms from all sides. In its different expressions and motivations, with a pinch of oversimplification, we can bring a recurring motif of reproach to Rawls. Namely, for the sake of normative cogency, people have argued, Rawls idealizes the boundaries of the relevant political community, and, simultaneously, he conceives what fills these boundaries. Specifically, this criticism has taken a few variants. Firstly, scholars, who contend the normative pre-commitments of the theory, contest the very presupposition of its boundaries.[7] Secondly, political theorists argue against the nature of the boundaries. Consequently, they criticize the way Rawls idealizes pluralism, social interactions and the stability of consensus.[8] Thirdly, people, who accept both the normative pre-commitments and the boundaries, discuss what the theory actually allows for.[9]

For much of mainstream political theory literature, the boundaries of pluralism are the most important object of contention. On this view, accessibility and unobstructed entrance in the relevant constituency are comparative merits for theory selection.[10] In this vein, worries about Rawls's conception of the person as reasonable and rational have existed since the first edition of *Political Liberalism*.[11] For him, reasonable citizens are willing to interact with others on terms that all can

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[7] Chantal Mouffe, "Democracy, Power, and the Political," in Seyla Benhabib (ed.), *Democracy and Difference: Contesting the Boundaries of the Political* (Princeton: Princeton University Press, 1996): 245-57. See also, Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000).
[8] Gerald Gaus, *The Order of Public Reason* (Cambridge: Cambridge University Press, 2010). See also Kevin Vallier, "Convergence and Consensus in Public Reason," *Public Affairs Quarterly* 25 (4) (2011): 261-79.
[9] Jonathan Quong, *Liberalism without Perfection* (Oxford: Oxford University Press, 2011).
[10] On this point, see Martha C. Nussbaum, "Perfectionist, Liberalism and Political Liberalism," *Philosophy and Public Affairs* 39 (1) (2011): 3-45. And, Martha C. Nussbaum, "Introduction," in Thom Brooks and Martha Nussbaum (eds.), *Rawls's Political Liberalism* (New York: Columbia University Press, 2015). See also Joseph Raz, "Facing Diversity: The case for epistemic abstinence," *Philosophy and Public Affairs* 19 (1) (1990): 3-46.
[11] See Marilyn Friedman, "John Rawls and the Political Coercion of Unreasonable People," in Victoria Davion and Clark Wolf (eds.), *The idea of Political Liberalism: Essays on Rawls* (New York: Rowman and Littlefield, 2000), 23. See also Erin Kelly and Lionel McPherson, "On Tolerating the Unreasonable," *Journal of Political Philosophy* 9 (2001): 38-55. Jean Hampton, "The Moral Commitments of Liberalism," in David Copp and Jean Hampton and John E. Roemer (eds.), *The Idea of Democracy* (Cambridge, Cambridge University Press, 1993), 299.

accept. They also accept the compresence of conflicting empirical evidence, and disagreement about how we can use it. Several political theorists have taken this idealization as the starting point for the study of pluralism. Scholarship on Rawls tends to maintain the overall mechanics of his account, but it also tries to moderate some of the idealizing elements in his conception of reasonableness.[12] When liberals have a realist spirit, they stress the deep and adversarial nature of pluralism – something, they say, that an ideal community of reasonable people fails to capture.[13] In his construction of an alternative account of political liberalism, Gerald Gaus also emphasises the need to picture pluralism less idealistically than Rawls.[14] This criticism has fostered disputes about the sectarianism of different variants of political liberalism. Yet again, inclusiveness is seen a comparative merit for theory selection.[15]

Throughout its development, however, this debate has remained largely internal to the premises of liberalism. The onus of justification, therefore, seems to be on those people who challenge the framework. However, despite its success in contemporary political theory, the combination of liberalism and pluralism is far from being uncontroversial. From this perspective, liberalism is not the condition for pluralism to exist and survive, but rather liberalism is one among many other expressions of pluralism.[16] It is one among many other life choices, and other forms of human flourishing might not be fully realizable within the liberal state.[17]

Moreover, against the widespread belief that pluralism is a liberal and Western prerogative, rising debates in comparative political theory have contested the provincialism of this framework of mind.[18] When we look at the historical and

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[12] On this issue, see RJ Leland and Han Van Wietmarschen, "Reasonableness, Intellectual Modesty, and Reciprocity in Political Justification," *Ethics* 122 (4) (2012): 721-747.
[13] For instance, see Matt Sleat, "Coercing non-liberal persons: Considerations on a more realistic liberalism," *European Journal of Political Theory* 12 (4) (2013): 347-67.
[14] Gaus 2010.
[15] On this issue, see Paul Billingham, "Liberal Perfectionism and Quong's Internal Conception of Political Liberalism," *Social Theory and Practice* 43 (1) (2017): 79-106. See also Gerald Gaus, "Sectarianism without Perfection? Quong's Political Liberalism," *Philosophy and Public Issues* 2 (1) (2012): 7-15. See also Kevin Vallier, "On Jonathan Quong's Sectarian Political Liberalism," *Crime Law and Philosophy* (2014).
[16] John Kekes, *The Morality of Pluralism* (Princeton, NJ: Princeton University Press, 1996).
[17] Richard E. Flathman, *Pluralism and Liberal Democracy* (Baltimore, NJ: Johns Hopkins Press, 2005).
[18] For instance, see Fred Dallmayr, "Toward a Comparative Political Theory," *The Review of Politics* 59 (3) (1997): 421. See also Fred Dallmayr, *Comparative Political Theory: An Introduction* (New York: Palgrave Macmillan, 2010). See also, David Schlosberg, "The Pluralist Imagination," in John S. Dryzek, Bonnie Honig, and Anne Phillips (eds.), *The Oxford Handbook of Political Theory* (Oxford: Oxford University Press, 2008). Mohandas Karamchand Gandhi, *Autobiography: The Story of My Experiments with Truth* (London: Penguin,

geographical development of political philosophy, it is relatively easy to find a number of alternative responses to pluralism, which do not link up with liberal premises.

At the same time, across the spectrum of contemporary political theories, inside and outside the Western canon, there seems to be continuity in the idea that pluralism is a "fact", an "actual" thing, or a "quality" of today's societies.[19] In other words, pluralism is something that cannot be explained away: it is deep, evident and undeniable. This widespread stipulation typifies ambivalence between a reading of pluralism as a quasi-natural property of liberal democratic societies and an affirmation of value that pluralism is a good or bad thing.[20] When pluralism is a fact, political philosophers acknowledge it as something that actually exists. When pluralism is a valuable thing, philosophers commend normative solutions that uphold great diversity of opinions and points of view.[21] Despite philosophical common sense, we also have to keep in mind that pluralism may be a controversial philosophical position that someone may reject. Being bound to a diversity of worldviews in a complex and heterogeneous world, a theory of pluralism must be able to account for those human beings who challenge its own prerogatives.

My suggestion is that, if we want to avoid the risk to limit the arguments for pluralism to those that already supports liberalism, and we aim to elude controversial evaluative judgments on pluralism itself, we are left with one option – a phenomenological investigation of the factual character of pluralism. Namely, we should reflect upon what makes philosophers think of pluralism as something that actually exists. Then, once we have isolated this visible element, we should consider normative schemes that are coherent with our understanding of such a fact.

2001). Amartya Sen, *The Argumentative Indian: writings on Indian history, culture and identity* (New Delhi: Penguin, 2006).

[19] See Bernard Williams, "Realism and Moralism in Political Theory," in Geoffrey Hawthorn (ed.), In the *Beginning was the Deed* (Princeton NJ: Princeton University Press, 2005), 13. For disagreement and liberalism, and the idea that certain elements of liberalism cannot be subject to disagreement, see Michael Blake, "Liberal Foundationalism and Agonistic Democracy," *NOMOS* 46 (2005): 231, 233.

[20] When, like in Weber and Habermas, pluralism is a distinctive feature of modern societies, as the endpoint of moral and political development, the ambiguity between pluralism as a fact and pluralism as positive attribute of this world is particularly evident.

[21] For instance, see some epistemic arguments for democracy. Elizabeth Anderson, "The Epistemology of Democracy," *Episteme: A Journal of Social Epistemology* (3) (2006). Elizabeth Anderson, "An Epistemic Defense of Democracy: David Estlund's Democratic Authority," *Episteme: A Journal of Social Epistemology* (2008) (5). See also, Fabienne Peter, "The Epistemic Circumstances of Democracy," In Miranda Fricker and Michael Brady (eds.), *The Epistemic Life of Groups* (Oxford: Oxford University Press 2016): 133-49.

On my view, in a given society, in the same moment in time, pluralism accounts for a fundamental relation that describes the compresence of different people with different and visible worldviews, which have shared objects of concern. Under these lenses, pluralism typifies the observation that there is more than one worldview in the same space. First, it denotes an aggregation of different worldviews. Second, it denotes the quality of these worldviews being visible and present together. Following this, the widespread confidence that pluralism is a fact alludes to the idea that the experience of diversity is a natural phenomenon of this world, which everyone, if exposed, can notice. If we focus on the ostensible character of this relation, it is possible to notice that the common usage of pluralism encompasses only recognizable and visible worldviews. I say "only", because there might be a number of other worldviews that are neither visible nor recognizable, which, therefore, fall outside the descriptive power of pluralism. Alternatively, by considering the fact of pluralism as a relation, we are able to cast lights upon an important mismatch. So far, in political theory, the study of pluralism have started with the implicit stipulation that pluralism means all possible worldviews in a society, including silent, marginalized, undiscovered, or voiceless forms of life. In this work, as an alternative to this reading, I start with the idea that there is a conceptual and descriptive difference between two elements: "all possible worldviews that in fact exist in a given society" and the worldviews that the fact of pluralism accounts for. From this starting point, pluralism is a metonymy for investigating the exclusion of certain worldviews from complex and diverse societies.

2. The non-exclusionary desideratum

The study of the factual character of pluralism opens a reflection on who are the individuals that those theories must account for, and why this is the case. A preliminary remark is in point. I am not joining the debate on sectarianism –to what extent a liberal political theory can coerce without justification. I am not entering

into disputes about the containment of unreasonable people either.[22] Despite the increasing interests in this field, the perspective is that of a liberal theory, which investigates and ponders different normative instruments to extend its perimeter without falling into circularity. In other words, the point seems that of extending the reach of coercive liberal policies to the point where, despite the assumption that all human beings are free and equal, unjustified coercion does not look like a form of injustice. These two debates also begin with a division.[23] In coming to terms with pluralism, they divide the population into two units. On the one side, there are members of the society who, in the process of construction of fair terms of cooperation, count and deserve recognition for the worth of their moral views. On the other side, a minority is denied meaningful participation.[24] By under-thematising this demarcation, I argue, political theories are not only sectarian but also exclusionary. Namely, systematically, they cause someone not to take part in the public activities of the society.

By being exclusionary, a theory may reproduce social disadvantages: it relegates some fringes at the margins of the society; it blocks people from negotiating terms of cooperation in their own ways; it favours disenfranchisement, maldistribution of resources and essentialization.[25] At times, the division may affect only a small part of society; at times, it may apply to anyone appears to deviate in any ways from the alleged norms (or higher good) of a population. In its worst consequences, it is a process of progressive social rupture, which, by separating individuals from political relations, thinks of some persons only as passive recipients of normative indications.

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[22] On this issue, see Jonathan Quong, "The Rights of Unreasonable Citizens," *Journal of Political Philosophy* 12 (3) (2004): 314-35.

[23] On this point, see Mouffe 1996.

[24] These remarks have been central arguments in contemporary disputes about multiculturalism. On this topic, see Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990). Judith Squire, "Representing groups, deconstructing identities," *Feminist Theory* 2 (2001): 7-27. Pnina Werbner, "Essentialising Essentialism, essentialising silence: ambivalence and multiplicity in the construction of racism and ethnicity," in P. Werbner and T. Modood (eds.), *Debating cultural Hybridity: Multicultural Identities and the Politics of Anti-Racism* (London and New Jersey: Zed Books, 2015).

[25] On this issue, see Anne Phillips, *Multiculturalism without Culture* (Princeton NJ: Princeton University Press, 2007). This topic also has been important in contemporary disputes about toleration and recognition. Precisely on this issue, see Magali Bessone, "Beyond liberal multicultural toleration: A critical approach to groups' essentialism," *European Journal of Political Theory* 12 (3) (2012): 271-287. See also Nikolas Kompridis, "Normativizing Hybridity/Neutralizing Culture," *Political Theory* 33 (3) (2006): 318-43.

If we consider these problems as unnecessary forms of injustice, it is important to construct a standpoint of justice that individuates and challenges these examples of social and political disenfranchisement. In my view, this standpoint must have a fundamental characteristic. Namely, it must entitle all human beings to have a meaningful mark on aspects of external reality. From this perspective, a just society is a non-exclusionary society, when all members can assert claims and shape forms and contents of political, economic, social and legal arrangements. It follows that the capacity to avoid exclusion becomes a desideratum by which one compares and judges different political theories. Instead of weighting the costs and benefits of inclusion within a liberal architecture, from this standpoint, scholars should focus first on finding types of normative schemes that allow everyone to play a role in the collective decision-making, and help to individuate existing hidden forms of exclusion.

There is a growing recognition of the important connection between participation and justice, for the individual, when there might be heterogeneity of justice discourses.[26] Moreover, other contemporary theorists have seen the construction of principles for the creation of appropriate relationships among participants as a fundamental problem of justice.[27] From the substance of a conception of justice, others have moved the focus on the formation of conceptions of justice for procedures, where procedures must ensure a fair hearing of all sides in a conflict. In these alternatives, the question is not only about the balance among competing considerations, but the problematic also is to define who counts and why (and why not) in the definition of the avenues to weight different worldviews.[28]

Proceduralist political theories defend the belief that, in value-conflicts, it is fundamental to find an overriding normative principle that all citizens have good

[26] On this issue, see Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2010). Axel Honneth, *Freedom's Right: The social foundations of democratic life* (New York: Columbia University Press, 2014).
[27] Rainer Forst, *The Right to Justification: Elements of a Constructivist Theory of Justice* (New York: Columbia University Press, 2011).
[28] See Emanuela Ceva, "Just Procedures with Controversial Outcomes: On the Grounds for Substantive Disputation within a Procedural Theory of Justice," *Res Publica* 15 (2009): 219-35. Emanuela Ceva, "Just Interactions in Value Conflicts: the Adversary Argumentation Principle," *Politics, Philosophy and Economics* 11 (2) (2012): 149-70. Stuart Hampshire, *Justice is Conflict* (Princeton NJ: Princeton University Press, 2000).

reasons to accept and uphold in practices of disagreement. For them, fairness in procedures for the resolution of values conflicts embodies this kind of normativity. Just political and legal procedures supply a common ground of loyalty shared by citizens, who feel the bond between one another despite adverse decisions.[29] What matters, therefore, is the construction of enabling procedures that make outcomes acceptable and, perhaps, malleable to further amendments. Since the focus is on the determination of a conception of justice for procedures that parties in conflict can uphold and accept, the entitlement to participate, however, is under-thematised. Specifically, in the adversarial exchanges that generate just procedures, the starting assumption is that parties are able to participate. Some take as a stipulation that parties can have a say.[30] Others assume that 'on both sides of the barricades, conservatives, and reformists, everyone has adversaries'.[31] As Hampshire puts it, a party is 'already prepared to step out onto the political or legal case to argue his case'.[32]

Adversarial relations also are pivotal for agonistic political theories.[33] On this view, politics is best understood as a sphere of uninterrupted contestation, and normative accounts are nothing more than partial domestication of such an ineradicable adversarial nature.[34] For all the variants of agonistic political theory, it is, therefore, crucial to rethink political participation in ways that unleash the expression of a wide array of ethical differences. The focus on disagreement responds to two commitments. On one side, it is a proxy to illuminate the clash between the promise of democratic values to be inclusive and recurring restrictions to contestation. On the other side, the emphasis on disagreement plays an important methodological role. Political theory should set in motion an ongoing practice of questioning practices of governance. It should read political arrangements as objects of questioning, deconstruction, and cross-examination of existing power

[29] Hampshire 2000, 79.
[30] Ceva 2009.
[31] Hampshire 2000, 93.
[32] Ivi, 94.
[33] Chantal Mouffe, *On The Political* (London: Routledge, 2005). Chantal Mouffe, *The Democratic Paradox* (London: Verso, 2000). Chantal Mouffe, *Agonistics: thinking the world politically* (London: Verso 2013). See also James Tully, "Political Philosophy as a Critical Activity," *Political Theory* 30 (4) (2002): 533-55. See also Sheldon Wolin, "Fugitive Democracy," *Constellations* 1 (1) (1994): 11-25.
[34] Mouffe 2000, 12, 21, 99-100, 104.

relations.[35] Also never far away from this debate is the question of the nature of pluralism. The claim made on behalf of disagreement and pluralism is that different worldviews often resist rational resolution. It is, however, unclear whether the emphasis on disagreement and the adversarial nature of politics is descriptive or a judgment of value.[36] Moreover, common in agonistic accounts there is a more or less explicit commitment with the political principles of democracy. Ultimately, these principles enable the adversarial mode of interaction, but they also justify exclusion for undemocratic worldviews and political practices.[37]

In my view, a non-exclusionary political theory must avoid political or moral pre-commitments. It also must begin with the idea that not all individuals are able to participate in disagreement. From these observations, this work tries to construct a normative standpoint that justifies normative action and helps to individuate hidden instances of exclusion. The construction of this standpoint, then, necessitates a heuristic premise. To be valid, the search for a general normativity for diverse and heterogeneous societies must begin with the idea that all affected subjects have different worldviews. In this way, a non-exclusionary theory of justice can hope to catalyse demands for contesting exclusion and empower, with a strong claim for participation, all members without distinction. Here, my thesis is that a general entitlement to have a say can inform such a non-exclusionary political theory.

To do so, I focus on the relation between a person and an external object of disagreement. By deconstructing intersubjective exchanges into simultaneous relations with external and common objects of disagreement, it is possible to construct an entitlement to access such objects without assuming any moral or political doctrine. Simply, if we look at exchanges of reasons as disagreement among people with different worldviews who hold the same concern, we can

[35] Mark Wenman, *Agonistic Democracy: constituent power in the era of globalisation* (Cambridge: Cambridge University Press, 2013).
[36] On this point, see Monique Deveaux, "Agonism and Pluralism," *Philosophy and Social Criticism* 25 (1) (1999): 1-22.
[37] On this issue, see Clive Barnett, "Deconstructing Radical Democracy: Articulation, Representation and Being-With-Others," *Political Geography* 23 (5) (2004): 503-528. See also Mark Wenman, "Agonistic Pluralism and three Archetypical forms of Politics," *Contemporary Political Theory* 2 (2003): 165-186.

capture that the individual relation with the object of communal concern is logically prior to the exchange of reasons.[38] Such exchange depends on people having a connection with the object. If we ensure this connection, I argue, we empower people with a claim not to be excluded from any kind of intersubjective exchange.

The construction of the right to have a say implies a methodological shift. I develop a perspectivist political theory as a promising alternative to existing ways of dealing with pluralism. In a Nietzschean stream, perspectivism is widely seen as a reaction to objectivity and thus as a form of relativism. However, an alternative reading shows that perspectivism is a philosophy of pluralism that stresses the connection between an entity and an element of the external world. It postulates that all objects can sustain a number of different and contrasting perspectives at the same time, and, in principle, none of these perspectives is more veridical than others. My account revolves around a universal entitlement to have a say and a norm for decisions to be acceptable – to be an acceptable decision, all available perspectives on the issue under discussion must count the same. In this way, I argue, the defence of the connection between the subject and the object furnishes a normative justification for all individuals to take part in collective decisions, regardless of the content of their views.

Now, if we were to think of an imaginary comparison among theories in the light of the non-exclusionary desideratum, we would have three fundamental subsets with internal scalar variations: exclusionary theories, quasi-non-exclusionary theories, and non-exclusionary theories. As I shall demonstrate in the first two chapters, in the exclusionary subset, we do not only find monism, comprehensive liberalism, but also consensus-based liberalism and modus vivendi

[38] For someone, the deconstruction of intersubjective exchanges of reasons/considerations into individual subject-object relations with objects of disagreement may be problematic. However, in political philosophy and in epistemology, both exchanges of reasons and disagreements have an object of concern. For instance, in Rawls, citizens exchanges reasons on their conceptions of fair terms of cooperation. See, Rawls 2005. In Gaus, members of the public are considering possible moral rules. See Gaus 2010, ch. V. In the literature on peer disagreement, epistemic peers disagree on a certain issue, like how much the bill is. See David Christensen, "Disagreement as Evidence: The Epistemology of Controversy," *Philosophy Compass* (4) (2009): 756-67. Thomas Kelly, "The Epistemic Significance of Disagreement," in Tamar Szab Gendler and John Hawthorne (eds.), *Oxford Studies in Epistemology* (Oxford: Oxford University Press, 2005): 167-96. Jennifer Lackey, "What Should We Do When We Disagree," in Tamar Szabo Gendler and John Hawthorne (eds.), *Oxford Studies in Epistemology* (Oxford: Oxford University Press, 2010): 274-93.

theories. Among the quasi-non-exclusionary theories, there are contemporary critical theories of justice. As we shall see, they have challenged existing forms of oppression and domination, but they fail to recognize some instances of exclusion as problematic. In the quasi-non-exclusionary subset, I also include proceduralism and agonism. For this reason, this work will be in dialogue with these proposals. Actually, a perspectivist political theory can be seen as an adjustment of quasi-non-exclusionary theories. To be successful, therefore, my account has to be a non-exclusionary theory. In other words, a perspectivist political theory must help to capture hidden forms of exclusion and empower people with a strong claim not to be excluded. Of course, I do not want to argue that a perspectivist political theory is the only possible non-exclusionary theory. More modestly, I believe that the present account can be the first of a series of non-exclusionary theories, which take seriously both the demand for participation and all forms of exclusion in our societies.[39]

3. Outline of the chapters

Therefore, the main thesis of this work is that a non-exclusionary political theory is possible. I also argue that existing responses to pluralism are exclusionary. To substantiate my claims, I have divided the argument into three parts: a critical part, a constructive part, and an experimental part. In the first part, I argue that Rawlsian political liberalism and modus vivendi theory are exclusionary. This critical argument sets the stage for the constructive chapters of the dissertation. In the second part, I shall outline the normative structure of a perspectivist normative theory. This implies three interconnected theoretical moves: the translation of perspectivism into the language of normative theorising, the development of an ideal disagreement that replicates the motives of perspectivism, and the definition

[39] This taxonomy does not entail that alternative accounts have the ambition to be non-exclusionary. The non-exclusionary desideratum serves the argumentative purpose to compare and evaluate the merits of different responses to exclusion in contemporary political theory.

and examination of the two levels of normativity. This discourse opens to the experimental part, where I envisage an ideal society in which all members affirm the right to have a say, and institutions are constructed accordingly – the pluralistic society.

Specifically, the argument shall proceed as follows. In Chapter 2, I contend that political liberalism is exclusionary. The study of John Rawls's argument is a synecdoche for a larger reflection upon the ways morally laden conceptions of reasonableness prevent important pockets of our society to participate genuinely. By reconstructing the fundamental normative question at the heart of Rawls's political liberalism, and his response to such an interrogative, I claim that, vis-à-vis the fact of reasonable pluralism, political liberalism generates a demarcation between citizens and non-citizens and an internal demarcation between reasonable citizens and citizens that are not recognized as reasonable. Chapter 3 also offers a critical examination of recent arguments for a rediscovery of modus vivendi. The recent interest in realism has come together with a rediscovery of modus vivendi as the best available response to deep pluralism – the account of modern societies as characterised by radical and fundamental disagreement about matters of morality, religion, and crucially, politics also. The second chapter offers a critical assessment of recent arguments for a rediscovery of modus vivendi theory, in particular the arguments of David McCabe, John Horton, John Gray, and Fabian Wendt. Because these writers ask how modus vivendi may contribute to the inclusion of illiberal doctrines, dissenting minorities and radical thinkers, it seems possible to think that they more readily contribute to strategies for securing participation for all citizens than alternative accounts. Despite the recognition that human values are plural, often incompatible with one another, and almost always incommensurable, by expecting convergence on peace, public order and security, in this chapter, I argue that modus vivendi theory is more exclusionary than its proponents allow, and in a particular way. Modus vivendi has an inherent conservative bias that tends to exclude radical challenges to majority view. Chapter 2 and Chapter 3 are internal arguments. They participate in the general ambition to construct a non-exclusionary theory, but they try to show that consensus-based liberalism and modus vivendi theory are exclusionary in ways that contradict some of their premises. Taken

together, chapter 2 and chapter 3 also try to show that, when we take pluralism too readily as a fact, the risk is that of overly focusing on ways to manage, overcome, contain, and survive such diversity.[40]

From these observations, in chapter 4, pluralism denotes also a relation which connects several individuals (but not necessarily all of them) who deliberate about the same things in different ways. If we think of pluralism as a relation, one of the central normative concerns, therefore, is to determine how and why someone can access such a relation. With these observations in hand, I introduce a perspectivist political theory. In this vein, by investigating important arguments in this tradition, I reconstruct two levels of normativity, which, at different degrees, all variations of perspectivism have. First, relationships among entities ground on an equal-status-granting condition, which enables all individuals to be potential participants in disagreements. Second, perspectivism is not a kind of relativism. Therefore, all individuals can have a claim on the object of disagreement, but only perspectives of the object count, and they count the same. Chapter 5 substantiates the translation of perspectivism into a proper political theory. In this chapter, I construct an ideal position of disagreement – the many-to-one relationship - where abstractly characterized individuals, all with different worldviews, affirm, at different moments in time, their unnegotiable entitlement to have a say on a certain object of disagreement.[41] And, because of such unnegotiable subject-object relation, they affirm that, for a solution to be acceptable, their considerations must count as much as other considerations on the same object count. The many-to-one relationship is fundamental to elucidate the normative discourse of a perspectivist normative theory. Chapter 6, then, describes the right to have a say as a general standpoint of justice for a non-exclusionary political theory. By contextualizing my argument in the debate between redistribution and recognition, I argue that the right to have a say epitomizes a demand for having capacities, powers, skills, and

[40] In this project, I will not discuss perfectionism explicitly. The liberal prerogative of perfectionism makes its ideal account of political organization at least more exclusionary than the arguments that political liberals and modus vivendi theorists advance. See Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986). See also Steven Wall, *Liberalism, Perfectionism and Restraint* (New York: Cambridge University Press, 1998).

[41] I borrow the expression many-to-one relationship from Bou Mou. Bou Mou coined this expression to define his conception of perspectivist truth. See Bou Mou, *Substantive Perspectivism: an essay on philosophical concern with truth* (Dordrecht: Springer, 2009).

privileges by which a person, regardless of his or her thoughts and beliefs, can have a subject-object relation with all external objects. From the second order of normativity, chapter 7 develops a theory of legitimacy for a society in which all members have a right to have a say. My thesis is that a decision is legitimate when all members can recognize their individual subject-object relation in the outcome. The combination of the first and the second order of normativity informs an ideal procedure of decision-making and a distinctive institutional layout. Chapter 7 concludes the central part of the dissertation.

Chapter 8, Chapter 9, and Chapter 10 envisage an ideal society in which all members affirm the right to have a say, and the basic structure of the society is constructed in agreement with the two levels of normativity. Chapter 8 elaborates three main claims. First, it explains the transition from the many-to-one relationship to the pluralistic society. Normatively, by reflecting upon what members owe one another, and what institutions owe members of a pluralistic society, I study the implications of a general and universal entitlement to have a say. Conceptually, I show that the pluralistic society is a revisable utopia. Namely, by defending individual subject-object relations with objects of disagreement, pluralistic institutions also are possible objects of disagreement that members are entitled to appropriate. In that, once all members have affirmed the right to have a say, from the pluralistic society, they can open new better-than-ideal worlds, which are even more non-exclusionary. Chapter 9 and Chapter 10 examine how the pluralistic society deals with classical problems of all theories of pluralism. In Chapter 9, I investigate hate speech and oppositional politics. From my perspective, even if extremely different in their nature, hate speech and oppositional politics are practices that affirm freedom of expression. And freedom of expression is one of the elements that are functional to the full enjoyment of the entitlement to access objects of disagreement in one's own way. In Chapter 10, I radicalize this analysis by exploring possible violations of the right to have a say, and practices of resistance. Taken together, this analysis clarifies the nature of penalisation, disobedience, and justified violence in a pluralistic society. As I try to demonstrate, for a pluralistic society to function, it is fundamental to have members who use their right to have a say without hesitations. By doing so, when institutions are pluralistic,

members can push them to be more and more non-exclusionary. When institutions are not actually pluralistic, if they affirm the right to have a say, members can bring the basic structure back to its initial level of normative justification.

Chapter 2
Reasonable citizens and citizens that are not recognized as reasonable

In 1971, New York City's Gay Activist Allegiance promoted a public campaign to insert "sexual orientation" in the list of protected categories in the local human rights ordinance.[42] Evidence shows that activists reinterpreted tactics of contemporary movements: they turned sit-ins into kiss-ins, they had peaceful demonstrations against policy brutality, and they infiltrated local political clubs.[43] Activists also stressed their differences from mainstream culture and heterosexual norms by dressing in distinctive and recognizable ways. Activists, someone writes, 'used theatrical acts that increased the scope of the conflict, demanding publicity, regardless of its potentially dilatory effect on achieving policy change'.[44] In other words, activists constantly preferred tactics that accentuated the challenge to majority culture to strategies that would amplify policy gains.[45]

This early stage of New York City's lesbian and gay liberation movement showed that activists chose tactics that strengthened differences from the straight majority. Expressive tactics were crucial in creating a sense that 'gay was good' and should be expressed with pride. This type of opposition was certainly in line with claims for basic liberties and equality but faced a closed polity and repression. For instance, New York State retained an antisodomy statute, with the aim of criminalising the status of being gay or lesbian.[46] The story of the Gay Activist Allegiance movement is a guiding thread to illuminate a problematic in the way overlapping-consensus-based political liberalism tries to deal with difference in

[42] Mary Bernstein, "Celebration and suppression: the strategic uses of identity by the lesbian and gay movement," *The American Journal of Sociology* 103 (1997), 544.
[43] Bernstein 1997, 544-7.
[44] Bernstein 1997, 545. See also, Toby Marotta, *The Politics of Homosexuality* (Boston: Houghton Mifflin, 1981).
[45] Patricia Cain, "Litigating for Lesbian and Gay Rights: A Legal History," *Virginia Law Review* 79 (1993): 1551-1641.
[46] Cain 1993.

modern liberal democratic societies. Theorists in this tradition tend to neglect that, from the margins, systematic feeling of discomfort with the dominant cultural values does not necessarily mean a threat for stability. Misrecognition, exclusion from the definition of terms of cooperation, and possible criminalization of differences may exacerbate the scope of conflicts and mistrust legislators. For this reason, by relying upon an allegedly majoritarian political culture, I argue in this chapter, overlapping consensus is averse to change political common sense, and favours internal demarcations within citizenry. These demarcations generate an internal problem for political liberalism: that is, they threaten the democratic promise that all citizens count the same in the political realm.[47]

Now, political liberalism seems the only game in town. The underpinning idea is that the free exercise of practical reason leads to reasonable disagreement about central religious, philosophical and moral doctrines. Reasonable people have a series of cognitive obstacles that prevent them from consent under free conditions. Worries about the appropriate conception of reasonableness and its exclusionary character are around since the publications of the first articles on political liberalism in contemporary political theory.[48] Despite the proliferation of an impressive body of literature on Rawls and the possible variants of political liberalism, scholars have

[47] Someone may object the equation of political liberalism with John Rawls. In the past thirty years, political liberalism has been a productive and different philosophical tradition with internal differences and harsh debates. I think, however, that my critical take on political liberalism is valid at different degrees for all versions of political liberalism that are somehow consensus-based. On this point, see David Enoch, "The Disorder of Public Reason," *Ethics* 124 (2013): 164-169. Gerald Gaus, who is another champion of political liberalism, explicitly restricts the relevant population that can access deliberation on issues of general concern. Specifically, he draws the perimeter of the acceptable pluralism, by appealing to mutual intelligibility - each can genuinely see the standards of others as providing reasons for the evaluation of moral rules. In his account, with psychopats, egoists, Nazis, temporary residents, those people who different from us culturally, temporary residents in occupied areas, 'given our absence of moral relations with them, we have a blameless liberty to act as we see fit'. See See Gerald Gaus, *The Order of Public Reason* (Cambridge: Cambridge University Press), 279, 463. On this issue, see David Enoch, "Against Public Reason," in David Sobel, Peter Vallentyne, and Steven Wall (eds.), *Oxford Studies in Political Philosophy* (Oxford: Oxford University Press, 2015). Noticeably, in his response to Enoch, Gaus does not address this line of criticism. See Gerald Gaus, "On Dissing Public Reason: A Reply to Enoch," *Ethics* 125 (4) (2015): 1078-95. Gerald Gaus, *Justificatory Liberalism* (Oxford: Oxford University Press, 1996). For a defence of intelligibility, Kevin Vallier, "In defence of intelligible reasons in public justification," *The Philosophical Quarterly* 66 (4) (2016): 596-616. The pantheon of political liberalism also includes Charles Larmore, *The Autonomy of Morality* (Oxford: Oxford University Press, 2008), ch. 6. Thomas Nagel, "Moral Conflict and Political Legitimacy," *Philosophy and Public Affairs* 16 (1987): 215-40. Jeremy Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1999), ch.7. See also Jeremy Waldron, "The Theoretical Foundation of Liberalism," *The Philosophical Quarterly* 37 (147) 1987: 127-50. Common to this account is the presumption that a solution to disagreement is better than none. For an analogous point on Gaus, see Steven Wall, "On Justificatory Liberalism," *Politics, Philosophy and Economics* 9 (2) (2010): 123-49.

[48] Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987).

paid scarce attention to two fundamental starting assumptions of Rawls's *Political Liberalism*.[49] 'The person,' Rawls writes, 'is seen rather as a free and equal citizen, the political person of a modern democratic society with the political rights and duties of citizenship, and standing in a political relation with other citizens'.[50] At the same time, Rawls assumes that there is an implicit public political culture within a democratic society. This culture comprises of 'the political institutions of a constitutional regimes and the public traditions of their interpretation (including those of the judiciary), as well as historic texts and documents that are common knowledge.[51] In this way, he contextualizes the search for an overlapping consensus on a political conception of justice within a precise social and political tradition.

Rawls treats the dominant political culture as if all people in a liberal democratic society experience it positively and accept it unproblematically. My contention is that, in this way, Rawls clarifies the scope of his theory, but, by doing so, he also creates internal divisions that exclude some pockets from participating fully in the society. These borders divide the citizenry in differentiated units, and, by being artefacts of the predominant political discourse, penalize exceedingly the most marginalized ones and the political avant-garde.[52]

In my view, this problematic turns out to be clear when we look at an important conceptual difference. Namely, the difference between "being reasonable" and "being recognized as reasonable". As I shall demonstrate in this chapter, the public fund of political values works as an assurance mechanism for the recognition of citizens as reasonable, and to allow citizens to be disposed to recognize other persons as reasonable. This assurance mechanism solves an important collective action problem. Namely, for a political conception of justice

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[49] See John Rawls, *Political Liberalism: expanded edition* (New York: Columbia University Press, 2005). For a defence of the merits of Rawls's political liberalism, see Martha C. Nussbaum, "Perfectionist, Liberalism and Political Liberalism," *Philosophy and Public Affairs* 39 (1) (2011): 3-45. Martha C. Nussbaum, "Introduction," in Thom Brooks and Martha Nussbaum (eds.), *Rawls's Political Liberalism* (New York: Columbia University Press, 2015).
[50] Rawls 2005, xliii.
[51] Rawls 2005, 13-14.
[52] Within a Rawlsian framework, Freeman emphasises the equal status of citizens as deliberators: 'Deliberative democracy seeks to instill them with a more fitting content. It is guided foremost by the idea that for democratic citizens to be politically free they must be governed by laws grounded in reason, not in conflicting interests, which they can legislate and endorse in their capacity as equal citizens.' Samul Freeman, "Deliberative Democracy: a sympathetic comment," *Philosophy and Public Affairs* 29 (4) (2000), 418.

to be stable, people must gain intrinsic utility from taking the cooperative move, even if they do not know personally who the other agents are and what they think. It is the argument of this chapter that the stabilizing force of this assurance mechanism comes at a price: when someone is not recognized as a reasonable citizen, de facto she does not enjoy political membership fully.[53]

The question, then, is whether Rawls ensures that all free and equal citizens can participate in the definition of fair terms of cooperation on an equal footing. In arguing that this is not the case, I shall focus on Rawls's transition from *A Theory of Justice* to *Political Liberalism*.[54] After briefly explaining Rawls's theoretical concerns, I will characterize the substance of his response to the observation that reasonable pluralism is a fact of democratic society. In section 3, firstly, I explain what overlapping consensus stands for. Secondly, I investigate the difference between "being reasonable" and "being recognized as reasonable". Section 4 and section 5 substantiate my argument as follows: one criticism concerns the conservative bias of overlapping consensus that tends to penalise the most innovative and progressive voices of the society. The second is based on the high individual costs of adapting to the majority culture. Together, these two sections aim to show that not all members of the citizenry are treated as equals in Rawlsian *Political Liberalism*. Section 6 concludes the chapter.

[53] There is a significant body of literature on Rawlsian conception of reasonableness and its problems. See James Bohman, "Public Reason and Cultural Pluralism: Political Liberalism and the Problem of Moral Conflict," *Political Theory* 23 (2) (1995): 235-279. James Bohman and Henry Richardson, "Liberalism, Deliberative Democracy, and Reasons all can Accept,'' *Journal of Political Philosophy* 17 (3) 2009): 253-74. See also Marilyn Friedman, "John Rawls and the Political Coercion of Unreasonable People," in Victoria Davion and Clark Wolf (eds.), *The Idea of a Political Liberalism: Essays on Rawls* (New York: Rowman and Littlefield, 2000): 16-33. RJ Leland and Han Van Wietmarschen, "Reasonableness, Intellectual Modesty, and Reciprocity in Political Justification," *Ethics* 122 (4) (2012): 721-747. Leif Wenar, "Political Liberalism: An Internal Critique," *Ethics* 106 (1) (1995): 32-62.

[54] John Rawls, *A Theory of Justice* (Cambridge MASS: Harvard University Press, 1971). See also, John Rawls, "Justice as Fairness: Political not Metaphysical," *Philosophy and Public Affairs* 14 (3) (1985): 223-251. John Rawls, "Kantian Constructivism in Moral Theory," in Samuel Freeman (ed.), *Collected Papers (*Cambridge MA: Harvard University Press, 1999). John Rawls, *Justice as Fairness: A restatement* (Cambridge MA: Harvard University Press, 2001).

2. From *A Theory of Justice* to *Political Liberalism*

The prodromes of the theoretical questions that concerned John Rawls in *Political Liberalism* were already present in the last sections of *A Theory of Justice*.[55] At the end of his first book, Rawls attempted to show that a well-ordered society would be stable only if its citizens, caring little about the advantages they could gain from free-riding and other forms of injustice, developed a sense of justice and decided that preserving their sense of justice belongs to their good. In Section 86 of his first book, Rawls writes: 'what is to be established is that it is rational … for those in a well-ordered society to affirm their sense of justice as regulative of their plan of life. It remains to be shown that this disposition to take up and to be guided by the standpoint of justice accords with the individual's good'.[56] For Rawls, a determining factor for the stability of the well-ordered society, therefore, is the congruence between the point of view of justice and the individual conception of the good. Specifically, as he continues, 'the problem is whether the regulative desire to adopt the standpoint of justice belongs to a person's own good when viewed in the light of the thin theory with no restriction on information'.[57]

Rawls frames his response to this issue along two main trajectories, as a collective action problem and as an argument for self-realization. First, he advances a publicity-based argument. He contends that principles are public then parties acknowledge the moral convictions shared by other members of a well-ordered society. In this context, deception also means incurring psychological costs that are very demanding for a party to bear over time. In this way, it is not rational to act against the public sentiment of justice.[58] Secondly, a defection in a system of mutual interdependence may cause undesirable externalities, like hurting friends and associates along with the rest. By not doing our fair share for the community, it is

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[55] On this issue, see Johnathan Floyd, 'Rawls' methodological blueprint,' *European Journal of Political Theory* 0 (0) (2015): 1-15. Samuel Freeman, *Rawls* (New York: Routledge, 2007). Sebastiano Maffettone, *Rawls: An Introduction* (London: Polity Press, 2011). Stephen Mulhall and Adam Swift, *Liberal and Communitarians: second edition* (Oxford: Blackwell Publishing, 1996. Samuel Scheffler, "The Appeal of Political Liberalism," *Ethics* 105 (1) (1994), 6. Paul Weithman, *Why Political Liberalism? On John Rawls's Political Turn* (Oxford. Oxford University Press, 2013). See also, Paul Weithman, "Legitimacy and the Project of Political Liberalism," in Thom Brooks and Martha Nussbaum (eds.), *Rawls's Political Liberalism* (Columbia: Columbia University Press, 2015): 73-112.
[56] Rawls 1971, 567.
[57] Ivi, 570.
[58] Ibidem

possible, Rawls tells us, to affect our beloved ones disproportionately. Since, in a well-ordered society, parties cannot chose who loses by their defections, there are strong grounds for preserving one's sense of justice. Therefore, congruence between the sentiment of justice and one's life plan is likely to avoid undesirable costs.[59] Thirdly, congruence with the general sense of justice, Rawls argues, matters for the realization of one's own abilities. In order to bring to fruition the latent capacities of individuals and to realize rewarding prospects, parties also depend on the cooperative endeavours of others. These endeavours necessitate a regulative conception for cooperation to be possible, which functions as an enabling environment for one's flourishing. This regulative conception, Rawls claims, is the general standpoint of justice. In this way, congruence between desire and the public sentiment of justice is rational because it allows parties to make the most gratifying use of their talents.[60] Fourthly, Rawls gives us a Kantian argument that reads as follows: principles of justice are regulative and the desire to express our nature as free and equal can be fulfilled only by acting on the principles of right. However, by being regulative, these principles extend their reach to other desires. So, in order to realize the nature as free and equal, there is no alternative than harmonising desires with the standpoint of justice. Such a desire to conduct oneself in a certain way above else makes it rational, for parties, to regulate their life-plans in accordance with the principles of justice.[61]

In its first version, Rawls writes, justice as fairness is a doctrine that extends the idea of social contract, and that 'is no longer open to objections often thought fatal to it, and that proves superior to the long dominant tradition of utilitarianism'.[62] Doing so, it also is presented as a comprehensive liberal doctrine, where 'all the members of its well-ordered society affirm that same doctrine'.[63] As Rawls puts it, 'the problem [of stability] is whether the regulative desire to adopt the standpoint of justice belongs to a person's own good … being rational for one, it is rational for

[59] Ivi, 571.
[60] Ibidem
[61] Ivi, 574. Many commentators have casted lights upon the implicit realism of political liberalism. See David Estlund, "The Insularity of the Reasonable: Why Political liberalism must admit truth," *Ethics* 108 (2) (1998): 252-75. Charles Larmore, "The Moral Basis of Political Liberalism," *Journal of Philosophy* 96 (12) (1999): 599-25.
[62] Rawls 2005, 389.
[63] Ibidem

all, and therefore non tendencies to instability exist'.[64] In *Political Liberalism*, Rawls finds this univocal reading of the person's own good particularly problematic. As Rawls tells us, in order to acclimate justice as fairness with the real structure and composition of the population of modern democracies, the recognition of the fact of reasonable pluralism as an intrinsic characteristic of liberal democratic societies makes necessary a relaxation of the monistic assumption at the centre of his first account. In this way, the collective action problem at the heart of the concluding sections of *A Theory of Justice* remains the same. But, as we shall see in the next section, starting assumptions change in such a way that the solution must be one that all citizens can agree with despite considerable moral disagreement.[65]

3. Overlapping consensus, reasonableness and a democratic political culture

So, at the heart of Rawls's version of political liberalism, there is a fundamental question. Namely, in a democratic society, where free and equal citizens are reasonable and rational but disagree on fundamental ethical and religious issues, is it possible for all these citizens to unite in affirming a political conception of justice that ensures fair terms of cooperation over time? For Rawls, a political conception of justice that allows for an overlapping consensus is the response to this fundamental question.[66] Therefore, Rawls constructs justice as fairness as a political conception of justice that is valid for all reasonable citizens who are free and equal, who recognize, from their own points of view, the need for fair terms of cooperation, and advance their interpretation of such terms according to the shared fund of values that inform a democratic society. On his view, as well known, a society inspired by the principles of justice as fairness is stable because such a

[64] Rawls 1971, 567.
[65] Brian Barry, "John Rawls and the search for stability," *Ethics* 105 (4) (1995): 874-915. See also, Larry Krasnoff, "Consensus, Stability and Normativity in John Rawls's Political Liberalism," *The Journal of Philosophy* 98 (6) (1998): 269-92.
[66] Rawls 2005, xv-xx, 140-149. See also Kurt Baier, "Justice and the Aims of Political Philosophy," *Ethics* 99 (4) (1989): 771-90. Samuel Freeman, *Rawls* (New York: Routledge, 2007). Lawrence B. Solum, "Situating Political Liberalism," *Chicago-Kent Law Review* 69 (3) (1994): 549-88.

conception of justice allows convergence of all reasonable citizens despite ongoing disagreements about important ethical, religious and political matters.

In this section, I do not focus on the asymmetry between justice and persisting disagreements about the good.[67] My focus is internal to Rawls's theory and regards overlapping consensus and its conceptual underpinnings. Rawls contextualizes his analysis within the terms of fundamental ideas that he sees as implicit in the public culture of a democratic society.[68] This culture includes political institutions of a constitutional regime, its tradition of interpretation, texts and documents that are common knowledge.[69] Moreover, in a democratic society, the natural exercise of one's moral personality leads to the consolidation of reasonable pluralism as an inherent feature of such societies.[70] In this context, Rawls aims to square the reasonable pluralism of a democratic society with basic institutions through a political conception of justice that free and equal citizens can support from their own points of view, which, however, do not reject the essentials of a constitutional democratic regime.[71] This political conception of justice must have two merits. It must allow citizens to pursue their own doctrines, and it must ensure that the fundamental democratic framework is preserved when people have to decide on issues of general interest collectively. In other words, it must ensure stability.[72] In Rawls's own words, the problem is 'to work out a conception of political justice for a constitutional democratic regime that the plurality of reasonable doctrines – always a feature of the culture of a free democratic regime –

[67] The idea of an overlapping consensus has attracted widespread resistance because of the impression that Rawls is using a double standard when discussing disagreement about the good and disagreement about the right. Essentially, the so-called asymmetry objection is to show that political liberalism is not even internally coherent. Without challenging the main assumption of political liberalism, proponents of the asymmetry objection claim that political liberalism is internally inconsistent because the burdens of judgement apply with equal force to matters of justice and matters of the good life. For Rawls, disagreement about the good is tolerated while disagreement about the right should be limited. In this chapter, I am not dealing with the asymmetry objection. On this issue, see Simon Caney, 'Liberal Legitimacy, Reasonable Disagreement and Justice', in Richard Bellamy and Martin Hollis (eds.), *Pluralism and Liberal Neutrality* (London: Frank Cass, 1999): 9–36. Timothy Fowler and Zofia Stemplowska, "The asymmetry objection rides again: on the nature and significance of Justificatory disagreement," *CSSJ Working Paper Series* (2014). Jonathan Quong, "Disagreement, Asymmetry, and Liberal Legitimacy," *Politics, Philosophy and Economics* 4 (3) (2005): 301-30. Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1998).
[68] Rawls 2005, 13.
[69] Ivi, 14.
[70] Ivi, 54-61.
[71] Ivi, xvi.
[72] Ivi, xv-xvii, 125-9.

might endorse'.[73] Such a political conception of justice, therefore, must specify appropriate terms of cooperation, given the assumptions that, if terms are appropriate, all citizens have the capacity to be cooperating members,[74] and they can understand reciprocal efforts because of a an intelligible political common sense.[75]

Rawls's conception of reasonableness is conceived so as to allow for the belief that citizens have all the capacities to be cooperating members.[76] 'People are reasonable,' Rawls writes, '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'.[77] From this definition, reasonable people desire to engage in fair terms of cooperation, and there is a condition for this being so. People stand ready to propose fair terms of cooperation if they know that other people will do the same. Rawls assumes that people can do so. He also assumes that they are willing to do so.[78] Consequently, the central question is not to determine whether or not citizens will propose fair terms of cooperation, but rather Rawls focuses on the most appropriate framework for the social world, which we can expect everyone to endorse.[79]

Engaging with others in the definition of fair terms of cooperation implies not only the attempt to offer the most convincing account but also the disposition to be convinced by others. In this sense, the perception of what is a convincing account may differ, but the desire to engage in cooperation is intrinsically valuable from all points of view. These two sides constitute the character of a reasonable person. But, without an underlying connection between two or more persons, heterogeneity and incommunicability may obfuscate such a positive disposition. For Rawls, this is not a big problem. There is a shared fund of implicitly recognized basic ideas and principles that ensure that one can expect other individuals to

[73] Ivi, xviii, xxx, 385-96. Rawls 1985. Rawls 1999. Rawls 2001, 37.
[74] Ivi, 20.
[75] Ivi, 14.
[76] Ivi, 51.
[77] Ivi, 49.
[78] Ivi, 50-54.
[79] Ivi, 54.

recognize her attempt to propose fair terms of cooperation. Without an established public world, with Rawls's own words, 'the reasonable may be suspended and we may be left largely with the rational, although the reasonable always binds in foro interno'.[80]

To review, Rawls addresses *all* citizens of a hypothetical democratic society with a distinctive political culture. By assumption Claire is a reasonable, free and equal citizen. In order to be recognised as reasonable, however, there must be a shared fund of public political values that makes her account of fair terms of cooperation understandable. The convergence between this political common sense and her account of fair terms of cooperation makes it possible for other citizens to reduce her proposal to the communal knowledge that allows everyone to accept the same terms of cooperation as fair. So, with a shared fund of political values, free and equal citizens, who are rational, can also be recognized as reasonable; and then, Rawls argues, they may reach an overlapping consensus, a situation in which all citizens, who are recognized as reasonable, unite in affirming the same political conception from the perspective of their own comprehensive doctrines.[81]

Overlapping consensus is a special kind of agreement by which the same principles of the political conception are affirmed for different reasons from the standpoint of each comprehensive doctrines.[82] Through an overlapping consensus, citizens, who adhere to different comprehensive doctrines, accept progressively the same liberal democratic political outlook from their own perspectives. It is distinctive that this process does not come from the outside. The political conception of justice addresses all individuals as free and equal without distinction, but the process through which citizens of a liberal democratic society support this conception takes place from within their own comprehensive view.[83] However, for Rawls, what is certain is that, no matter the standpoint one takes, 'the object of

[80] Ibidem
[81] Ivi, 389.
[82] Rawls 2001, 187.
[83] Rawls 2005, 389.

consensus, the political conception of justice, is itself a moral conception'.[84] And, as such, it is affirmed on moral grounds. In this way, 'an overlapping consensus', he continues, 'is not merely a consensus on accepting certain authorities, or on complying with certain institutional arrangements, founded on a convergence of self-or group interests. All those who affirm the political conception start from within their own comprehensive view and draw on the religious, philosophical, and moral grounds it provides'.[85]

In this way, overlapping consensus occurs across citizens who have different doctrines while keeping faith to the form of political life that have enabled these doctrines to flourish. How is this possible? Again, this brings us to the process of acquiring shared knowledge and understanding through experience. For Rawls, a fact to be considered is that a 'reasonable person desires for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept'.[86] So, we can paraphrase, according to Rawls, citizens think that a cooperative move has an intrinsic value. As someone has argued, the value of cooperation amplifies when all citizens value being seen as a co-operator but not as a defector.[87] In this way, the knowledge of what other citizens think (have thought) or do (have done) is determinant for having the scaffolding needed as a basis for cooperation over time. But, in a large and complex society with reasonable pluralism, where it is not plausible to claim that all free and equal citizens know each other and their past, how can Rawls ensures such a framing, so strong that it informs preferences despite substantial disagreements? For him, a common political common sense functions as this environmental cognitive trigger. In other words, it shapes the political posture of persons as citizens in a way that ensures the loyalty with the existing and prevalent political culture.

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[84] Ivi, 147.
[85] Ibidem
[86] Ivi, 50.
[87] Gerald Gaus, "Reasonable utility functions and playing the cooperative way," *Critical Review of International Social and Political Philosophy* 11 (2) (2008): 215-34. See also, Robert Nozick, *The Nature of Rationality* (Princeton NJ: Princeton University Press, 1993) and Amartya Sen, *Rationality and Freedom* (Cambridge MASS: Harvard University Press, 2002).

In other words, along their conceptual development in a democratic society, Rawls tells us, the doctrines reasonable people support have already constructed accounts of possible fair terms of cooperation that are coherent with the enduring political structure within which moral agents operate. This being so, for a political conception of justice being supported for the right reasons (overlapping consensus), the implicit crucial assumption is that all citizens hold reasonable comprehensive doctrines, which have been permeable to the historically predominant funds of shared values. In this way, citizens are not only willing to propose fair terms of cooperation, but they can also receive other proposals positively.

Now, as the example in the introduction shows us, it is not clear that we should consider a democratic culture as the cure for moral disagreements, rather than a cause of them. What is important for Rawls is the point that coexistence under the same democratic state shapes the preferences of those who live under such conditions. This circumstance constitutes a strong-enough ground to discuss fair terms of cooperation that all can accept despite differences. In other words, a shared fund of political values allows for reasonable pluralism, but, it also opens up room for consensus on the same political conception of justice for moral reasons. Rawls treats a democratic culture as if the balance between individual commitments and dominant political values were possible for all citizens, andbetter for the community as a whole, especially in terms of stability. In doing so, Rawls also underestimates the relevance of the differences between being reasonable and being recognized as reasonable. Simply stated, Claire can be reasonable, but other citizens also can fail to recognize her as such. In such a situation, whether or not she is actually reasonable is irrelevant, since what counts is how other citizens ratify her fit with the general understanding of reasonableness as a shared practical category. In this way, overlapping consensus encompasses only members that the majority of citizens already recognize as reasonable. This backward component makes overlapping consensus subject to a line of criticism. Overlapping consensus is a theoretical device that engages only with recognizably reasonable citizens and, by doing so, demarcates citizens in two units: those who can fully exercise their

political franchise, and those who are supposed to do the same, but, in practice, cannot, unless changing substantially the fundamental reasons of their participation.

Overlapping consensus overlooks the fact that a consensus so-conceived excludes some citizens from democratic society, which means a failure in the fundamental democratic promise of treating all members of the *demos* equally. As I shall argue in section 3, such a bias tends to exclude political avant-gardes in favour of more conservative and traditional forms of political participation. Moreover, as I argue in section 4, this division forces some pockets not to genuinely support the terms of cooperation. Together, these two argumentative lines shall demonstrate that the assumption of a widespread common fund of political values as functional to the reciprocal recognition as reasonable citizens makes overlapping consensus vulnerable to a conservative bias which entails supporting the preponderant political culture. It overlooks the possibility that such a culture excludes and penalizes potential claimants and undermines a core democratic pillar – the belief that all citizens can exercise the same franchise without privileges.

4. The black swan objection[88]

In this section, I argue that Rawls describes the members of a liberal democratic society as the kind of persons he needs for his view to be appropriate, in a way that excludes the public from overlapping consensus through significant forces that are constitutive of democratic societies as we know them. In this way, for an overlapping consensus to be achievable, a more-than-insignificant-part of our current liberal democratic societies would not be recognised as reasonable. This means to say that this group would not take part in the definition of what fair means in the construction of fair terms of cooperation that may reach the desired overlapping consensus.

[88] As well-known, "black swans" are events that, despite being common events, come as surprises.

For Rawls, over time, a liberal democratic culture has engaged in a common sense-creating activity. That is, it has transformed doctrines into reasonable doctrines, shaping the landscape of societies under liberal democratic regimes. Reasonable citizens, Rawls tells us, see themselves as able to hold and revise a certain doctrine, to abide with rules of cooperation despite disagreement, and also conceive themselves, as much as their fellow members, as free and equal. If we think of reasonable people as having a sense of where the moral borders are, then, we can also believe that they already have shared premises for seeking agreement on basic principles. Essentially, as Onora O'Neill stresses, Rawls describes the public for an overlapping consensus as a community of fellow citizens, who already understand what it means to be a full cooperative member of such people.[89] As we have seen earlier, by plugging into his account a shared fund of public values, and taking this fund as general, Rawls ensures that, despite disagreement, there are reasons for convergence and coordination.[90] The difference between everyone having the same conception of the good and reasonable people having different partially comprehensive doctrines is thereby minimized. Reasonable citizens can consent to a political conception of justice because the values underlying this conception are internal to the reasons they have.[91]

So, the public political culture component in each doctrine is what matters the most for theory building. It provides a sound and plausibly universalistic justification for people to sustain a political conception of justice from their own point of view despite their not having any direct assurance mechanism or peer-to-peer relationship. As we have seen, overlapping consensus is intended for a society that already meets certain political and legal standards. The same standards that, for Rawls, unleash the fact of reasonable pluralism. In this way, he locates the member of a well-ordered society within the binary of a precise public culture. Therefore,

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[89] Onora O'Neill, "Political Liberalism and public Reason: A Critical Notice," *Philosophical Review* 106 (3) (1997): 411-28. Onora O'Neill, "Changing Constructions," in Martha C. Nussbaum and Thom Brooks (eds.), *Rawls's Political Liberalism* (New York: New York University Press, 2015): 57-72.

[90] On disagreement and liberal democratic values, see Amy Gutmann and Dennis Thompson, "Moral Disagreement in a Democracy," *Social Philosophy and Policy* 12 (01) (1995): 87-110. Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge MASS: Harvard University Press, 1998). See also, Christopher McMahon, *Reasonable Disagreement: A Theory of Political Morality* (Cambridge: Cambridge University Press, 2009).

[91] Rawls 2001, 193.

by lowering the level of idealization within the ideational space of a certain liberal democratic culture, he is bound to take seriously the particular form of pluralism that actually exists within such a distinctive perimeter. And this transforms the assumption of a shared fund of public values into a factual aspect of the theory. Specifically, in order to provide a plausible account that fits in that context, Rawls must consider all the possible doctrines that actually exist (or have existed) within a liberal democratic society.

Such a contextualization within a public political culture, therefore, raises a problem of theoretical parsimony. Rawls should incorporate a historical sociological analysis of pluralism within liberal democracy, but this is a very demanding, and probably contingent, kind of analysis. Simply, population may grow, or people can have new ideas. Alternatively, Rawls can act as if his conception of a public political culture were so universally descriptive to be considered as the relevant assurance mechanism for all moral agents within the kind of political regime he has in mind. Understandably, Rawls goes for the second option. He assumes us that, in his ideal of a liberal democracy, a vast majority of people can recognize each other as reasonable because they all share the same public political culture. By doing so, however, he leaves us the space open for criticisms about the partiality of the alleged universalism of its theory, even within the perimeter of liberal democratic societies.[92]

As reasonable members of a political society who share the same political common sense, in Rawls's view, citizens find in one another reasons that they allcan reconcile with the political part of their set of values, independently from any other commitment. If these attributes inform the description of a reasonable person, it is clear that the distinction between reasonable and unreasonable cannot aspire to be universalistic unless these attributes are universal, but, and this seems to be undeniable, they are not. Given so, it becomes crucial to understand how

[92] Jean Hampton, "The Moral Commitments of Liberalism," in David Copp and Jean Hampton and John E. Roemer (eds.), *The Idea of Democracy* (Cambridge, Cambridge University Press, 1993), 292-313. See also, Chantal Mouffe, "Democracy, Power, and the Political," in Seyla Benhabib (ed.), *Democracy and Difference: Contesting the Boundaries of the Political* (Princeton: Princeton University Press, 1996): 245-57.

uncommon is to find people that, in our familiar political experience as citizens in democratic political forms, would be Rawlsian citizens who would not be recognized as reasonable. If, from the outset, Rawls's account turns out to exclude some components of the political life as we experience it, it is plausible to say that the resulting overlapping consensus also excludes relevant pockets of society and considers some of the existing doctrines that the majority of citizens in liberal democracies tend to recognize as reasonable.

Vulgate says that the criterion of reasonableness and the public political culture are not so exclusionary elements of a theory of pluralism for liberal democratic societies, which are communal of pretty much all accounts of political liberalism.[93] All things considered, people tell us, unreasonable people are fanatics, whose vocabulary and practices challenge the fundamental assumption that all human beings are free and equal.[94] However, it is surprisingly simplistic to think of people that a Rawlsian citizen would not recognize as reasonable in these terms only.[95] The partiality of Rawls's conception of reasonableness turns out to be particularly clear when we take the position of hypothetical outsiders – those people who would not be not recognized as reasonable. From libertarians to religious extremists, passing by subalterns, academics and committed social activists, there are many ways to play the role of the unreasonable. Moreover, within the complex subset of people who would not be recognized as reasonable, some cases might generate troubles for Rawls, because they, and their political actions, seem to be constitutive of a democratic culture.[96] For instance, consistent empirical evidence shows that many individuals who form important elements of such a public culture would disagree with some of the most fundamental aspect of Rawls's conception of reasonableness.[97] Scholars also think that democracy is simply a neoliberal fantasy, and disagreement about democracy is not necessarily a bad thing unless we

[93] RJ Leland and Han van Wietmarschen, "Political Liberalism and Political Community," *Journal of Moral Philosophy* (2016), 23.
[94] Jonathan Quong, *Liberalism without Perfection* (Oxford: Oxford University Press, 2011).
[95] Enoch 2015.
[96] On this issue, see William A. Galston, "Pluralism and Social Unity," *Ethics* 99 (4) (1989): 711-26. On the conservatism of Rawls's political liberalism, see Bruce Ackerman, "Political Liberalism," *The Journal of Philosophy* (1994): 364-386.
[97] George Klosko, "Rawls's 'Political' Philosophy and the American Democracy," *The American Political Science Review* 87 (2) (1993): 348-59.

go as far as equating justice with the democratic political form, which is clearly not what Rawls has in mind.[98]

The assumption of a democratic public culture as an assurance mechanism among citizens who disagree about important matters implies that alternative ways to organize collective life are occluded. In this way, Rawls secures overlapping consensus and the resulting stability within an array of already given possibility. This is not necessarily a problem for Rawls, since the theoretical move is that of concealing liberal democratic institutions in front of reasonable pluralism. In so doing, I argue, there is a problem. Instead of deflecting the contradictions of the predominant culture in favour of innovation and inclusion, the search for stability reflects the idea that there is no need to envision a different politics in the future, because what we have is the best we can hope for. At this stage, if we doubt the capacity of democratic culture in plural societies, for us to follow Rawls, we need, at least, an uncontroversial agreement on what the political consists of. However, in liberal democratic theory itself, there is widespread disagreement on the perimeter of the political domain, on the way through which a political conception of justice ought to be applied in such a space, and on the kind of institutions that are actually part of the basic structure of the society.[99]

Moreover, harmonisation around a certain conception of a political common sense also is likely to silence the most critical and original voices: people that allow a certain tradition to evolve and fit within new social demands. In order to modify and evolve a certain tradition, one should be able to distance themselves from his or her inheritance in order to exercise those critical faculties that can actually challenge the contradiction of one's own society. To do so, however, critical thinkers may challenge also the particular form of the political community and public culture. By labelling these people as unreasonable, the risk is to think of disagreement in plural liberal democracies under the lenses of common sense.[100] This is a bizarre situation in which, for the sake of internal consistency, radical

[98] On democracy as a neoliberal fantasy, Jodi Dean, *Democracy and other Neoliberal Fantasies: Communicative Capitalism and Left Politics* (Durham NC: Duke University Press, 2009).
[99] On this issue, John S. Dryzek and Simon Niemeyer, "Reconciling Pluralism and Consensus as Political Ideals," *American Journal of Political Science* 50 (6) (2006): 634-49. Bonnie Honig, *Political Theory and the Displacement of Politics* (Ithaca: Cornell University Press, 1993).
[100] On this issue, see also Galston 1989.

thinkers and innovators are excluded, while people, who appear loyal to the liberal democratic public culture while acting too unwisely for the community to live with over time, are in a preferential position. It is not obvious that citizens of liberal democracies should continue to express emancipatory aspirations and demands for justice in democratic terms, or in terms that other citizens can recognize as reasonable. The predilection for democratic terms may divert the attention to the ways people perform their claims, rather than taking seriously what these people stand for, and the structural conditions of marginalization which, in certain cases, fundamentally exhaust their transformative energies.

The series of examples could continue, but what matters for me is the fact that, in liberal democratic societies, wherever we turn our heads, we see examples of people who would not be recognized as reasonable under a pure Rawlsian architecture. But these people do propose possible terms of cooperation despite being in disagreement about the distinctive silhouette of their political culture. If we bring Rawlsian glasses, we have no eyes for this truth. The consequence is that Rawls's account is unable to see that, in this way, a more-than-insignificant part of the population is denied access to the construction of the terms of cooperation. And, by assuming the historical significance and tenacity of a shared fund of political values, overlapping consensus neutralizes positive transformative forces as if they were always destabilizing pressures, or marginal and anti-democratic counter-powers.

Now, if we accept these remarks, we see that overlapping consensus functions as a vehicle for demarcation and limitation of the space of political possibilities. This observation engages our attention on an important point. On this picture, if some people do not act as if their worldviews incorporated elements of the dominant political culture, such rupture does not constitute sufficient reason to doubt the support for the right reasons of the political conception of justice itself, but, rather, it is a proof that these people are not predictably reliable to overlap on the elementary terms of cooperation. But that means to say that the political comes

before the moral, or, to say the same in other words, that political reasons outweigh moral reasons to treat all citizens on an equal footing when comes to decide on issues of collective concern.

5. The invisible (wo)man objection

In the previous section, I have argued that, if we follow Rawls's argument, overlapping consensus excludes a significant and progressive part of liberal democratic societies with the risk of absorbing positive transformative energies. In this section, I shall demonstrate that overlapping consensus also displays its conservative bias in another way. Rawls ignores the fact that the dominant public political values inhibit potential participants by pressuring them to homologation, even if they could have engaged positively with other citizens in their own terms. This is not a problem of integrity, which has been a substantial concern in the liberal literature since the publication of *Political Liberalism.*[101] Here, I argue that those who stand outside the circle of this society's definition of common political values are forced to be like the rest of the society rather than taking their differences, making them strengths and contributing to the enlargement of the constitutive political values of the society.

Feminist criticism has challenged the elimination of affect from the realm of the political. For Carole Pateman, such an exclusion has been consonant with the exclusion of women from the political sphere, since women, affect, and love are lived as forms of this exiled affect.[102] Affects and emotions are seen as elements of disruption and antagonism against the requirements of fairness and cooperation.[103] In this view, women become the bearers of certain personal and political disorders, and men are the protectors of the ordered political association. It is in such a manner, that one may understand the perception of a disorder of women as a

[101] On this issue, see Christopher J. Eberle, *Religious Conviction in Liberal Politics* (Cambridge: Cambridge University Press, 2002).
[102] Carole Pateman, *The Disorder of Women* (Stanford CA: Stanford University Press, 1989).
[103] Sharon Krause, *Civil Passions: Moral Sentiment and Democratic Deliberation* (Princeton: Princeton University Press, 2008).

synecdoche for the exclusionary character of overlapping consensus. The ideal community of reasonable political agents, here, is not a polymorphous large and open collection of human beings, who express their moral capacities, but a community of men, and women that, in order to count, must act as men. Now, whether or not one accepts this critique, Pateman illuminates an important aftereffect of overlapping consensus, as Rawls understands it: namely, it may force individuals to a divided self-perception as reasonable citizens, and as individuals who have lost their most significant imprint.

According to Rawls, the basic structure of the two principles 'inevitably encourages some ways of life and discourages others, or even excludes them altogether'.[104] The unavoidable effect of what Rawls defines as a 'fact of common sense political sociology' is that certain comprehensive doctrines, especially those that are incompatible with a widespread political culture, may fail to gain adherents. For instance, Rawls says, in the favourable context of a general commitment to equality and liberty, stable liberal and democratic institutions enjoy adequate support to educate children in order 'to be fully cooperating members of society, and enable them to be self-supporting'.[105] For Rawls, what indeed matters is the reception and the expressive articulation of doing oneself as a reasonable agent, which he considers as an inevitable result of a favourable liberal democratic environment. My contention is that, in today's liberal democracies, as we have seen, many people may elude Rawls's standards of reasonableness. If we accept this remark, and we assume, as does Rawls, that, in order to be active participants in the definition of fair terms of cooperation, citizens must be recognized as reasonable; we need to consider an important problem. Namely, the fact of common sense political sociology remains blind to the existential costs of negotiating elements that people consider significant features of their characters. In this way, Rawls brings into being a kind of political association that may not be ostensibly exclusionary,

[104] Rawls 2005, 197.
[105] Rawls 2005, 199. On this issue, see Steinar Bøyum, "Rawls's notion of the political conception as educator," *European Journal of Political Theory* 12 (2): 136-52. See also, Steven Macedo, *Diversity and Distrust: Civic Education in a Multicultural Democracy* (Cambridge MASS: Harvard University Press, 2000) and Jonathan Quong, "The Rights of Unreasonable Citizens," *Journal of Political Philosophy* 12 (3) (2004): 314-35.

but that forces people to hold an extraneous standpoint. The moral and political world, Rawls seems to tell us, is set up in a way that forces individual deeds and communicative acts within the semantic space of actions that others can recognise as cooperative. By doing so, however, Rawls limits the space of participation for marginalized groups and dissent against oppressive powers; especially, when these powers are generally deemed liberal and democratic.

Contestation of superimposed identities and the search for the genuine expression of the self in public is a common theme of black literature.[106] For instance, in the Epilogue of the *Invisible Man*, the narrator gives us a vivid representation of how important for self-realization is the opportunity to be present to the others in one's own terms. After a journey across bigotry, and the effects of racial division on victims and perpetrators, the narrator tells us that he is finally ready to come to the surface again. Action, he says, has already taken place. By telling his own story in his own way, the narrator has advanced a call for change. The identification with the very exercise of constituting a sense of the self by narrating a story marks his political presence against oppressive background conditions. To see the same moment from the opposite perspective, without the space to unfold the individual experience of prejudice and intolerance as it is, oppressiveness translates into an imperative of homologation, which inhibits political change. 'Whence all this passion toward conformity anyway? – diversity is the world. Let man keep his part and you'll have no tyrant states. Why, if they follow this conformity business they'll end up by forcing me, an invisible man, to become white, which is not a colour but the lack of one'.[107] As he continues few pages later, 'so why do I write, torturing myself to put it down? Because in spirit of myself I've learned some things. Without the possibility of action, all knowledge comes to one labelled "file and forget," and I can neither file nor forget'.[108] When you are, with the words of W. E. B. Du Bois, 'measuring oneself by the means of a nation that looked back in contempt,' or when you are continuously required to

[106] See James Baldwin, *Go Tell it on The Mountain* (New York City: Vintage Book, 2013). W.E.B. Du Bois, *The Soul of Black Folk* (New York Citi: Penguin, 2013). Ralph Ellison, *Invisible Man* (New York City: Vintage Book, 1980).
[107] Ellison 1980, 577.
[108] Ivi, 579.

reconcile your heritage through the eyes of others, the constitution of yourself as a democratic subject through the renegotiation of your worldview may be indiscernible from your perception of injustice.[109] From this perspective, a revision of one's worldview in agreement with the dominant vocabulary and loyalty of alien rules of cooperation suppresses differences and symbolic resources, frustrates the potential of political change, and inhibits the performative moment of making a claim in public.

The conservative element, which reverberates from the demand of entering the moral community in ways that are not one's own, draws an imaginary line that associates several experiences of marginalisation in Western liberal democracies.[110] Think of those people who, since the post-war period, have been emigrating and settling in Western liberal democracies. While their legal status is relatively assured, in many cases, their experience of citizenship remains ambiguous. 'The majority of these peoples,' Carlos Forment writes, 'are by now "dual nationals," "permanent residents," or "naturalized citizens," with civic and political attachments extending to their compatriots in their homeland and to those in their adopted country'.[111] If we buy Rawls's reconstruction of the development and affirmation of a public political culture in the Western world, outsiders entered liberal democratic public spheres at a moment in time when liberal values were constitutive of the political and moral general vocabulary. In Forment's representation, migrants who 'entered the countries of post-imperial metropole, they did more than just exchange passports and currency at the custom office; they appropriated liberal stories'.[112] Appropriation of the liberal stories, however, necessitated a comprehensive re-articulation of the self and a questioning of lingering traces of anti-liberal notions. The road to inclusion allowed for the constitution of hybrid people who reinvented their traditions in the light of the

[109] Du Bois 2013.
[110] See Carlos A. Forment, "Peripheral Peoples and Narrative Identities: Arendtian Reflections on Late Modernity," in Seyla Benhabib (ed.), *Democracy and Difference: Contesting the Boundaries of the Political* (Princeton: Princeton University Press, 1996), 315. See also Edward Said and Christopher Hitchens (eds.), *Blaming the Victims* (London: Verso, 1988).
[111] Forment 1996, 315.
[112] Ivi, 319.

liberal discourse. 'Peripheral groups relied on their own historical experiences and prudential judgments,' Forment concludes, 'to rework the language of liberalism in ways neither they nor their tutors had foreseen'.[113]

Now, together with the considerations of section 3, these examples support my claim that overlapping consensus tends to prize majority view, conformists and homologation of dissenters. This is so because Rawls relies upon a certain moral development and a distinctive conception of the political – aspects that are persistent objects of disagreement inside and outside political theory. In a modern liberal democratic society, different religions, long-term residents, women, people of colour, and individualistic economic views, all coexist within the same borders, and are citizens. These are relatively evident observations, whose implications have been largely neglected by Rawls, and the Rawlsian School, which has devoted much attention to thinking of the kind of reasons reasonable people can exchange with one another, as if reasonableness were an all-encompassing category and the public political culture did not play a significant role in the mutual recognition as a reasonable citizen. Theorists of a political liberal spirit have largely neglected the relationship between exclusiveness and injustice on the assumption that some sort of exclusion is an undesirable but ordinary externality for all forms of liberal theorizing.[114] In order to ameliorate or overcome the paradigm of overlapping consensus, the strategy has been that of emptying reasonableness of political components,[115] substituting consensus with convergence through social conventions and cooperation,[116] and emphasizing the worth of community for surpassing obstacles to stable cooperative enterprises.[117] However, many experiences of marginalisation show us that accommodating the public political culture is a demanding process, which entails moral and political costs. These costs may create forms of social estrangement, radicalization of differences, and discomfort. They also exclude the most innovative and progressive voices, who,

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[113] Ivi, 322.
[114] See Leland and Wietmarschen 2016, 23.
[115] Thomas Besch, "On Political Legitimacy, Reasonableness, and Perfectionism," *Public Reason* (5) (1) (2013): 31-48.
[116] John Trasher and Kevin Vallier, "The Fragility of Consensus: Public Reason, Diversity and Stability," *The European Journal of Philosophy* 23 (4) (2015): 933-54. Kevin Vallier, "Convergence and Consensus in Public Reason," *Public Affairs Quarterly* 25 (4) (2011): 261-79.
[117] Andrew Lister, *Public reason and Political Community* (London: Bloomsbury, 2013).

from a liberal perspective, would have good reason in voicing their claims in public. If a theory begins by underestimating these costs, one question remains on the table. For increasingly diverse and complex liberal democracies, what value is an ideal political community if, in its starting assumptions, it does not recognize the crude effects of exclusion on the individual, and the negative impact of common sense political culture on the ideational capacity of the political community at large?

6. Conclusion

In this chapter, I held that an apparently idealizing assumption like that of a widespread common fund of political values does the important work of enabling citizens to recognize one another as reasonable. In my view, the dependence on this kind of political common sense epitomizes the conservative bias of overlapping consensus, which is the result of exchanges among reasonable people. Specifically, they recognize one another as reasonable citizens, who propose fair terms of cooperation, in agreement with the predominant and undisputed political framework of ideas. This line of criticism is sympathetic with the number of external critics that have highlighted the defects of Rawls's answer to (reasonable) pluralism of modern societies.[118] However, my argument also wants to unveil an internal inconsistency in the conceptual architecture of Rawls's response to the moral disagreement of citizens in modern societies. As I have illustrated with many examples, the conservative bias of overlapping consensus undercuts the democratic idea that, within the same citizenry, all citizens enjoy the same political franchise. To be more precise, citizens do have the same status as possible participants, but, in fact, it is as if they do not, since, besides the core differentiation between citizens and non-citizens, there is also an internal and informal demarcation – between reasonable citizens and citizens that are not recognised as such. This second demarcation is the consequence of a person's fundamental capacity to acclimatise

[118] Among many other external critics, see Honig 1993 and Mouffe 1996. See also Joseph Raz, "Facing Diversity: The case for epistemic abstinence," *Philosophy and Public Affairs* 19 (1) (1990): 3-46 and Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990).

with the shared fund of political values. Despite being informal, from the perspective of the misrecognized citizen, this demarcation denotes a violation of the allegedly secure political status as a co-citizen, and a discriminatory practice, which contradicts the special relation that citizens have with one another in democratic political regimes.

My belief is that this point is not marginal for Rawls and strict political liberals. As I showed in section 2, the public fund of political values functions as an assurance mechanism: it enables cooperation and mutual recognition as a reasonable citizen. In Rawls, this shared fund of political values is logically prior to reasonableness and independent from the kind of political conception of justice that obtains an overlapping consensus. Actually, this fund limits and informs the spectrum of possible forms that fair arrangements can have. So, in complex and divided societies, a realistic utopia of a just society, like that of Rawls and strict Rawlsian, should be able to take seriously into account the fact that disagreement with the political common sense often hides important demands of justice and inclusion. The same demands that the principles of the theory aim to address in the first place.

Chapter 3
Why modus vivendi theory is exclusionary

Black revolution', Robert Scheer wrote, 'is the statement of an alternative system of values, the move to acquire power to assert those values, and the express willingness to respond with revolutionary violence to the violence inherent in established power'.[119] As Mary Bernstein puts it, the construction of an identity based on differences from the majority was a critical step toward economic independence and political power for Black Nationalism.[120] At the cost of putting forward unsettling demands, and making enemies among potential allies, identity movements may resort to unconventional practices as a form of strategic action to pursue long-term goals.[121] In order to challenge dominant cultural patterns or gain recognition for new social identities, they also may cause widespread feelings of instability and insecurity.[122] Conversely, peace and security are critical problems for the body of research on modus vivendi. In circumstances of deep pluralism, where people disagree fundamentally on political, religious, and economic matters, modus vivendi political theory values political arrangements for their capacity to maintain peace and security – sufficient, it says, for a decent life in conditions of values conflicts. In this chapter, I aim to show that because of such a pronounced commitment to peace and security, modus vivendi has an inherent conservative bias that tends to exclude challenges to majority view.

Modus vivendi came back to the attention of political theorists when John Rawls introduced it as a counterfactual to specify the moral character of overlapping consensus. Essentially, from Rawls's writing, we can deduce what modus vivendi is by analogy with what overlapping consensus is not supposed to be.[123] As Patrick Neal has suggested, modus vivendi largely 'remains a creation of

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[119] Robert Scheer, "Editor's note to 'The Biography of Huey P. Newton' by Bobby Seale in Ramparts," in Mitchell Goodman (ed.), *The Movement toward a New America: The Beginnings of a Long Revolution* (New York: United Church Press, 1970), 202.
[120] Bernstein 1997.
[121] Alice Echols, *Daring to be bad* (Minneapolis: University of Minnesota Press, 1989). William Gamson, *The strategy of social protest* (Homewood: Dorsey Press, 1975).
[122] Banu Bargu, *Starve and immolate* (New York: New York University Press, 2014).
[123] Rawls 2005, 147.

its critics' which is often employed to show the superiority of other normative responses (1997: 191).[124] For Rawls, modus vivendi is not meant to be a valid option, but instead serves an argumentative purpose to clarify the merits of overlapping consensus and stability for the right reasons. According to Rawls, a modus vivendi is the prudential acceptance that, under present circumstances, all citizens cannot live as their comprehensive doctrines dictate. Hence, a modus vivendi is an unstable balance of power that is vulnerable to changes of circumstance. There are several elements that make modus vivendi particularly unsatisfying in Rawls's eyes. Modus vivendi is not only inherently unstable but also founded on mere group interests. Moreover, by accepting modus vivendi as the best available option we also abandon the hope for a stronger form of political community. Modus vivendi is also the outcome of bargaining and negotiations where social unity is only momentarily assured by second-order reasons.[125]

Recently, a burgeoning line of literature has started reading modus vivendi in a new fashion. Such a rediscovery of modus vivendi stems from the desire to enhance or criticize Rawls's account of consensus, which leaves out key aspects of what politics is, and overlooks, they say, the deep conflicts of values at the heart of today's societies.[126] Modus vivendi arrangements are seen as better responses to the complexity of the fact of pluralism, whose prerogative is to accommodate diversity by political means.

There are three distinctive kinds of modus vivendi political theory. First, the so-called Modus Vivendi Liberalism: namely, a middle way between Rawlsian

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[124] Patrick Neal, *Liberalism and its discontents* (New York: New York University Press, 1997).

[125] Rawls 2005, 147. Kevin Vallier also advances a sceptic outlook of modus vivendi arrangements. For him, a modus vivendi regime is 'one where some sizeable portion of laws fails to be congruently justified, but which is nonetheless stable and effective'. See Kevin Vallier "On distinguishing publicly justified polities from modus vivendi regimes," *Social Theory and Practice* 41 (2015): 207-229.: 221.

[126] John Gray, *Liberalism* (Minneapolis: University of Minnesota Press, 1995). John Gray, *Two faces of liberalism* (London: Polity Press, 2000). Bonnie Honig and Marc Stears, "The new realism: from modus vivendi to justice," in Jonathan Floyd and Marc Stears (eds.), *Political philosophy versus history? Contextualism and real politics in contemporary political thought* (Cambridge: Cambridge University Press, 2011): 177-205. John Horton, "Realism, liberal moralism, and a political theory of modus vivendi," *European Journal of Political Theory* 9 (2010): 431-448. John Horton, "Modus vivendi and religious conflict," in Monika Mookherjee (ed.), *Democracy, religious pluralism, and the liberal dilemma of accommodation* (Dordrecht: Springer, 2010): 121-136. John Horton, "Why the traditional conception of toleration still matters," *Critical Review of International Social and Political Philosophy* 14 (2011): 289-305. David McCabe, *Modus vivendi liberalism* (Cambridge: Cambridge University Press, 2010). Fabian Wendt, "The moral standing of modus vivendi arrangements," *Public Affairs Quarterly* 30 (4) (2016): 351-370.

political liberalism and liberalism à la Judith Shklar (Modus Vivendi Liberalism). David McCabe tries to extend the justificatory constituency of mainstream political liberalism by replacing the overlapping consensus on moral reasons with a kind of compromise on the liberal state.[127] Second, a distinctively realist literature, which has tried to unveil the philosophical potential of modus vivendi for the study of legitimate political power in conditions of deep pluralism (Realist Modus Vivendi).[128] Third, Fabian Wendt has recently attempted to make a strong claim for a modus vivendi that is compatible with moral claims about justice, justification, and other values (Modus Vivendi with a Moral Standing).[129] These three accounts begin with the assumption that deep pluralism characterises modern societies, and this is something that the political order must take into account.

In this chapter, I argue that all of these three typologies display an inherent conservative bias, using modus vivendi as a device to manage deep pluralism. This is not to say that political theorists should dismiss modus vivendi as being an implausible device. My aim is to show that modus vivendi political theory must take this bias seriously in order to advance in the search of political arrangements that accommodate the deep pluralism of modern societies. However, this chapter does not offer any alternative to modus vivendi. The ambition is to point the debate to an important problem that deserves consideration from modus vivendi political theorists. Specifically, I argue that modus vivendi helps McCabe to extend the justificatory constituency of the liberal state but this comes at the price of progress, especially when the demand for progress comes from minorities and political avant-gardes. Second, a Realist Modus Vivendi, I argue, leaves room open for a tyranny of majority, which penalizes marginalized groups. Third, Modus Vivendi Arrangements with a Moral Standing overemphasize the higher good of peace. As a result, there is a risk in offering a monistic theory, and containing forms of protests and atypical appropriations of the political space. In the following, I shall substantiate these three claims.

[127] McCabe 2010, 126-36.
[128] Gray 1995 2000. Horton 2010 2010b 2011.
[129] Wendt 2016.

2. Liberal modus vivendi

Fundamental to the many varieties of political liberalism is the idea that the liberal order must be justifiable to all those subject to it, and such justification must be affirmed by free and equal citizens through the use of common human reason.[130] In this philosophical milieu, David McCabe has argued that modus vivendi may offer a tenable response to what he calls the justificatory requirement. In his view, mainstream liberal accounts are inadequate because, in the case of citizens who hold illiberal doctrines, they are unable to meet the universal character of the demand for justification, and remain confined within the limited range of people who support fundamental liberal ideals.[131] For McCabe, it is instead possible to advocate the liberal order to illiberal people by thinking of such order in terms of a modus vivendi. In other words, rather than as the consensual point of convergence among different doctrines, the liberal order must be defended as the optimum second best compromise among people who hold radically different moral and political worldviews.[132]

At first, it is important to recall what was said in the introduction. Modus vivendi theories begin with an account of modern societies as characterised by profound and enduring disagreement on moral, political, and religious matters. If this is the account of modern societies, we must consider liberalism and the justificatory requirement as but one competing morality. In this vein, the justificatory requirement responds to a particular demand that is coherent with a specific account of the moral person. When reflecting on the justificatory requirement in these terms, we can notice that such a requirement is not the normative question that traditionally modus vivendi tries to answer. Modus vivendi and the justificatory requirement are two alternative responses to the same demand for legitimation of a political order. Each of these responses assume specific accounts of moral agency, which circumscribe their domain of applicability. If one,

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[130] Charles Larmore, "What is Political Philosophy?" *Journal of Moral Philosophy* 10 (3) (2015): 276-306.Jeremy Waldron, "Theoretical foundations of liberalism," *The Philosophical Quarterly* 147 (1987): 127-150.
[131] McCabe 2010, 153.
[132] McCabe 2010, 125-135.

therefore, is committed to the contextual assumption of deep pluralism, like modus vivendi theorists, in theory, the conceptual priority of the justificatory requirement over modus vivendi should be questionable. But, without wanting to delve into this dispute, for the present purpose, it is suffice to keep in mind the observation that the justificatory requirement is a response to a moral demand, given a precise moral theory. Variants of liberalism differ on exactly what the justificatory requirement demands, but the basic account of the legitimate political power is undisputed. In the examination of McCabe's account, I also shall assume that all relevant parties endorse the justificatory requirement in the relevant sense.

In this framework, David McCabe's Modus Vivendi Liberalism begins with two considerations. First, many citizens endorse a normative framework that sustains illiberal models of political association. Second, such citizens see the state as an unchangeable fact of modern societies or as necessary to have important goods.[133] For McCabe, in liberal states, the political environment shapes the preferences of a large part of the population, even when some people have illiberal inclinations. Upon these considerations, McCabe argues that an 'agreement to liberal terms might thus emerge as a compromise among citizens who recognize the value of ordered political life but realize that the political vision recommended by their distinct normative framework cannot be achieved'.[134] An ordered political life consists of a series of ideas that inform a minimal vision of decent life. These ideas are as follows: 'liberal democracy is the only legitimate form of government, that capital punishment is cruel, that political institutions should be resolutely neutral regarding religions … 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'.[135] Modus Vivendi Liberalism, then, as he continues, 'tries to identify those terms of cooperation that all citizens will find acceptable under common conditions'.[136]

For McCabe, the appeal to modus vivendi solves the task of funding arrangements that can be broadly justified to all citizens in western liberal

[133] McCabe 2010, 133.
[134] Ibidem
[135] Ivi, 138.
[136] Ibidem

democracies. He claims that due to the appeal to modus vivendi, we are able to defend the idea that critics – citizens who, despite affirming the justificatory requirement, have illiberal inclinations – also are in the position to identify with the general terms of cooperation. To do so, McCabe combines two theoretical moves. On the one hand, he understands public justification as a scalar. A regime is not either "justified" or "unjustified". Between the two poles, there is a series of satisfactory options that are more or less tolerable from the point of view of the citizens, even if they are critics.[137] On the other hand, McCabe disaggregates moral reasoning. In his view, practical reasoning does not entail an all-encompassing response to the moral question "what should I do?", but, rather, it involves several pieces of practical reflection on what should be done under circumstances that are mutable and intrinsically contingent.[138] This second component holds the greater normative weight. It postulates an ad-hoc situation for parties to accept terms of cooperation, despite these terms not being fully justified under their eyes. Specifically, McCabe writes, 'while the critic may regret that the liberal state is the best solution attainable under conditions of moral diversity [the specific context], he may nonetheless believe that supporting it is what he has most reason [scalar justification], morally, to do'.[139]

Two observations are in point. McCabe describes justification as scalar only in the intensity range between the "unjustified-pole" and the "justified-pole". Specifically, variations also are considered only in the direction that goes from "unjustified" to "justified". Within such a range of discrete variations, as McCabe argues, a state can be "not-fully-justified," "partially-justified," "quasi-justified," and the like. At the same time, by turning the direction upside down, it can be "not-so-unjustified," "quasi-unjustified," and the like. In the first series of variations, it is plausible to think that critics also may have reasons to support the present terms of cooperation. For instance, given the practical impossibility to turn the political order into an illiberally ordered political life, they may judge the present political system as the best available option. In the second series of variations, however, it is

[137] Ivi, 152. With satisfactory, I mean to say that options are not fully convincing, but good enough to be accepted under certain conditions.
[138] Ivi, 155.
[139] Ibidem

reasonable to affirm that some pockets of society are not ready to support the political system whatsoever, even if radical changes are practically impossible. If a critic considers the existing political order as "not-so-unjustified" or "quasi-unjustified", there must be an additional explanation to justify the observation that he or she has reasons to support a political system whose moral and political values he or she in practice rejects. In this case, McCabe seems to confuse the fact of living in a liberal state – with practical constraints to rise against the liberal order – with having reasons to support it. Moreover, unlike McCabe, justification might be scalar beyond the two fundamental poles, "justified" and "unjustified". For instance, one might find a state "extremely unjustified", another might be an enthusiastic supporter of the liberal state. If one finds the state either as "unjustified", "more than unjustified" or "extremely unjustified", it is not clear what Modus Vivendi Liberalism can do for the balancing of generally acceptable terms of cooperation, other than taking as a relevant constituency the subset of citizens who find the state "very justified or so" to those who find it "quasi-unjustified or so".

The problem that, sooner or later, critics and very harsh critics, who think of the liberal state as unjustified or so and, in their discrete moral reasoning, find reasons to support the liberal state within their baggage of reasons, is answered by mainstream political liberalism by saying that a liberal democratic state exercises soft-power on its citizens. This is a common fact of political sociology (Rawls 2005). In these terms, the appeal to modus vivendi would only tell us that, for a liberal state to be justified, it is enough to influence its illiberal members up to the point in which they have, in a certain moment, at least one discrete moral reason to support such liberal state. Then, if the idea is to say that citizens may support the liberal state because of reasons that are diverse and competing, mainstream political liberalism contends that this is possible but insufficient for a liberal state to be stable (Rawls 2005). In this vein, if the ambition of Modus Vivendi Liberalism is to show that, in front of contingent and evolving circumstances, all citizens happen to have reasons to support the existing liberal state; then, the effort to enlarge the justificatory constituency sounds like a defence of the political status quo.

Together, these observations draw attention to a problem in Modus Vivendi Liberalism. Modus vivendi is a form of cease-fire resolution on parties in values

conflict. It is not necessarily the end of hostilities but it is a way to push conflicting parties to stop fighting. If we think of McCabe's explicit reliance on Claudia Mills's conception of modus vivendi, it seems to be a plausible reading of modus vivendi as a preparative stage for consensus around the liberal political order.[140] But this conservative bias comes at the disadvantage of people, like the critics, who disagree with the mainstream and are likely to give greater weight to the continuation of disagreements. For McCabe, critics may have different reasons to support the liberal state. Actually, for Modus Vivendi Liberalism, what matters is that critics have at least one moral reason to prefer this order to all the available alternatives, except the one that replicates closely their moral and political doctrines, which, nevertheless, is unlikely to get enough support from the other members of the justificatory constituency. McCabe tries to make the liberal state acceptable to critics without including their distinctive moral reasons. In this way, he plays with the belief that, by disaggregating practical reasoning, alternative prospects might not be so bad. On this view, unsure critics may accept the system that they in principle oppose. In this way, for critics, there is no tangible opportunity to renovate some aspects of the liberal state. Actually, by picturing the liberal state as a modus vivendi that they have some reason to accept, McCabe reduces the room that critics have to resist what they may perceive as an illegitimate coercion. Specifically, if critics have a moral reason not to oppose the liberal state, the liberal state can act as if it is fully justified to their eyes.

McCabe demonstrates that the liberal state is justifiable to the critics, but it is unclear, for the critics, what is to be gained through inclusion in the justificatory constituency. When effects of social impositions and the general political interest sensibly constrain the output of their political agency, critics are never actually in position to see the liberal state as a second best. They have no credible alternative

[140] Ivi, 153. Mills argues that modus vivendi and overlapping consensus focus on two different aspects, which are not incompatible. By focusing on the quality of life we have under certain circumstances, modus vivendi allows a gradual allegiance of the living together. Overlapping consensus, she argues, focus on the quality of endorsement of shared rules only. One does not exclude the other, but, rather, modus vivendi can set the stage for consensus in the long-run. Claudia Mills, "Not a mere modus vivendi: the basis for allegiance to the just state," in Victoria Davion and Clark Wolf (eds.), *The idea of political liberalism* (Lanham, MD: Rowman and Littlefield, 2000), 198. On a sceptic outlook of the use of modus vivendi within the paradigm of political liberalism, see Enzo Rossi, "Modus vivendi, consensus, and (realist) liberal legitimacy," *Public Reason* 2 (2) (2010): 21-39. Steven Wall advances a similar reading of modus vivendi arrangements as enabler for social cooperation. See Steven Wall, "Political morality and constitutional settlements," *Critical Review of International and Political Philosophy* 16 (2013): 481-499.

other than submitting to the liberal state, or, in extreme cases, bearing the high costs of their dissidence. If the liberal state is not open to negotiation, when understood as a compromise, we need to reassess it not as fixed unit but to break it up into the interaction of concessions. One side, like the critics, may make all, or almost all, the concessions; and the other side may fail to reciprocate. If this is the case, the extension of the justificatory constituency does not mean to say that members of the relevant public have adequate or sufficient reasons to actively endorse a coercive proposal. Those critics who end up endorsing the liberal state may be simply resigned to the limitations of practical possibility.

By doing so, McCabe finds an elegant way to rescue the coercive action of the liberal state against critics. However, at the same time, his argument also shows a limit of modus vivendi as a response to the pluralism of values. Modus vivendi, I argue, expresses a certain aversion to change, and if applied to the justification of political power, this disposition to maintain existing views and institutions means to defend a kind of liberalism that is based on social stability, stressing established institutions, and preferring the existing situation to change, as if change were per se marked by instability and turmoil. Modus vivendi does not demand political philosophers to take the moral doctrines of critics seriously. As a mode of living, it allows conflicting parties to coexist in peace for the sake of contingent conditions that put pressure on their preferences. From this perspective, modus vivendi does not really help mainstream political liberalism to be broader in orientation and scope. As a strategy of justification, it is an instrument for establishing a provisional state of affairs. In this state of affairs, despite the presence of radical opponents, the liberal state has a legitimate claim to coerce all opponents without being incoherent with its conception of the moral person. McCabe's problem, then, is this: he aims to open the justificatory constituency to critics, but this move is based on modus vivendi, which plugs into his account a disposition to contain and avoid instability. From a liberal perspective, McCabe is right in saying that it would be wrong for a liberal society to intervene on its own standards, if these standards are partially justified. But the modus vivendi centred argument for extending the justificatory constituency is presented to the critic in a way that actually reduces his or her space for dissenting. By saying so, I do not mean to rule out the effort to enlarge the

justificatory constituency, I simply mean to point out that the way in which modus vivendi informs McCabe's account can justify the liberal state to a larger audience, but this tends to defend existing institutions against the possibility of change and progress.

3. Realist modus vivendi

John Gray and John Horton have thought of modus vivendi as the best form of settlement possible in a context of deep pluralism.[141] A fundamental premise of their version of modus vivendi is that 'the liberal problem' – which is that of specifying terms of peaceful coexistence among exponents of rival, and perhaps rationally incommensurable, world views is no less pressing than in early modern times'.[142] Moreover, 'the hope of resolving [the liberal problem] by refounding morality as a universally compelling basis of reasons,' Gray writes, 'has faded irrecoverably'.[143] These circumstances, Gray says, demand theoretical and political solutions that abandon the faith in the promises of consensus liberalism in favour of political arrangements where interests and conflicting values can be negotiated. Within this general feeling of pessimism, the best philosophical aspiration we can therefore have, Gray argues, is not consensus on certain principles, but rather common political institutions that mediate the conflicts between adversary values.[144] Political institutions convey a state of hostility between competing values in volatile balances among goods and evils that cannot be achieved once and for all. This ongoing achievement, continuously reaffirmed in practice, is modus vivendi and the important feature of any regime is how well it enables such conflicts to be negotiated.[145]

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[141] Gray 1995, 2000, 2013. Horton 2010a, 2010b, 2011. As I shall see later in this section, there are differences between the two accounts, but existing literature on modus vivendi tends to read the two accounts in continuity. For instance, see Wendt 2016. Moreover, a great deal of John Gray's work on liberalism has been central to the recent debate on realism. It also is a recurring topic in the work of John Horton on modus vivendi. Peter Jones clearly differentiates the two accounts, but, in his reconstruction, he does not consider elements that are relevant for the present argument Peter Jones, "The political theory of modus vivendi," *Philosophia*(2017): 10-12.
[142] Gray 1995, 85.
[143] Ibidem
[144] Gray 2000, 64.
[145] Gray 2000, 70.

The argument for modus vivendi consists mainly in drawing the perimeter of political possibilities in the light of two initial considerations: value conflicts and the reality of deep pluralism. First, Gray argues that the liberal culture is not predominant any more. Like the time of religious conflicts mushrooming in Europe during the Modern Age, Gray observes that the spirit of our time is filled with irreconcilable divisive issues.[146] Why should cultures that are not secularised accept the norms of the liberal society? They need a reason to do so, which is not to be found in the liberal canon. At the same time, when we realize that the once dominant liberal culture is now one among many cultural forms in liberal states, the political problem alters. When liberalism was a culturally hegemonic force, coexistence in pluralism was an internal issue. Now, the political problem consists in the trade-off of two cultural forms, liberal and non-liberal.[147] Liberalism, therefore, does not possess universal justification, but rather it should be conceived as a particular form of life, one among many other forms of life that can find precarious equilibrium with one another in order to avoid insecurity, intolerable choices and desperate situations, which are assumed as universally agreed summa mala.[148]

Second, Gray and Horton assume deep pluralism as factually true and such truth supervenes all claims for universality. This polysemy is an attribute of social life where different moral systems, political doctrines and practices coexist and, often, are in conflict with one another. On grounds of this factual observation, deep pluralism disallows any universalist principle to arbitrate value conflicts. Unlike the traditional liberal argument, rather than supporting liberal universalism, deep pluralism actually undermines it; that is, pluralism entails the possibility of different rankings of values. Since the truth of deep pluralism is taken as granted, then, the liberal ranking of values is one such ranking among others, without claim to superiority.[149] For Gray, then, the liberal order of values can have no claim on

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[146] For Horton, historical considerations on liberalism are not as central as in Gray. Horton stipulates deep pluralism, and he develops his own account on this premise.

[147] Gray 1995, 85.

[148] Crowder argues that Gray's version of liberalism misreads liberalism and its connection with the descriptive notion of pluralism. See George Crowder "John Gray's Pluralist Critique of Liberalism," *Journal of Applied Philosophy* 15 (1998): 287-298. George Crowder, "Gray and the politics of pluralism," *Critical Review of International Social and Political Philosophy* 9 (2006): 171-188.

[149] For the traditional liberal argument, see William Galston, *Liberal pluralism* (Cambridge: Cambridge University Press, 2002). See also William Galston, *The practice of liberal pluralism* (Cambridge: Cambridge University Press, 2004).

reason that cannot be contested, and a post-liberal state cannot be other than an agonistic form of politics in which liberal values are in competition with other values.[150] For Horton, the response to deep pluralism is a pragmatic approach that mobilises whatever resources are available to effect a workable political settlement that is broadly acceptable to the contending parties.[151]

Taken together these two conditions, despite diversity and their different scopes, it is plausible to say that, in the two accounts, we find the same underlining concern and an analogous political response to such worries. Specifically, for a political order to begin with deep pluralism, political arrangements must be anticipated by socio and political practices that disclose a form of collective interest that all individuals may have despite such an ineradicable diversity. In conditions of deep pluralism, Gray argues, the only good that people, regardless of their worldviews, may accept is the higher political good of peace and security. Essentially, parties reach compromises regarding those values on which they disagree for the sake of a primary interest in peace, which they see as instrumental in the pursuit of their form of life.[152] Therefore, 'the task,' Gray writes, 'is to seek terms of peaceful coexistence among different cultural forms without the benefit … of the universalist perspective'.[153] In this sense, toleration can be presented as an integral part of modus vivendi.[154] Specifically, if there is any truth to deep pluralism, Horton also says, we acknowledge that differences of perspective cannot be resolved from a vantage point or by harmonisation.[155] A central feature of modus vivendi, then, is the seriousness with which it takes differences among worldviews, and the shared need to live in peace and security as a necessary condition for the pursuit of a decent life.

A politics of modus vivendi, therefore, aims at being in principle compatible with many different practical instantiations including some that may not be liberal. So long as a political settlement finds a way of preserving peace and security that is broadly acceptable to those subject to it, then it approximates the condition of a

[150] Gray 2013, 198.
[151] Horton 2010b.
[152] Gray 2000, 5-6.
[153] Ivi, 96.
[154] Horton 2011.
[155] Horton 2010a.

modus vivendi. In Gray and Horton, however, we find some additional requirements for a peaceful settlement to be judged a modus vivendi in conditions of deep pluralism. (1) Uncoerced acceptance must be widespread. A modus vivendi must be broadly acceptable to those who are part of it. The reasons for this acceptance can be different. Under this view, people may build their acceptance upon different factors, but, from the point of view of those subject to a modus vivendi, despite differences, it must ensure peace and security, as these are the goods that are important for everyone, everyone being better off with peace and security rather than without.[156] Specifically, a peaceful situation preserved through suppression, or by deliberate exclusion, is not a modus vivendi. Whereas the control of dissenters by an elected government is a modus vivendi, because, by being elected, the government satisfies the minimal criterion of broad acceptability. (2) The settlement must enable people to live minimally worthwhile lives.[157] For instance, a modus vivendi encompasses all resources that can be brought to bear in given situation to secure a political accommodation parties can live with.[158] In the pursuit of different political means, a tolerable and secure political order is the minimum desideratum for avoiding levels of disruption and violence. (3) It follows that a minimal consensual component is integral to modus vivendi. Modus vivendi arrangements are legitimate insofar as there is widespread recognition that they ensure peace and security. So, (4) modus vivendi is contingent to social and political reality. All through history, no framework of ideas has totally controlled violence and ensured peace. Moreover, (5) a politics of modus vivendi is a politics of which negotiation, compromise and bargaining are integral parts.[159] A modus vivendi, as Horton writes, 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'.[160] In this sense, (6) a realist modus vivendi can be thought as a second best. It is not the best we can hope for according to our worldviews, but is instead enough to live a minimally decent life and avoid human evils.

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[156] Ivi, 440.
[157] Ivi, 438. It is important to say that people do not achieve a decent life, but they collectively seek to avoid those kinds of evils that render impossible any worthwhile life. Modus vivendi entails an equilibrium that let them avoid such evils.
[158] Horton 2011, 295.
[159] Ibidem
[160] Horton 2010a, 440.

While a realist modus vivendi is built upon the assumption of deep pluralism, I argue that the six elements required for an arrangement to be a modus vivendi undermine the claim for an accommodation of the substantive framework of pluralism. To reach such compromise, modus vivendi theorists presuppose two order of reasons: first, our deep moral reasons that bring about values conflicts; and second, common good reasons to avoid levels of disruption and violence, which are seen as a serious threat for the flourishing of first-order deep moral reasons. Compromise among competing forms of life is ensured by such two-fold moral personality, according to which people may have both individual reasons (the variety of moral reasons they can have) and social interest (the good of peace) to negotiate on relevant moral aspects. Whether they do so in the light of prudential reasons, religious reasons, moral reasons, it does not matter from the point of view of modus vivendi. It is not relevant what brings people to accept a modus vivendi, but, rather, it is important to demonstrate that such an equilibrium ensures the expected level of security and peace. However, it is implausible to think that, in conditions of deep pluralism, all individuals make peace and security the most important considerations. It is indeed not so difficult to think of examples of resistance and public violence in which individuals are eager to give up the enjoyment of peace for other political goals.[161]

Moreover, the realist account of deep pluralism epitomises a selective kind of realism. For modus vivendi theorists, then, modern societies are characterized by pluralism, disagreement and adversarial relationships that need to be stabilized. Surprisingly, modus vivendi theorists focus only on the horizontal antagonistic relationship among different cultures and traditions as if all individuals in the society were able to negotiate their worldviews on an equal footing. In so doing, they neglect another decisive component of the fact of pluralism as it is in our societies: namely, not all individuals are in the same position to make their values count in a public negotiation, and compromises are practices that require parity among the contracting parties. In this sense, the language of modus vivendi fails to notice that a compromise is appropriate when agents are of a relatively equal power, meaning that each agent cannot force their views onto the other. For a compromise

[161] For an example, Bargu 2014.

to be generally acceptable, as modus vivendi theorists wish, there must be a system of mutual concessions. When citizens have relatively equal powers of negotiation, compromise may be an inclusive activity in which different agents come to an agreement by mutual concessions given the variety of different worldviews and conflicting interests. When this is not the case, the minimum conditions for peace and security might be foreign impositions like other forms of sectarian consensus or top-down political ordering.

A look at the face of modern societies, however, demonstrates that the fact of deep pluralism also means structural inequalities, asymmetries of discursive power, and powerlessness.[162] Bargaining and negotiation are not open to all kinds of values in fact. In such state of affairs, the power of the stronger, or the tyranny of the majority, is more likely to win the game. Gray and Horton overlook this dimension of the fact of pluralism. For many, the goal is chiefly that of having their values recognized as relevant in values conflicts. For Gray and Horton, however, it is as if all individuals with different values are already in the position to negotiate with one another as full partners in social interaction. Modus vivendi theorists see modern societies as characterized by a horizontal sphere of multiple systems of beliefs and practices, where different, and sometimes incommensurable, values must coexist. Pluralism, however, is also a sphere of competing values, where not all values are treated as equally relevant in the articulation of the terms of coexistence.[163] Without taking this element seriously, the emphasis on the dimension of negotiation among peers seems a description of how the society should be, rather than the authentic portrait of the deep pluralism of modern societies. And the consequence is that of reproducing exclusionary practices that may penalise greatly dissenting minorities and those who start from a weaker bargaining position.

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[162] On this issue see, S. Laurel Weldon, *When Protest Makes Policy* (Ann Arbor: The University of Michigan Press, 2011). Melissa Williams, *Voice, Trust, and Memory: Marginalized Groups and the Failings of Liberal Representation* (Princeton: Princeton University Press, 2000). Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000).

[163] This issue arises prominently in the literature on LGBT movements, and the performance of LGBT identities. See Leo Bersani, "Is the rectum a grave?" in Leo Bersani, *Is the rectum a grave? And other essays* (Chicago: University of Chicago Press, 2010). Scott Lauria Morgensen, *Spaces Between Us: Queer Settler Colonialism and Indigenous Decolonization* (Minneapolis: Minnesota University Press, 2011).

The last observations echo my concern with the conservative bias of modus vivendi. Realist modus vivendi also is more exclusionary than Gray and Horton allow. Modus vivendi is a device that does not have inclusion of new voices as its driving force. What matters is the preservation of peace and security as necessary, for the majority of people, to pursue individual ends in conditions of deep pluralism. All the normative weight of modus vivendi lies on the kind of life it is able to ensure as well as on the perception of negotiators that they are living such a life. If there is a common perception that the higher good of peace and security ensures a decent life for a majority of people, this widespread feeling immunizes modus vivendi against the push of people with alternative cultural and ethical lives. In this case, the need of political institutions to ensure security may trump the invitation to accommodate deep pluralism. In this sense, security and peace may translate modus vivendi itself into an important collective value to protect through majoritarianism, and the pragmatic appeal to the widespread perception that no better alternative is available. Meanwhile, critics and detractors, who contest the prioritizing of modus vivendi, may be dismissed as noxious. In this way, majority has a right to make decisions that affect the whole society, even if some pockets disagree not only with the specific policy proposals, but also with the very legitimating reason for which such decisions can aspire to have general validity – the feeling that the present state of affairs grants the pursuit of a decent life.

This a problem for Gray and Horton, and their ambition to offer a political response to value conflicts in conditions of deep pluralism. Modus vivendi affects the reflexivity of a political order, but it also turns the routines of political disagreement into imperfections. Just to mention some examples: religious fervour, feeling of communality in associations and groups, political loyalty, antagonism, individualism and ultra-libertarianism and the commitment to guard one's own family interest are prominent manifestations of deep pluralism in modern societies, which might cause instability without being expressions of wickedness, despotism and hate that we might have some reasons to exclude. If modus vivendi arrangements come at the price of closing up internal dissonance, Gray and Horton should tell us what exactly are the worldviews that allow to negotiation and why.

However, this seems to be a breach in the promise to take the reality of deep pluralism more seriously than consensus-based liberalism tends to do.

So, the priority of the good of peace and security taints the imaginative potential that a society, in conditions of deep pluralism, can have. In the intentions of Gray and Horton, modus vivendi should be responsive to the specific demands of diverse social and political contexts. There are, however, a number of types of relationship between elements of the political whole that hardly find their space in a society ordered upon modus vivendi arrangements. The majority view that a settlement is appropriate enough to ensure everyone a decent life may filter contextual, heterodox and unusual expressions of diversity. It also ensures that the majority controls public political language. When the case for modus vivendi is acknowledged by the majority of individuals, but rejected by newcomers and dissenting individuals; modus vivendi depends on a sweeping assertion that all individuals somehow benefit from what the majoritarian group considers as sufficient conditions for pursuing a decent life. Therefore, the problem is that even in the sophisticated accounts of Gray and Horton, the notion of modus vivendi depends on too simplified and immaculate a notion of collective interest in conditions of rival value systems. In this sense, modus vivendi may govern deep pluralism, but it is vulnerable to the objection that it tends to exclude challenges to majority views. This is likely to make society blind to new voices that are constituent parts of the normality of political exchanges in open, modern, and plural societies.

4. Modus vivendi with a moral standing

In a recent attempt to make a case for modus vivendi arrangements without stressing the realist contour, Fabien Wendt has advanced an original account of modus vivendi arrangements as second-best moral arrangements that secure peace.[164] 'Even if a realist,' he writes, 'were to argue that justice is completely irrelevant to politics, he will have to adhere to some values that inform this judgement about what the morally best modus vivendi arrangement would be in a given situation, at

[164] Wendt 2016, 353.

least if he wants to do normative theorising at all'.[165] Any theory that involves criticism of current states of affairs, critics have argued, is not as realistic as it claims to be.[166] This seems to be an appropriate objection from two points of view. First, the claim that collective arrangements should be found by mapping onto adversarial political relationships encapsulates a fundamental normative claim, which directs the philosophical gaze towards values conflicts, and it assumes that negotiation and bargaining can lead to appropriate collective arrangements. Second, the claim that political theory should approach "politics for what it is" seems to be a normative claim too. It expresses a normative dimension, according to which "getting politics for what it is" is a norm about what we should take political theory to be about. When we theorize modus vivendi, Wendt argues, 'it is not very plausible to bracket justice considerations'. As he continues, 'one may sometimes have good moral reasons to try to get a modus vivendi that comes as close as possible to what justice (or other moral values) would demand, that is, a modus vivendi that comes as close as possible to the morally best arrangements'.[167]

Parties, he argues, accept these institutional arrangements by combining two moral levels. On the first level, in the light of their moral value, a person configures what the best arrangement would be. On the second level, they ponder reasons to accept arrangements that fall short of what one regards as the morally best arrangement. At this level, public justification, which Wendt conceives as an important moral value, determines the spectrum of possible arrangements that, despite being different from the individual best arrangement, are acceptable to everyone. By accepting one of these arrangements, a person accepts a second-best option, which we can call modus vivendi if and only if it secures peace (2016: 357-8). From the perspective of the party, then, the moral standing of modus vivendi, Wendt says, depends on how closely it comes to the morally best arrangements. As a result, not all possible second bests are modus vivendi arrangements. If institutions violate the values at the first moral level, they do not qualify as modus vivendi arrangements. The first level of morality is normative by being evaluative. "The arrangement X would be better like Y" might be correct whether or not it has

[165] Ibidem
[166] David Estlund, "Utopophobia," *Philosophy and Public Affairs* 42 (2) (2014), 114.
[167] Wendt 2016, 353.

practical import in the public acceptance of one of the second-best options Y1, Y2, Y3 and the like. In other words, modus vivendi arrangements are not alternatives to the first-level moral values. Instead, they can be seen as approximations to the relevant standard of moral evaluation.[168]

For an arrangement to be a modus vivendi, it must secure peace, and it must be acceptable.[169] Specifically, modus vivendi arrangements, Wendt argues, are institutions that people accept because they enable us to live in peace, despite disagreement and pluralism. In a pluralistic society, the search for peace motivates the constitution of institutions that all can accept. Peace, as the end of collective agency, mobilises moral agents to accept one of the second best options; and, once modus vivendi arrangements have been established, peace determines an intersubjective criterion to judge the value of institutions, and the need for reforms. This is because, as Wendt writes, 'peace is in the interest of (almost) all for several reasons'.[170] Essentially, Wendt seeks to address the challenge of deep pluralism by restricting the required field of uncontroversial agreement to a normative premise that he assumes to be endorsed by all persons. However, a question remains: why should the pluralist form of our societies be identified more especially with interest in the good of peace, rather than with other goods, such as freedom, equality and fairness? Here, Wendt's response recalls John Gray. Namely, all ways of life have some common interest in the pursuit of a peaceful life. Individual persons accept modus vivendi because they see it as functional to the pursuit of other values, which are distinctive of each negotiator's form of life. In this way, in the philosophical deduction of modus vivendi, the dissonance among first person points of view is inessential to the affirmation of the communal settlement. The animating purpose of the emphasis on deep pluralism is to unleash the normative potential of the only kind of argument that matters for modus vivendi to exist: the interest in the good of peace.

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[168] Wendt 2016, 352.

[169] It is important to notice that Wendt does not read modus vivendi arrangements as compromises. Under his interpretation, modus vivendi arrangements are accepted. Compromise, he argues, entails consensus; while, he seems to say, acceptance entails a mental disposition. He defines his conception of acceptance in comparison with Horton's conception, which implies a degree of voluntarism. However, acceptance as mental disposition without consensus necessitates psychological evidence, which Wendt does not provide us. At the same time, such a conception of acceptance is likely to give a representation of the subject as a passive being in the world, which also requires some sort of support.

[170] Wendt 2016, 360.

These features, however, make modus vivendi arrangements rely upon a strong social ethos rather than on the actual power of citizens to negotiate the terms of coexistence from their own perspective. Moreover, the perception of insecurity can be employed instrumentally by the majoritarian view to renegotiating the terms of modus vivendi arrangements in their favour.[171] In the name of widespread feelings of insecurity, modus vivendi arrangements can be changed, but the majoritarian group is likely to articulate a new modus vivendi, which curtails some of the minority group's existing rights and benefits.[172]

Imagine a government, which has been elected through legitimate procedures. Imagine also that some minority forces try to resist because such government persecutes them in the name of general security, stability, and social peace. Against such a clear expression of insecurity, new terms of coexistence among different forms of life are to be negotiated. A reading of Wendt suggests that majority and minority should articulate second-best arrangements, which are publicly justifiable, and ensure a peaceful and stable environment. The horror of a life of insecurity and disorder functions as a normalizing mechanism that gives everyone a choice. Such choice brings a degree of moral responsibility into the acceptance of modus vivendi arrangements, which exceeds the perimeter of one's form of life, and its disposition to accept collectively binding arrangements. Individuals realize that the union of different traditions and practices under second-best publicly justifiable arrangements also relies upon their compliance with the equilibrium. Even if parties always have the opportunity to defect, a modus vivendi arrangement so conceived tells us that an interest in peace is powerful enough to make cooperation work, making, in the end, cooperation the only available option. Therefore, a life of insecurity brings about an all-encompassing normativity that groups individuals around a kind of ordered life in which all members, as people

[171] Wendt touches upon the problem of stability, peace and order. However, he limits his discussion to the presentation of the problem of morally dubious modus vivendi that might be able to achieve stable social peace without exploring the exclusionary consequences. See Wendt 2016, 359.

[172] Wendt defines eight different kinds of modus vivendi arrangements. The present picture fits in all the eight typology but typology 1, which is almost a form of consensus. The fundamental interest in peace makes the majority/minority dichotomy resists his nuanced analysis because the moral goodness of modus vivendi depends on its being 'reasonably stable', 'publicly justifiable', and 'reasonably' close to the morally best arrangements. All these three criteria rely upon the limit prescribed by collectively sound judgement. See Wendt 2016, 361.

who accepted modus vivendi arrangements individually, abide by the resulting obligations.

In this way, the worry with internal threats to security, real or perceived, occupies a privileged place for modus vivendi to be sustained over time. Identification of critical security threats becomes crucial for the strengthening of modus vivendi institutions as the best available ongoing sites of negotiation. Either in the form of social constructions or as tangible threats, radical challenges may be a continuous presence of modus vivendi politics as a direct outcome of the security-based argument for legitimacy. Peace and security contribute to the construction of an intergroup identity among individuals who share such a concern. This common argument may provide additional justification to contain forms of resistance against the mainstream imagination.[173]

In politics, evidence shows that subordinated subsets often find it difficult to get their issues recognized as collectively relevant. When most of the relevant constituency considers amendments to the existing arrangements unnecessary for the collective interest, the risk is that of perpetrating a kind of mechanism that leaves some social pockets behind. This problem is not prerogative of modus vivendi, but modus vivendi may make reasons for such fracture stronger by drawing upon a diffuse, but still partial, self-representation of peace and insecurity. From the perspective of modus vivendi with a moral standing, we can expect small improvements to collective arrangements when these arrangements do not adequately accommodate the contingent and temporary preferences of its constituency, but significantly improving substantive elements of modus vivendi arrangements requires that previously excluded groups accept widespread conditions for peace and security. However, this is often one of the most pressing objects of disagreement. This suggests that, even in Wendt, modus vivendi inserts a conservative bias in the attempt to accommodate the fact of deep pluralism. It neglects that perception of insecurity is an arbitrary feeling, which, if used as source of legitimacy for political power, may tend to exclude not only radical challenges

[173] For instance, literature on social movements shows that, prior to the institutionalisation of protest and confrontation, social movements need to consolidate their oppositional consciousness, which sustains enduring mobilization, challenges to those in power, and, sometimes, threats for widespread security (Costain 1992; Gamson 1975).

and minorities, but also avant-gardes that, despite progressive intents, use heterodox political practices.

5. Conclusion

In this chapter, I have argued that there is an under-investigated conservative bias in modus vivendi as a device to accommodate the fact of deep pluralism. In the case of Modus Vivendi Liberalism, I have argued that modus vivendi is a valid stratagem to make the liberal state justifiable to the eyes of critic citizens that are subject to it. However, this same theoretical move may silence their demands for change, and legitimize coercion that they in practice reject. Wendt advances a sophisticated version of modus vivendi arrangements, which enables us to identify neatly the moral ground for acceptance of these institutions. However, the idea that the protection of security and peace is a sine qua non of modus vivendi arrangements sustains a normalizing ethos. Given the fact that Wendt wants to provide us with a general framework to examine modus vivendi arrangements, such a remark is not necessarily problematic for him. However, from my point of view, it strengthens the argument that modus vivendi arrangements have an inclination to exclude radical challenges to mainstream views.

For long time, however, modus vivendi has been a realist prerogative. Realist political theory treats the antithesis between liberal orders of values and non-liberal orders of values as a synecdoche for political relations in modern societies that are deeply plural. Such agonistic components, they say, must be managed and balanced through modus vivendi solutions. Otherwise, apparently intractable value disagreements may percolate into ordinary social relations and they may ruin society altogether. This way of containing disagreement, however, exposes some population to exclusion and maybe repression. If some individuals are powerful enough to simply dominate the negotiation, modus vivendi will not be only the equilibrium among analogous competing reasons, but, rather, the monopoly of certain sectarian values and the prudential reasons that are inspired by those values.

Modus vivendi theorists seem to tell us that social and political arrangements cannot ground on a universal normativity because there is too much diversity in our society and that modus vivendi is the best that we can have. They defend arrangements that find their legitimacy in the social peace they are able to guarantee. However, perception of peace and security is partial and dependent on one's standpoint. If the standpoint of the majority is simply moved, from the articulation of principles to the perception of how satisfying a life is according to modus vivendi, there is not so much to gain from modus vivendi in conditions of deep pluralism. The contingent and evolving character of modus vivendi would also remain in the hands of those people who already have stronger powers to negotiate. In this way, the problem to specify the terms of peaceful coexistence is translated into an equilibrium that leaves contestation and resistance at the margins. Otherwise, in order to ensure a modus vivendi that secures a peaceable political accommodation of pluralism, modus vivendi theorists must presume that all parties are prepared to mediate with one another. Nevertheless, in the assumption of all the varieties of modus vivendi (deep pluralism), we see that the political environment in which parties are asked to balance their values is exactly the kind of domain in which at least one party is not prepared to mediate his or her own interests.

In this chapter, it has become increasingly evident that an overemphasis on peace and security has the consequence of significantly empowering majority views at the expense of not only despotic and authoritarian worldviews, but also marginalized groups, and dissenting individuals. An investigation of the connection between the assumption of deep pluralism and the transversal commitment with peace and security suggests that modus vivendi political theory should more carefully examine the influence of modus vivendi arrangements on minorities. More generally, we can argue from the chapter, this burgeoning body of research should supplement the focus on compromise and negotiations with a structural analysis of the conditions in which modus vivendi arrangements are made. Reconstructing patterns of political inclusion and exclusion is key to understanding whether and how modus vivendi accommodates the deep pluralism of modern society. This chapter concludes the first part of my dissertation. So far, I have argued that both consensus-based political liberalism and modus vivendi theory are

exclusionary. Common to the two approaches, there is the idea that pluralism is a monolithic factual element in the theory. For Rawls, this way of approaching pluralism leads to two demarcations: between citizens and non-citizens, between reasonable citizens and citizens that are not recognizably reasonable. For modus vivendi theory, the emphasis on the conflicting character of the fact of pluralism neglects unbalances of power, hidden forms of marginalization, and it is likely to have a majority bias. With this critical work in mind, in the second part of this work, I shall construct a non-exclusionary political theory, by drawing upon the philosophical tradition of perspectivism.

II

THE RIGHT TO HAVE A SAY

Chapter 4
Perspectivism in political theory

The aims of this chapter are to investigate the philosophical rationale, normative architecture and political prospects of a perspectivist political theory. A certain amount of construction is required to talk of "perspectivism" or the "perspectivitst tradition", as most of the theorists to whom we tend to refer do not understand themselves to be part of such a unified theoretical movement. The term "perspectivism" groups, under the same theoretical category, philosophical endeavours, which are different in their spirit, ambition and field of inquiry. If we go back to the Renaissance, as well documented by Erwin Panofsky in *Perspective as symbolic form*, the term 'perspectivism' denotes all those attempts, from Leonardo to Albrecht Durer and Leon Battista Alberti, to theorize a technique for representing how an object or set of objects would appear if viewed from a single point of vision.[174] Now, "perspectivism" is a buzzword which means general scepticism about the search for a single truth.[175] Meanwhile, common usage associates "perspectivism" with the idea that objects look different depending upon the perspective from which they are viewed.[176] The term "perspectivism" also indicates a group of philosophical accounts that try to find plausible ways to combine individual differences without compromising the distinctive aspects of each perspective.[177] On this view, which, as I argue in this chapter, is well-typified

[174] See Leon Battista Alberti, *On Painting* (London: Penguin, 1991). See also Jane Campbell Hutchinson, *Albrecht Durer: a guide to research* (London: Routledge, 2000).
[175] See Arthur Danto, *Nietzsche as a Philosopher* (New York City: Columbia University Press, 2005). For a critique to this interpretation and an excellent overview of perspectivism, see James Conant, "The Dialectic of Perspectivism I," *SATS* 7(1) (2005): 5-50. See also James Conant, "The Dialectic of Perspectivism II," *SATS* 7(1): 6-57.
[176] Conant 2005.
[177] This label groups a variety of different accounts in philosophy of sciences, epistemology, metaphysics and phenomenology. In the philosophy of science, see Ronald Giere, *Scientific Perspectivism* (Chicago: Chicago University Press, 2006). In epistemology, see Bou Mou, *Substantive Perspectivism: an essay on philosophical concern with truth* (Heidelberg: Springer, 2009). However, central to the understanding of perspectivism are the works of G. W. Leibniz, the late Edmund Husserl and Maurice Merleau-Ponty. G.W. Leibniz, *Discours de Métaphysique* (Paris: Vrin 2016). Nicholas Rescher (ed.), *G.W. Leibniz's Monadology* (Pittsburgh: Pittsburgh University Press, 1992). See also Edmund Husserl, *Cartesian Meditations: an introduction to phenomenology* (The Hague: Martinus Nijhoff, 1960). Maurice Merleau-Ponty, *The Phenomenology of Perception* (London: Routledge, 2002).

by Leibniz's metaphor of the city, the construction of objective representations is the sum of individual attempts to access the same external object.

Is it possible to think of a political theory that is consistent with the same argumentative line? This research question, which I shall address in this chapter, regards the demonstration that such kind of theorizing may have its dignity in contemporary political theory. This is certainly not a very powerful claim. However, a positive answer includes a challenge to a commonplace assumption of today's liberal and democratic political theory: no theories of how to deal with deep differences can include each and every difference. If persuasive to the reader, a perspectivist political theory is an account that argues for including each and every difference. Specifically, a perspectivist political theory has a distinctive normative architecture that implies an equal-status-granting condition and a condition for inclusion. In this way, all potential perspective-holders, regardless of who they are, the knowledge they know to have, and what they say, are granted access to objects of public concern – irrespective of the nature of such objects.

So, the right to access an object is crucial. This claim has two components. First, the fundamental normative worry regards the juncture in which a person tries to have a say on public affairs of her concern. This means to think of arrangements that allow a person to approach public affairs in her own way when other individuals, maybe with contrasting perspectives, can do the same. Second, the subject-object relationship is central. The entitlement to access external objects does not, for example, imply that, irrespective of their referent, the same perspectives count the same vis-à-vis different public issues. A perspectivist political theory holds that the equal-status-granting condition is conditional on a person having a perspective towards the object of public concern, and that this perspective regards that specific object.

Viewing pluralism through the lens of perspectivism has a distinct advantage: by focusing on the individual relationship with public affairs, a perspectivist political theory commends processes giving participatory standing to

all those who have a concern with a public issue. It also disputes existing barriers and borders that frustrate participation. To substantiate this argument, the chapter shall proceed as follows. In the next section, by deconstructing the term "fact of pluralism", I shall define the philosophical rationale for a perspectivist political theory. When we take pluralism too readily as a fact, the risk is that of overly focusing on ways to manage, overcome, contain, and survive such diversity. But pluralism denotes also a relation which connects several individuals (but not necessarily all of them) who deliberate about the same things in different ways. If we think of pluralism as a relation, one of the central normative concerns, therefore, is to determine how and why someone can access such a relation. By elucidating the architecture and the political prospects of a perspectivist political theory, section 3 and section 4 shall give the perspectivist response to such a concern. Whereas the almost universally accepted view thinks that pluralism is an expression that includes all the worldviews that are present in a society, a perspectivist political theory to the contrary doubts this assumption, and makes the opportunity to make one's visible difference an object of normative concern. Section 5, eventually, shall conclude the chapter.

2. Pluralism as a fact, pluralism as a relation

The issue in question is the "fact of pluralism". The "fact of pluralism" is a complex and multi-layered expression that plays an important role in contemporary political philosophy. A commitment with pluralism is, Richard Flathman writes, 'however transitory or transitional, as a descriptive/analytic theory involves the belief that, here and now, such a multiplicity cannot be explained away' (2005: 1).[178] Often, this multiplicity is the sum of competing and conflicting values. Therefore, as Peter Lassman adds, pluralism is not only the descriptive thesis that values are plural but instead has a fundamental adversarial connotation: namely, 'the worry here is that cases of value conflict are often strongly resistant to clear-cut or rational resolution' (2011: 4).[179] Pluralism, people argue, affirms that values are incommensurable, but

[178] See also, John Skorupski (1996: 101).
[179] See also, Peter Lassman (2005). On this point see John Gray (2002).

also that there is a perpetual rivalry among them. Disagreement, therefore, is the indication that there are different moral outputs in the same society. Such a disagreement can be "reasonable", "ineradicable", "agonistic", "ongoing", and the like. However, regardless of its connotations, political philosophers think of pluralism as a compelling problem because it challenges hypothetical unanimity of opinion and moral harmony.[180]

In this vein, the observation that a person lives together with a heterogeneous and diverse constellation of moral agents serves the philosophical argument according to which ongoing disagreement is a distinctive feature of our societies. The philosophical investigation on pluralism therefore becomes the study of the best ways to deal with the modes of this fundamental disagreement.[181] The possibility that there are different values is not the first centre of analysis, instead the nature of the combination of different values in the same space, and the organization of the consequent mix of interests, beliefs, thoughts, and deeds has been the canonical objects of investigation in Western contemporary political theory. As a result, pluralism works as an assumption. Under these lenses, political theory begins with pluralism as an obvious element that a theoretical argument must consider. 'The experience of conflict of evidences,' as Stuart Hampshire writes, 'is universally shared and cannot be avoided. … Alongside the undeniable evils of domination and of procedural justice denied, other moral values are in principle open to challenge in liberal societies, even those that are strongly supported by the public opinion of that time'.[182] In this sense, to borrow from John Rawls' famous words, pluralism is a fact.[183]

Something can be a fact in many ways; firstly it can be factually true. Namely, it exists and the relevant audience knows such a thing to be undeniably

[180] It is important to notice that such a challenge does not have necessarily negative consequences. For a number of theorists, the search for consensus sanitises the poietic character of adversarial disagreement. See Bonnie Honig (1993). See also Chantal Mouffe (2003).
[181] It is important to notice that disagreement may occur also in a monistic order, which tries to reduce all goods to the same metrics. Hierarchical ordering of values can be source of conflicts even if all human beings conform to the same framework.

[182] Richard E. Flathman, *Pluralism and Liberal Democracy* (Baltimore, NJ: Johns Hopkins Press, 2005), 65-6.
[183] See Rawls 2005, 24, 36, 63-4. See also Larmore 1987, 43-44. Against the connection between pluralism and liberalism from a conservative point of view, see Kekes 1992a, Kekes 1992b and Talisse, 2010.

true. A fact can also be a contingent occurrence in a series of other events, which do not necessarily link with one another. In this connotation, usually, we employ fact a posteriori. A fact is something that happened that we want to tell others about. A fact is also a proof, which people may use as evidence for a certain judgement. A fact also is an occurrence that we study for its historical consequences. From a different point of view, a fact is the result of common sense, like a socially constructed belief that we accept without questioning. Vis-à-vis such a variety of connotations, what do we mean by saying that pluralism is a fact? For Western contemporary political theory, the "fact of pluralism" stands at the intersection between two different observations. First, it is something that exists, so visible that we accept it without questioning. Second, the fact of pluralism is a construction of people who live, as free and equal, in a democratic society.[184] Isaiah Berlin stresses that pluralism seems a true and mundane feature, true because it describes that human goals are many, not all of them commensurable, and in perpetual rivalry with one another.[185] The fact of pluralism marks, Rawls also tells us, democratic society.[186] Such a plurality of different doctrines is the result of the work of public reason over time under free institutions.[187] As he puts it, 'the political culture of a democratic society is always marked by a diversity of opposing and irreconcilable religious, philosophical, and moral doctrines'.[188]

So, pluralism is a fact because people constructed it by expressing the outcomes of moral deliberations freely up to the point in which such a diversity has become so evident to be taken as undeniably true. As a fact, pluralism is something that no potential readers of a theory can deny. It plays the role of a conceptual artefact that describes an aspect of the reality, one that a cogent theory must take into account. It is an observation of the state of affairs, which is considered to be so

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[184] Rawls 2005, 63-4.

[185] Isaiah Berlin, "The Pursuit of the Ideal," in H. Hardy and Roger Hausheer (eds.), *The Proper Study of Mankind* (New York: Ferrar, Straus and Giroux, 2003). Isaiah Berlin, *The Crooked Timber of Humanity: Chapters in the History of Ideas* (Princeton NJ: Princeton University Press, 2013). See also Steven Lukes, *Liberals and Cannibals: The implication of Diversity* (London: Verso Books, 2003).

[186] Rawls 2005, 63-4. It is important to notice that Rawls clearly differentiates between the fact of pluralism as such and the fact of reasonable pluralism. This distinction does not undermine my considerations on the factual character of pluralism. Rawls 2005, 36.

[187] Ivi, 36.

[188] Ivi, 64.

obvious to be like a fact. It is the result of the exercise of human faculties. People also see it as the output of a kind of human development that is an inherent part of liberal societies. Regardless of the point of view you decide to take, it is important to notice that the myriad of versions of the fact of pluralism recognizes descriptive power to this notion. Such a descriptive power can take into account different connotations and can serve specific normative ambitions. However, since all these accounts consider pluralism as a fact, they also rely upon a common underlying assumption: that pluralism is something that truly exists. People, who have different interests and conceptions of the good, think, believe, and act differently.

Through individual thoughts, beliefs, and deeds, pluralism turns out to be an evident attribute of the liberal democratic society under consideration. When we think that pluralism exists because members of a certain society affirm their views, we notice that pluralism, in order to be a fact for all possible members of society and readers of a theory, must have a perceptible articulation. This means to say that, beyond the abstract usage as a term of art, philosophers consider pluralism to be visible. It is actual and real, so vividly clear that political theorists can take it for granted. Nevertheless, if we focus on the visibility-dimension of the fact of pluralism, we can observe another fundamental aspect. The term "fact of pluralism" expresses the differences between all worldviews that people display to one another. For instance, despite, in moral philosophy, it may fall under the rubric of pluralism, the internal deliberation of the person, who ponders the variety of goods that are worthy in the pursuit of a satisfying human life, seems not to be a sufficient condition for pluralism to exist as a fact. We can have many moral agents who deliberate on different values simultaneously. If they do not make the result of their deliberations noticeable to other people, and these results are different from one another, it is implausible to think of pluralism as a fact. Meanwhile, without this difference having the quality of being actual and recognizable, someone may deny the non-disputable-character of "the fact of pluralism".

The confidence that pluralism is a fact alludes to the idea that the experience of diversity is a natural phenomenon of this world. Here we find the idea that the

term "fact of pluralism" should rest, so far as possible, on our individual experience. However, the compresence of different worldviews is not only a combination of doctrines in a given time, It also denotes the quality of being present together. Additionally it denotes a state of affairs in which at least two social, religious, ethnic and racial groups maintain their special interests, and these interests cause differences in opinion on relevant matters. There is, therefore, one good reason to reserve the term pluralism for meaning the relation for which individuals with different worldviews engage with similar problems, so that their differences are something that we can experience unquestionably as an inherent feature of the society where we live.

The reflection on the ostensible character that pluralism takes for us in a given time is not simply a point of descriptive clarity. For this chapter, what is really of significance is that the belief in pluralism as a fact has arisen from a series of disagreements in which individuals with different worldviews have made their thoughts explicit so that, for all potential philosophical audience, their diversity is so obvious as to be undisputable. Inherent in this observation there is another important point; some individuals may have worldviews that never have had the chance to be visible. These two observations emphasize a guiding thread of my argument. Namely, in political theory, it is common place to assume that the "fact of pluralism" and the public airing of all possible worldviews in a society are the same thing. This is, however, not the case. By considering pluralism as a relation, we are able to cast light upon this important mismatch. The term "fact of pluralism" rests essentially on recognizable differences among worldviews that have disagreed with other worldviews at least once in the history of the society. However, for such a holistic philosophical expression, to be descriptive, the set of worldviews should include all those forms of life, including silent, marginalized, undiscovered, or voiceless forms of life.[189] It is not obvious at all that, since people with different worldviews happen to live in the same society, they are necessarily among those

[189] This claim does not hold true for conceptions of pluralism as "reasonable," which explicitly circumscribe the range of action within reasonable people. Rawls 2005, 36. In such a case, to be descriptive, reasonable pluralism as a fact should include all reasonable comprehensive doctrines. On this point, see Enoch 2015.

worldviews that we consider as constitutive components of pluralism. Some worldviews may remain hidden at the margins of pluralism as if they did not exist. This is often the claim of social movements and marginalized people that oppose downgrading, ostracism, and the exclusionary character of collectively constructed common-sense-narratives.[190]

Therefore, when deconstructing the term "fact of pluralism" we acknowledge that this expression does not describe a succession of worldviews only, but, rather, it epitomizes a specific relation. Pluralism is a relation that brings together several people because they have made their differences with each other visible. It does so in a way that makes them like a group of related parts, which, even if divided by irremediable disagreements, through their interaction, are functional for the consolidation of the perception of pluralism as a fact.

So, individuals with different worldviews do not create pluralism voluntarily. As beings in the world, people interact with one another and they happen to advance their own perspectives on matters. By doing so, they exchange ideas, thoughts and beliefs on common objects of concern. When these exchanges reveal differences between individuals, and these differences persist in several interactions about other issues, they contribute to give the impression that this contrast is a part of the society. In relational terms, therefore, pluralism denotes that two or more people, who would otherwise stand as single entities, are in disagreement on certain issues.

By stressing the relational element, we are able to see how the perception of pluralism is contingent to the development of a certain social reality, and its manifestation as a visible fact is a resultant of the configuration of interactions within a certain society. At the same time, as a relation, pluralism is the result of multiple forms of agency. People enter into the relation by expressing their

[190] Rajeev Bhargava, "Overcoming the Epistemic Injustice of Colonialism," *Global Policy* 4(4): 413-17. Frantz Fanon, *Black Skin, White Masks* (New York City: Grove Press, 2008). Gail Omvelt, *Dalit Visions: the anti-caste movement and the construction of an Indian Identity* (Delhi: Orient Blackswan, 2006). See also Spivak 2012.

worldview in public. They expand the relation by listening to new worldviews. They also struggle to take part in such a relationship when other members seem not to be willing to recognize someone else as a relevant part in the business of giving and receiving beliefs and thoughts.[191] The efforts to determine one's own identity, the pursuit of self-rule, and exchanges with other worldview-holders broaden the relational galaxy of pluralism.

When we consider pluralism as a relation, we move the critical focus of inquiry. In contemporary political theory, predominant efforts try to reconcile the phenomenal observation that pluralism is an unavoidable element of our lives with suitable principles of coexistence. However at the heart of these attempts, there is the assumption that people are active components of such a heterogeneous unity. It is simply that, if individuals want, they can participate in symmetry. Much of the philosophical concern is then devoted to finding ways to build a balance between institutions and individuals according to such diversity.[192] By beginning with the belief that pluralism is a relation, in turn, I am questioning the assumption that all individuals are somehow active components of pluralism. As I have argued in this section, pluralism is a transitory result of the interaction of those people who have had the opportunity to make their worldviews, and the relative differences between them, explicit to one another, and to us. But such an opportunity is not unquestionably accessible for all. Specifically, I have argued that in the consideration of pluralism as a factual assumption, political theorists tend to underestimate another factual element. Namely, some individuals cannot make their differences visible, and, consequently, the "fact of pluralism" is a term that has a partial descriptive power.

With this problem in mind, I have defended the idea that, before constructing political and social arrangements that are in agreement with the fact of pluralism, it is important to defend an a priori normative entitlement. This entitlement should grant all individuals access to a public issue of their concern. On

[191] Elizabeth Anderson, "What is the Point of Equality?," *Ethics* 109 (2) (1999): 312-3. Young 1990.
[192] Horton 2010. Horton 2011.

this observation, in the next sections, I argue that a perspectivist political theory has the normative architecture to entitle a perspective-holder to access all objects of public concern without distinction. Such a standpoint enables me to illuminate an important normative juncture. From the exchanges among people with different worldviews, the focal point of normative theorizing about pluralism, then, shifts to the moment in which a person tries to become visible by approaching an issue of public concern in the light of the worldview he or she knows to have.

3. What is perspectivism

In the following section, I am going to suggest that a perspectivist political theory can offer a normative argument that systematises dissolution and formation of the boundaries of pluralism. In political theory, as we have seen, there is a widespread idea of what pluralism means. As such, the most important problem is not that of identifying its genesis and changes but instead constructing sound ways to manage a situation in which different worldviews are together in the same society. However, if we confine ourselves to this kind of philosophical inquiry, and leave out the many incidents that shape pluralism as we see it, pluralism is almost supposed to be a monolithic and unproblematized assumption – a fact. By resisting such a diffuse understanding, I aim to focus on disagreements. Disagreements are caused by people having different opinions about something, and, as we saw earlier, they cause such difference to be visible and, for some theorists, ineradicable. It is the assumption of this chapter that, for pluralism to be visible and recognizable as a fact, there must be an observable difference among worldviews.[193] From this starting point, I shall explain why the perspectivist approach to disagreements justifies a distinctive normative argument about pluralism. Perspectivism defends a general entitlement to access objects of disagreement. Consequently, all kinds of exclusion from accessing such objects are violations of this fundamental normative requirement. But the defence of this claim is for later. Now, we have to be clear about what perspectivism is.

[193] Charles Larmore, *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996), ch. 7.

The classic definition of perspectivism as the philosophical view that all ideations happen from particular perspectives is often taken to imply radical relativism about truth and scepticism concerning grand theorizing in general. It is all too easy reading perspectivism in this way and getting the impression that reality is fictional, objective facts are constructions and beliefs are so contextually embedded not to be worthy of comparison with one another. In such reading, perspectivism comes to characterize a naïve philosophical tradition according to which different things are true for different people at different times. An alternative reading shows that perspectivism is essentially a philosophy of disagreement, whose fundamental concern is to defend the compresence of different perspectives of the same thing despite their fundamental differences. What matters is the idea that disagreements seem capable of sustaining a number of different and contrasting perspectives simultaneously.[194] On this view, as a philosophy of disagreement, perspectivism recognizes the singularity of the individual and the partiality of his or her position in the world as the starting point for the representation (construction) of a referent that is shared by more than one entity, which has an active (perhaps only potentially active) role or produces a specified effect.

The essence of perspectivism is best captured by two widely known passages from Leibniz's *Monadology*, which have inspired much of the work in this tradition all over the twentieth century. Cities and points of views, simplicity and multiplicity, diversity and harmony were very much on his mind since as early as 1669.[195] 'Now,' Leibniz writes

> This interlinkage or accommodation of all created things to each other, and of each to all the others, bring it about that each simple substance has relations that express all the others, and is in consequence a perpetual living mirror of the universe.[196]

The discourse continues in the immediately following paragraph:. 'And as one and the same town viewed from different sides looks altogether different,' he says

[194] Giere 2006.
[195] For a historical reconstruction, see Maria Rosa Antognazza, *Leibniz: An intellectual biography* (Cambridge: Cambridge University Press, 2011). Christia Mercer, *Leibniz's Metaphysics: its origins and development* (Cambridge: Cambridge University Press, 2004). Massimo Mugnai, *Introduzione alla filosofia di Leibniz* (Torino: Einaudi, 2001).
[196] G.W. Leibniz, *Monadology* (Pittsburgh: Pittsburgh University Press, 1991), §56.

> And is, as it were perspectivally multiplied, it similarly happens that, through the infinite multitude of simple substances, there are, as it were, just as many different universes, which however are only the perspective of a single one according to the different points of view of each monad'.[197]

We can count as many as sixty-nine picturesque analogies in the *Monadology*.[198] A work that, according to Leibniz, should be a rational exfoliation of the geometric mode of reasoning. Nevertheless, his way of bringing to mind a fabric of analogies as systemic structures filled with mathematical rigor is a remarkable illustration of the Baroque era's predilection for unity in diversity, folds, coherence and complexity.[199] It is also, first and foremost, a resource of comprehensive, detailed and self-standing explanatory systems.[200] This helps to investigate the two passages, as synecdoche for perspectivism as a whole, in isolation from the rest of Leibniz's metaphysical discourse, with its own several open questions.

Following Leibniz, 'I experience the world,' Edmund Husserl writes, 'as an intersubjective world, actually there for everyone … And yet each has his experience'.[201] If read in continuity with the two passages from the *Monadology*, Husserl helps me to clarify why perspectivism is a philosophy of disagreement. Perspectivism is a way of rethinking the compresence of different perspective-holders in the light of their relationship with the referent they have in common. If we pause on the analogy between the town viewed from different sides, the different perspectives of the same universe, and the experience of the intersubjective world, they all have in common the same line of argument. The plurality of perspectives does not generate an undesirable relativism because the compatibility of different perspectives is understood as a consequence of all observations being observations of one identical thing. Moreover, in Leibniz's usage of the analogy of the city, the

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[197] Ivi, §57.
[198] Nicholas Rescher, "Leibniz's use of analogies and principles," in Nicholar Rescher (ed), *G.W. Leibniz's Monadology* (Pittsburgh: Pittsburgh University Press, 1991), 37-44.
[199] Gilles Deleuze, *The Fold. Leibniz and the Baroque* (Minneapolis: University of Minnesota Press, 1992).
[200] Rescher 1991.
[201] Edmund Husserl, *Cartesian Meditations: An introduction to phenomenology* (The Hague: Martinus Nijhoff, 1960), 91.

visual object is there and, through its multiple facets, works as a common denominator that is included in all perspectives.[202] So, there is a referent, which several perspective-holders will have a perspective on. All perspectives are equally valid representations of the same thing, which seems somehow different when viewed from separate point of view.

If we pause on the representation of several perspective-holders that have a perspective of the same city, it is not difficult to think of this as an image of disagreement. The core of the perspectivist project is the idea that different viewers as producers of perspectives disagree about aspects relevant to their picture of the referent. In this vein, when returning to Leibniz and Husserl, what really matters is the balance between the belief that disagreement is a relation capable of sustaining several perspective-holders with different perspectives of the same thing simultaneously and the individual presumption of having the correct representation of the object. For Leibniz, it is *as if* all representations were of many different universes. Namely, from each individual point of view, the resulting perspective is what the universe stands for. The city multiplies because for each viewer his or her perspective is the only correct perspective of the city. However, all these accounts, with Leibniz's words, 'are *only* perspectives of a single one'. The word "only" emphasises the variation between what individual perspective aims to be (the correct representation of the entire universe), and what they actually are (a partial component of a general representation of the same universe). From a perspectivist point of view, the point is to demonstrate that we cannot outline a univocal way to look at an object, and that the objective referent translates the subjective attitude towards something into an element of a general attempt to experience the external world as it is. The truthful representation should be something when collectively constructed, by associating different and partial perspectives with one another, transcends the contextual constraints of each perspective.[203] This means to construct a combined and non-natural complex representation in which the inherent finitude

[202] Robert M Adams, "Phenomenalism and Corporeal Substance in Leibniz," *Midwest Studies in Philosophy* 8 (1) (1983): 217–257. Donald Rutherford, "Leibniz's 'Analysis of Multitude and Phenomena into Unities and Reality," *Journal of the History of Philosophy*, 28 (1990): 525–552.
[203] Giere 2006. Timothy D. Hackenberg "Realism without Truth: A Review of Giere's Science without Laws and Scientific Perspectivism", *Journal of Experimental Analysis of Behavior* 91 (3) (2009), 393.

of each perspective (spatially and temporally situated) is surpassed by putting different perspectives one after the other as if there were a continuity across them. In this way, different perspectives are like a portion of an all-encompassing architecture and, as such, they are functional for one another, despite their intrinsic differences.

So, perspectives show different aspects of how-things-are and each perspective of a city may be a viewer's best attempt to get this city as it is from her vantage point (Bouquiaux 2006; Stengers 2006). The city, in other words, is an example of a worldly state of affairs that can act as the best example of the presumed way to get things right from a particular point of view. In this way, my argument has been that perspectivism is a particular kind of philosophy of disagreement. It involves not only an object of disagreement but also the belief that different and maybe competing perspectives of the same object have the same claim for validity. The account offered so far supports the claim that a perspective-holder-referent relationship is constitutive of this tradition. But stressing this nexus against scepticism does little to establish its content as a political theory. In the next section, I argue that perspectivism has a characteristically normative architecture that substantiates everyone's claim to access external objects. In its most basic form, the idea is that a perspectivist political theory provides all possible perspective-holders with an entitlement to claim their due position in the disagreements that are of their concern.

4. Perspectivism in political theory

Popular philosophical knowledge says that, according to philosophers in this tradition, all perspectives of the external world are determined by what an agent knows, his or her position to know, and available knowledge. Less commonplace knowledge among political philosophers is the normative justification for such compresence of different, and sometime conflicting, perspectives of the same thing. In reality, at the heart of perspectivism, there is an equal-status-granting condition and a condition for inclusion. The combination of these two conditions sustains the

belief that, when perspective-holders have the same referent, there is no possible perspective that can count more than others do. In this way, perspectivism is built upon the interplay of a condition of entitlement ("*all perspective-holders can participate*") and a condition for inclusion ("*all perspectives that count must have the same referent"*). In this section, I argue that a perspectivist political theory is a political theory that defends these two conditions.

Before reconstructing the two conditions, let me pause on the definition of perspective. A perspective is a way of rendering an object that is intended to capture a certain aspect of this object (O), and to explain the object in terms of the qualities of that aspect. It is important to notice that this conventional definition of perspective does not provide us with a single criterion of appropriateness. It describes a relation that links a referent with an act of cognition, whose agent-relative content depends on something that is already integral to the agent – what the agent knows that she knows. Specifically, John has a perspective on O when he has a particular attitude towards something. John's perspective on O denotes one way of rendering the object, and does not exclude the possibility of other agent-relative particular attitudes towards O. In this way, P is a perspective of O for John if John knows that P pertains to O, or has agent-relative evidence that P pertains to O. Considering that this attitude is relative to one's relationship with O, it might be the case that these individual attitudes contradict with one another. So, several Johns may have such an attitude at the same time. Moreover, this definition of perspective makes another familiar idea explicit. A perspective does not depend on all the knowledge there is but only on the knowledge that John knows himself to have. There is, therefore, knowledge that falls outside a perspective P, or that is implicit to it, but this does not fall within a perspective-relative reason unless the agent knows that such knowledge is within P. Such knowledge is not part of John's relevant knowledge to P, but it might be part of other people's relevant knowledge to P1, P2, and the like. At the same time, the knowledge that John knows himself

to have may be unavailable to other people, even if it is fundamental for his perspective on O.[204]

With these preliminary observations in hand, in what follows I try to substantiate my claim that perspectivism is built upon two fundamental conditions. To do so, I return to the two passages of Leibniz's *Monadology*. Infinite simple substances, Leibniz tells us, can occasion infinite versions of the same universe. Despite being different, he continues, these infinite versions are ultimately representations of the same thing that are comparable with one another because, without distinction, all these representations are universes. In other words, out of metaphor, A) perspectives are perspectives of the same thing, and B) all perspectives are different because they express a characteristic relationship between substances and the universe. Together, A and B offer us a description of the relationship that connects different perspectives and their referent in those accounts that we tend to classify under the rubric "perspectivism". Specifically, all subjects can access the referent in their own way, and the resulting perspectives are different from one another in a relevant way. This feature, however, leaves unproblematized the conceptual precondition that sustains this kind of argument. By bringing to light such an implicit layer, we are able to single out the first condition.

It is, therefore, necessary to begin with a fundamental question. Why, despite having the different knowledge that they know to have, can perspective-holders access the same referent on an equal footing? In fact, if all perspectives are different relationships between a perspective-holder and the external referent so that, in the case of Leibniz, all simple substances can characterize the same universe in their own ways, there must be a prior justification for these perspectives being together around the same referent regardless of what the perspective-holders know of the universe. What follows is the normative postulation that characterizes perspectivism quintessentially: an equal-status-granting condition ensures all potential perspective-holders stipulate a relationship with external objects inspired

[204] For an analogous definition of perspective, see Jonathan Way and Daniel Whiting, "Perspectivism and the Argument from Guidance," *Ethical Theory and Moral Practice* 0(0) (2016): 1-14.

by what they know themselves to know. In other words, there are several perspectives of the same thing, and these perspectives are different and count the same, because Leibniz, and perspectivism in general, assumes as a normative precondition that each perspective-holder can access each object, regardless of the kind of knowledge he or she knows themselves to have.

In this way, such a normativity does not define what a perspective should look like, but the idea is that of creating a general justification for opening a certain object to the largest possible spectrum of potential perspective-holders, who, each according to the knowledge he or she knows themselves to have, has an agentive-relative attitude towards the object. In the vocabulary of political philosophy, the above means to concentrate the normative attention on the individual relationship between a person and an external issue rather than considering how to combine several perspectives that have different contents. When all perspectives are taken to be dependent on the knowledge a person knows herself to have, it is notoriously problematic to draw any clear line between kinds of perspectives that are supposedly more compatible with one another and those are not. For perspectivism, it can be decently supposed that there is no legitimation for such a line. It is precisely because it is crucial to begin with the normative precondition that all potential perspective-holders are entitled to access external objects, make their perspectives available to others, and, consequently, mark their differences.

The discovery of the equal-status-granting condition shows that, at the heart of perspectivism, deeper than the claim in favour of knowledge from everywhere, there is an implicit normative assumption to entitle different perspective-holders so that they can access external objects without arbitrary distinctions. All this, of course, is equally true for a perspectivist political theory. Actually, the thought that all perspective-holders have an identical and unconditional entitlement to access the object of disagreement contradicts with one of the fundamental stipulations of today's political theory. Namely, the confidence that no theories regarding how to deal with deep differences can include any and every difference. Against such a

belief, the reconstruction of the equal-status-granting condition leaves room for an argument of the following form.

A perspectivist political theory is a normative account that organizes individuals, as different perspective-holders, in the light of a fundamental condition. Such condition stipulates that all potential perspective-holders must be able to stipulate a relationship within certain objects in the light of the knowledge they know themselves to have. To do so, firstly we should give up the assumption that pluralism is a monolithic conceptual component and concentrate on unities of disagreement between people who are less than the population of a state. Secondly, as we said earlier in this chapter, such unities must be intended as relationships in which people can enter, and from which they are often excluded. With these conceptual observations in hand, a perspectivist political theory says that, if we want to construct an inclusive political theory, such theory should sustain the construction of arrangements that allow all potential perspective-holders to access objects of public concern, disagree in the light of the knowledge they know themselves to have, and make their differences visible to us. Consequently, for an argument so-conceived, all attempts to silence and exclude potential perspective-holders contravene the basic normative precondition, and are one-sided. As such, when applied to political theory, the equal-status-granting condition requires a reconsideration of political arrangements in the direction of the full entitlement for all individuals, as potential perspective-holders, to access objects of disagreement.

Now, according to the normative architecture of perspectivism, once all potential perspective-holders have been granted the entitlement to access objects of disagreement in accordance with the knowledge they know themselves to have; in each disagreement, only those perspectives that are actually of the same object are counted, and they must count the same as each other. As I have stressed in this chapter, the relationship between a perspective-holder and the object is the essential trait of perspectivism as a philosophy of disagreement. Clearly, several perspective-holders can have a perspective of the same object simultaneously. Meanwhile, by having different knowledge they know themselves to have, perspective-holders

have different perspectives that, if made public, start a disagreement. As we have seen in the previous section, in order for perspectivism to overcome the partiality of the knowledge that perspective-holders know themselves to have, the solution to such a disagreement links with a general entitlement that justifies the incremental addition of new and different perspectives to the cluster of available existing perspectives.

This entitlement is distinctive, but offers an incomplete description of the normative architecture of perspectivism. By stopping here, we would badly misunderstand the emphasis on the perspective-holder-object relationship only as a form of responsiveness to all possible differences. Less fundamental than the entitlement upon which a perspectivist political theory builds the access to objects of disagreement, there is another fundamental stipulation. Namely, in each disagreement, among all the possible perspectives, all perspectives that count must have the same referent. This is what I call the condition for inclusion.

We can reconstruct the condition for inclusion by going back one more time to the two passages of *Monadology*. Simple substances have different points of view and they produce different accounts of the same thing. All these representations are finite and are in some way different from one another. So that, following Leibniz, if we imagine different people who are looking at the same city from different sides, we can say that the same city looks different to them, while also being the same. But also, implicit in such a metaphor, there is the claim that, in order to reach a complete account, we need knowledge of all perspectives that exist on the same object. There is, therefore, a constitutive requisite: perspectives are in disagreement as different perspectives of the same referent.

It is important to note firstly that for all potential perspective-holders being entitled to access objects of disagreement, a perspective cannot be ignored unless someone proves the missing connection with the object of disagreement. To the reader, the occurrence of a perspective of the object that is not actually of said object might seem implausible. This is so because the perspective language is not

particularly helpful in this case. Let me, therefore, clarify this point with an example. In a local assembly, members (perspective holders) disagree about the funding for a special taskforce against rapes (object of disagreement). When it is her turn to make an argument on the taskforce (a perspective of the object of disagreement), one of the members, who took a seat in the assembly as a potential-perspective holder, simply says "Fat lady". Later another member says "the members of this assembly are clearly corrupt". Additionally someone else says "They are all terrorists!". The three members have the entitlement to participate (equal-status-granting condition), but, since their speeches to an audience did not make any recognizable reference to the object of disagreement (the condition for inclusion), other members of the assembly can avoid considering their perspectives, unless the three members reformulate their statements in ways compatible with the object of disagreement. As we can now see, the entitlement for all perspective-holders to participate is not under discussion. The condition for inclusion applies to the explicit public manifestation (perspective) of one's attitude (the knowledge one knows to have) on a certain object of disagreement. Its normativity should push potential perspective-holders to have a perspective that is a recognisable perspective of the object of disagreement.

Moreover, if we look at the condition for inclusion from the within the set of perspective-holders whose perspectives have the same referent, all perspectives are together because of a certain object of concern, which favours the manifestation of the differences among the knowledge that each perspective-holder knows herself to have. Consequently, when the object changes, the relationship and differences among perspective-holders change too. As I have said so far, the contingent relationship between two or more perspective-holders (let us say A, B and C) depends on their having perspectives of the same object. The presence of B for A, C for A, A for C, etc. depends on the object. Precisely, it depends on the fact that A, B and C express the knowledge they know themselves to have on the object. It does not depend on any specific cognitive characteristic or moral attribute that the perspective-holder is supposed to have. For the equal-status-granting condition, there is no reason for A not to be present rather than for B or C to be present. In

agreement with the condition for inclusion, once A, B, and C display the demonstrable connection with the object of their perspectives, their perspectives should count the same in the construction of the resolution on that specific object of disagreement. It does not matter if perspective-holders remain divided by important differences in the knowledge they know to have, what brings them together is a communal object of investigation, and, in that specific respect, what they are for one another depends on the object.[205] The compresence of their perspective around the same object of concern makes their difference visible, and pluralism recognizable to us. This is an open relationship because, if other perspective-holders have a perspective on the same object, they can also make their distinctive traits visible, and the like.

So, for a perspectivist political theory, it should not be relevant what a certain perspective stands for. From what is inside a certain worldview or the moral attributes an individual is supposed to have in order to positively exchange consideration with other people, when these people have different moral or political doctrines; the focus of the study of pluralism shifts to the way different individuals can make their distinctive worldviews visible through objects of public concern. For this reason, a perspectivist political theory begins with an explicit normative standpoint that aims to ensure for all potential perspective-holders the entitlement to access objects of disagreement. It also defends the normative belief that, as expressions of the distinctive relationship between the knowledge a perspective-holder knows to have and an object, all perspectives of the same referent must be valued the same. If there were not such an additional condition, the defence of a general entitlement to access objects of disagreement would be meaningless in practice. For instance, without the condition for inclusion, some perspective-holders may find ways to dominate disagreements, and this could mean to make other perspectives invisible. A perspectivist political theory, in turn, must always guarantee that all perspectives of the same referent are equally visible, and that the same referent is accessible to all other possible perspective-holders simultaneously.

[205] This is not an ontological position. I want only to stress the idea that an object originates new and distinctive relational typologies. And each object influences these typologies in a distinctive manner.

Now, it may be true that with a huge variety of perspectives that are valued the same, different perspective-holders may be unable to put together all available perspectives in one genuine construction. It may also be true, however, that a greater degree of inclusion does not merely sum to a greater diversity but may turn out to help to solve differences between one another. However, for a perspectivist political theory, the normative concern is otherwise understood. Crucially, no matter what disagreements denote, and the kinds of perspectives at stake, it is imperative to take into account all the available perspectives, and to create patterns that allow perspective-holders to make their perspectives available without constrictions. Whether or not it is desirable is left to the reader. For the present purpose, suffice it to say that a perspectivist political theory, by entitling all potential perspective-holders to access object of disagreement, is one of the ways to avoid exclusionary practices that are consequent of a too easy understanding of pluralism as a fact to be governed and managed. At the heart of the present line of argument, there is the idea that an acritical acceptance of pluralism as a fact may reinforce the division of the population into two units. On the one hand, it is important to consider the majority of individuals, whose different worldviews are recognizable components of pluralism as fact. Individuals within this unit can (more or less) claim their share in the definition of the benefits and burdens of the society, and political institutions that must be accountable to them. On the other hand, the rest of the population remains invisible. They may be newcomers, dissenting individuals within ethnic and religious groups, "silent" persons, and the like. For a perspectivist political theory, such an imaginary boundary is an artificial construct. Therefore, the philosophical eye should look at the relationship between each individual, as a potential perspective-holder, and public issues. The normative eye should construct arrangements that, irrespective of what a worldview stands for, ensure participation in disagreements for all perspective-holders on the same footing. The political eye should question practices and arrangements that inhibit such participation.

5. Conclusion

A shared premise of today's liberal theory literature is that pluralism is a fact. I have argued that pluralism has both a factual and a relational component. As a fact, pluralism is visible and recognizable. Namely, there is a perceptible difference among worldviews and interests. As a relation, pluralism denotes the quality of being present together. Under these lenses, I have argued that it is possible to observe a mismatch between the worldviews that we see and all worldviews that there are in the same society. On this view, if we assume pluralism as a fact without problematizing such a mismatch, the risk is that of conceiving normative arrangements that are inherently exclusionary.

Against such a risk, my suggestion has been that of a perspectivist political theory. A perspectivist political theory tries to deal with deep differences without assuming that theories of how to deal with deep differences cannot include each and every difference. As I have examined through the study of Leibniz's famous metaphor of the city, perspectivism has a distinctive normative architecture which combines an equal-status-granting condition and a condition for inclusion. Central in this normativity, there is a fundamental protection of the relationship between a possible perspective-holder and an external object.

Taken together, this analysis indicates what we can expect from a perspectivist political theory: the idea is that, when inspired by such a normativity, political arrangements must entitle all potential perspective-holders to access external objects. For now, suffice it to say that the philosophical and normative aspects of perspectivism suggest a shift of importance within the literature on pluralism from reasons, arguments and considerations people exchange with one another to the individual relationship with public objects of concern. They also help us to think of the initial demarcation between who counts and who does not count in a society where people have different worldviews. If political theory has reasons to follow this direction, as I argue in the next chapters, it is to challenge the belief that some sort of exclusion is an undesirable, but ordinary, externality.

Chapter 5
The many-to-one relationship

In this chapter, I try to answer what I consider as an important question for all diverse and complex societies, which aim to be non-exclusionary. When all parties have different worldviews, I ask, is there a normative conception that parties can affirm without compromising their moral commitments? In order to answer this question, I shall design an ideal model of relational disagreement – the many-to-one relationship. Thanks to this model, I shall elaborate the two orders of normativity, which are distinctive of a perspectivist normative theory. My ambition is to idealize a situation with the highest degree of disagreement among people who have different ideas about all the conceivable aspects that decide how to organize a life in common – including the very ambition to live together. Methodologically, this framework requires us to represent the set of circumstances in which abstractly characterized parties live, and the faculties that inform their ways of mastering the external world.[206] I am aware of the risk that this attempt can cause a reified account of social relations. However, for those who are reluctant to go ideal in normative theorizing, I say that my scope is not to freeze existing instances of marginalization and social exclusion, but, rather, I aim to stress diversity up to a point in which a general normativity seems unachievable. It is my intuition that, by finding a general normativity at such a level of idealization and disagreement, I construct one among many other possible frameworks that might be valid for our world too.[207]

This attempt tries to define a normative scheme that can reflect the diversity of ends and values, while incorporating a ground that functions as a common

[206] Usually, in ideal theorising, an abstraction from the reality as it is comes together with a normalization of pluralism among the parties who construct the norms of coexistence. This kind of ad-hoc idealization has been harshly criticised in the literature for well-grounded reasons. However, my idealization follows the opposite directions: that is, I try to stress those elements that make pluralism problematic for political theorists in order to discover normative grounds that can aspire to generality. On this issue, see David Enoch, "Why Idealize?," *Ethics*115 (4) (2005): 759-87.

[207] On ideal theories as possible evaluative standards, see David Estlund, "Utopophobia," *Philosophy and Public Affairs* 42 (2) (2014), 121.

perspective across differences. This shall be the foundational elements of a pluralistic society, as a society in which all members have a right not to be excluded from decision-making procedures of their concern.[208] The construction of a normative order for a plural society is bound to be a partial endeavour. Here, however, I am fully aware of this objection. No longer is a common normative account alone the chief object of concern, for the conditions of possibility to express one's own diversity represents a normative problem in its own right. I do not look for agreement across different worldviews, but, rather, I investigate the normativity that abstractly characterized parties affirm in a suitably constructed disagreement. At the very least, I stand back from reflection about consensus and agreement to fix the kind of normativity that makes possible to establish relations with external objects of disagreement.[209]

Since the situation of disagreement I build must serve to construct principles in a variety of contexts, my reasoning must follow a general and abstract fashion. In so doing, I shall characterize parties in ways that avoid assuming notions that can be deemed contextual or partial. I shall also try to construct exchanges among parties in ways consistent with what happens in a world characterized by pluralism and diversity in ideas, social positions and means of expressions. With these observations in mind, this chapter shall proceed as follows. Section 2 shall describe the features of the idealized parties in the many-to-one relationship. In section 3, I shall reflect on the object of disagreement and the relationship between such an object and the parties. Section 4 shall clarify the idealizing assumptions that make possible exchanges in the many-to-one relationship. In section 5, I shall construct the two levels of normativity. Section 6 shall conclude the chapter, and, by anticipating some remarks, it shall open to the rest of the argument.

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[208] Here, I assume a substantial conceptual difference between "plural" and "pluralistic". I take the word "plural" as an attribute for societies with people holding different worldviews. I consider, in turn, "pluralistic" as an attribute for societies that are plural and non-exclusionary. Therefore, plural society do not have necessarily pluralistic institutions; while pluralistic institutions may exist in societies that we do not considered as plural

[209] The point of the argument is not to define how and why principles (or a certain way out of disagreement) can claim legitimate authority over people having different worldviews. For such an approach, see Jeremy Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1998). My ambition, instead, is to define a normativity that puts parties with different worldviews in the position to disagree, and it also ensures that parties have actual possibilities to affect the outcome of disagreements in the light of how they get things right.

2. Reasonable and rational persons with different worldviews

The most ambitious goal, therefore, is to elaborate a peculiar conception of the abstractly characterized parties. Even if it is difficult for some to think of such an irreducible pluralism, this idealizing component has a strong heuristic power. It helps us to rely only on a normativity that all parties are in the position to affirm, even if they have different worldviews. Clearly, in this way, as we shall see, the range of possible normative frameworks turns out to be very limited. Specifically, for my model, this means to assume that abstractly characterized agents happen to live in the same island without necessarily sharing a vocabulary of normative and evaluative terms. These individuals have different worldviews that are characteristic dispositions to cognize, evaluate and change world features. To push idealization further, in order to bring the discourse to a higher level of complexity, I also assume that parties arrive to this land in different times, each of them bringing a different story.[210] Some parties are indigenous, other parties were forced to go there by their countries of origin, and other parties went there to look for new opportunities. Whatever is the reason that justifies their presence in the island, for my purpose, it is relevant to notice that they have a fully developed worldview. In this context, parties, therefore, are likely to disagree when they stand opposed to one another. However, let us assume that the island is vast enough to let parties co-exist without conflicts. Under this perspective, the fact of pluralism is something that we can see as external spectator, but it is not something visible to the people who live in this territory unless they meet with one another.

For diversity being visible, the assumption that parties have different worldviews necessitates to build into abstractly characterized parties practical faculties, which enable them to carry out such worldviews in the external world.

[210] The discourse could be extended to animals, plants, land, water, resources, and air that are in the territory where indigenous and colonizers live. For the sake of simplicity, I have to leave this option aside. For the present purpose, I admit that our idealization of the abstractly characterized parties is evidently humanized. To my knowledge, present disputes about the fact of pluralism are all about human beings. This reason seems strong enough to leave the discourse about non-humans to another place. As a provisional suggestion, I can anticipate that such an endeavour would require a relaxation of the characterization of parties as rational and reasonable. For an effort to extend the practice of disagreement to non-speaking beings in the contexts of disputes on abortion, see Antonella Besussi, *Disputandum Est: la passione per la verità nel discorso pubblico* (Torino: Bollati Boringhieri, 2012), 197-8. Such an extension of the space of disagreement to non-speaking beings, however, ends up epitomizing one of my worries: the inclusion of non-speaking being is likely to read them not for what they are, but, rather, for the way we can engage with them as if they were speaking beings.

Minimal rationality helps us to make manifest the existing diversity of worldviews.[211] If we survey the history of moral philosophy, it seems that, in practical contexts, the response to questions like "What should I do?" also presupposes considerations about the identification of a certain end, the evaluation of the appropriate means for realizing this subjectively given end and conformity of a specific action to a worldview. In this sense, rationality rests on persons' capacity to form, to revise, and to pursue a conception of the good, and to deliberate in accordance with it. It comes without surprise that my usage of rationality, as it was for Rawls, does not go very far from the traditional conception in social theory.[212] 'A rational person,' to borrow from Rawls, 'is thought to have a coherent set of preferences between the options open to her. He ranks these options according to how well they further his purpose; he follows the plan which will satisfy more her desire rather than less, and which has the greater chance of being successfully executed'.[213] Under these lenses, one acts on a rational ground when what she does can be explained within a specific connection between ends and suitable means. While the capacity to act and choose means in the light of the ends set by a certain worldview is taken to be universally shared, what is the actual content of this action is relative to the specific worldview of a person.[214] Let us explain this point in order to stop criticisms about prudential reasons and instrumental rationality before happening.

Rationality may seem to plug into my idealization of an ad hoc means/end balance component. A minimal degree of rationality, in turn, helps us to explain why a person acts in one way or another for the sake of his or her worldview. This qualification implies mainly conformity with a course of action that is inherent in one's worldview in a certain time and given contingent external conditions. I do not assume that, after calculations, persons will act according to the best strategy available. I simply presuppose that they will undertake some agential patterns

[211] I am aware of the concerns connected with an acritical use of rationality, especially in its social theory connotation. I ask the reader to take this condition *cum grano salis*, without stressing too much its relevance for the whole discourse. In the absence of a better term, I do not use rationality in a normative sense, but, rather, I use rationality to describe a feature of individual action in my model.
[212] Rawls 1971, 142-50.
[213] Ivi, 143.
[214] Rainer Forst, *The Right to Justification* (New York: Columbia University Press, 2011), 14.

because they think these are the best ways to advance a claim consistent with their worldview. Specifically, the conception of rationality employed in this chapter incorporates both preferences, standards of evaluations, and general beliefs about the world. A rational party is one who combines his or her beliefs about the external environment in ways that are coherent with his or her worldview. Parties do not necessarily act in accordance with the overall best calculation of costs and benefits. Rational parties behave in agreement with what they consider as the best response to the outside world, given their peculiar disposition toward the outside world. For this reason, in contrast with other accounts, I focus only on the 'top' of a preference ordering, which is embedded in one's distinctive worldview.[215] Even if they are not fully informed, parties think that the way they act in the light of their worldview is the best they can do against the present circumstances.[216] So, not all parties are rational in the same way, but I say that parties pursue the things they regard as important. Specifically, this may include whales, empathy for the family, charity, and the like. The world of preferences and rational beliefs, as Shepsle puts it, is eminently an interior world. A party does not 'wear her preferences', therefore I have to make assumptions about her preferences in order to model particular social settings.[217] In this way, the same moral agent may translate the same worldviews into different ways, all of them rational from the perspective of his or her worldview.

Now, should I describe the profile of all the possible worldviews at stake? Hypothetically, in this vast land, where different individuals live, we can find all possibly conceivable worldviews, and a myriad of related top-preferences for each contingent situation. If the many-to-one relationship were a situation of rational choice making, such a diversity would demand an articulation of each possible worldview, and, given the fact that several worldviews may go alongside with individual experience, this diversity would mean no assurance to cover the entire

[215] See Gerald Gaus, *The Order of Public Reason* (New York: Cambridge University Press, 2010), ch V. Generally, all convergentist accounts of public reason rely upon the person having more than one preference at his or her disposal at the same time.
[216] For instance, this conception of rationality also includes adaptive preferences. See Jon Elster, *Sour grapes: studies in the subversion of rationality* (Cambridge: Cambridge University Press, 1983).
[217] Kenneth Shepsle, *Analysing Politics: Rationality, Behaviour, and Institutions* (London: Norton, 2010), 15. See also Andrew Hindmoor, *Rational Choice* (London: Palgrave-Macmillan, 2006).

spectrum of possibilities. What we need is not to know the sort of worldviews that each party will bring in public; but rather, it is sufficient to say that parties will draw upon a certain worldview in a given moment, and that such a worldview draws a camp within which the party elaborates the way he or she appropriates the external reality.

Parties are also reasonable. This deserves clarification, especially considering the widespread use of this concept in political theory. Unlike Rainer Forst, reason is not taken as 'Ratio, raison, reason ... *as* the ability to account for one's beliefs and actions; *rationem reddere* in Latin, *logon didonai* in Greek,' but rather as a prolific faculty of active and individual thinking.[218] Inevitably, this marks a departure from the mainstream usage of this term in political theory. Often, practical reason stands for the ability to answer practical questions with responses that can be upheld at the intersubjective level (account for).[219] 'Practical reason,' as Forst continues, 'can be understood as the basic capacity to respond to practical questions in appropriate ways with justifying reasons within each of the practical contexts in which they arise and must be situated'.[220] This kind of reasonableness is circumscribed to cooperative contexts, where a person has a disposition to make concessions to the other, when the other persons is prepared to do the same.[221] For instance, in Rawls, a reasonable person is a person who is ready to agree on mutually beneficial forms of cooperation. In this sense, reasonableness embodies something like a proper use of practical reason, autonomous deliberation and actions in line with principles that are acceptable by all.[222] According to another account, reasonableness implies a specific kind of reasoning, which is competent, well-pondered, and in good-faith.[223] From such a perspective, a reasonable person is one that takes the due time to reason, consider the available evidence, and advance a consideration accordingly. Such competence, as McMahon puts it, 'is exercised in the identification of the considerations relevant in a given context and

[218] Forst 2012, 14.
[219] Rawls 2005, lecture II.
[220] Forst 2012, 18.
[221] On this point, Christopher MacMahon, *Collective Rationality and Collective Reasoning* (Cambridge: Cambridge University Press, 2001), 92-3.
[222] Rawls 2005, 48-54.
[223] Christopher McMahon, *Reasonable Disagreement: A Theory of Political Morality* (Cambridge: Cambridge University Press, 2005).

in the assignment of relative weights to them. This is the sense of "reasonable" employed in the standards of proof in a criminal trial'.[224]

In this work, I use a different account of reasonableness. The two alternatives compromise a moral faculty with an intersubjective dimension that may put pressure on the idealization of abstractly characterized agents as participating differently in the fact of pluralism. Nevertheless, these two options do not exhaust the set of philosophical alternatives at our disposal. Without going too far in the history of moral and political philosophy, I can appeal to an abstract and neutral conception of reasonableness. Reasonableness, Charles Larmore writes, is 'the free and open exercise of the basic capacities of reason … they may be reasonable in Rawls's sense as well, if they are concerned to reason about how best to be fair'.[225] Such a view does not ask persons to fashion their judgements in some appropriate ways, but rather it suggests that reasonableness is a moral quality that all human beings have qua beings with practical reason, who are capable of elaborating natural inclinations.[226]

By combining ineradicable pluralism, rationality, and reasonableness, I am in the position to picture a generalizable account of the practical identity of people who live in the island. According to the present account, parties, therefore, are moral agents, who appropriate the external world in accordance with their worldviews, which they have assimilated and articulated over time, thanks to the basic capacities of reason. The upshot of my analysis is that the diversity among abstractly characterized agents fractures the landscape into different landscapes with people acting in light of different worldviews and searching for competing goals, which all of them find rational from their own point of view. Such a diversity

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[224] Ivi, 18-19.

[225] Charles Larmore, "The Moral Basis of Political Liberalism," *The Journal of Philosophy* 96 (12) (1999): 601-2. See also his *The Morals of Modernity* (New York: Cambridge University Press, 1996).

[226] Despite departing from contemporary Kantian constructivism, I think that such an account of reasonableness might be acceptable to Kantians too. See expressions like *Gesetzgebung*, *selbst-gesetzgebend* and *allgemeinegesetzgebenden*. Kant, B, 740. *Groundwork*, 431, 432, 436, 446, 448, 452. On this point, see Christine M. Koorsgaard, "Introduction," in Immanuel Kant, *Groundwork of the Metaphysics of Morals* (Cambridge: Cambridge University Press, 2000), xxix. See also Ernst Cassirer, *Kant's Life and Thought* (New Haven: Yale University Press, 1983). Augusto Guerra, *Kant* (Bari-Roma: Editori Laterza, 1998), 130-33. See also Dieter Henrich, *The Unity of Reason* (Cambridge MASS: Harvard University Press, 1994), 89-122. Paul Guyer, *Kant* (New York: Routledge, 2014), 252-60. Allen W. Wood, "What is Kantian Ethics?" Allen W. Wood (ed.), *Groundwork for the metaphysics of morals* (Yale: Yale University Press, 2002), 157-81. Kant, *Groundwork*, 446, 452.

may hamper the ways through which parties communicate with one another.[227] At the same time, how parties access the external world may be a fundamental component of their overall practical identity. Parties have different beliefs about what constitutes a communicative act that reverberates their distinctive practical identity. Therefore, a modular description of their communicative action would reduce the terms, for a party, to the realization of its worldview. With these remarks in mind, in order to describe exchanges that will happen in this model, I use "considerations" rather than the more common "reasons". I want to leave open the space for emotional attachments, partiality, and biases. In this vein, "considerations" emphasize the subjective character of one's appropriation of external reality, without shrinking the importance of individual reflection for effective communication.[228] The full significance of my usage of considerations should be understood by looking at the dual movement of a person upon the world, as a rational being, and in herself, as a reasonable being. A rational being finds the best way to advance insights from what the reasonable component has articulated over time. Under the lenses, a consideration C is a communicative act through which a person P imposes her own meaningful mark on an element X of the external world. C specifies the relevant features of X for P, given the fact that P and X exist independently from one another. Through C, P puts X in relation with a distinctively individual set of meanings and beliefs upon which P builds an account of the world that she feels as her own. Therefore, C implies a distinctive relation between P and X, which does not necessarily entail exchanges with other persons P1, P2, P3, and the like. P1, P2, and P3 may have considerations C1, C2 and C3 on X (and other parts of the world X1, X2, X3) without knowing anything about other persons doing the same. Because of X, P1, P2, P3 and the like might also acknowledge the differences between one another.

[227] As I shall see in the next section, it is not necessary to postulate that considerations are mutually intelligible. Here, a reasonable and rational party stipulates a relation with the object of concern. Under this reading, intersubjective relationships are derivative.

[228] For instance, Joshua Cohen defines reasons as considerations. See Joshua Cohen, "Procedure and Substance," in Seyla Benhabib (ed.), *Democracy and Difference* (Princeton: Princeton University Press, 1996), 95-119. See also, Sharon Krause, *Civil Passions: Moral Sentiment and Democratic Deliberation* (Princeton: Princeton University Press, 2008), 146.

3. The binding situation

In the previous section, I have argued that parties lives in the same territory, but this territory is so vast that they do not realize the presence of other abstractly characterised agents with different worldviews. Now, I try to speculate about the place where disagreement begins in this context. I assume that parties will discover one another because of a binding situation.[229]The communal problem, in this way, stipulates a threshold of reciprocity among the parties. The binding situation brings about a semantical space in which one enters into a non-natural relationship with other agents that are doing the same for their own sake. It is non-natural because it exists in conformity with an object and through the object. The object causes a partial suspension of the ordinary relation among agents – or it initiates a new one if this is not the case - that, once invited together by a communal referent, turns parties into holders of a specific consideration on the object of disagreement.

Now, this point encourages reflections about the nature of such a disagreement. It should be clear that I do not idealize a kind of epistemic disagreement. In that case, all parties would agree with the course of action. As a result, disagreement would revolve around collective or individual reasons to justify such a collective goal. Here, the object of disagreement brings about a paradigmatic case of practical disagreement. Such a disagreement concerns with the content of the course of action.[230] It is, to borrow from Herbert George Wells, a disagreement about first and last things.[231] This disagreement encompasses two dimensions. On the one hand, the object of disagreement encourages parties to think of those actions that are permissible, commendable, deplorable, and the like. In conjunction with this level of moral reflection, the object of disagreement pushes parties to internal deliberation concerning what counts as a valid consideration in that context, and

[229]Two things deserve clarification. First, disagreement about things that matter for those affected embodies an essential tension between the individual power of creation and the innate vulnerability of opening to the cognition of others. Such a cognition casts light upon the finitude of one's self-differentiating act vis-à-vis several and different responses to the same object. For the subject, this does not imply a schizophrenic division of the self, but rather it casts lights upon the multiple ways through which the same consideration can be assimilated and remodelled by those to which it is addressed. Second, it should be clear that individual considerations resist the possible corporal retreating of the party. In that case, they linger in the exchange among the others. In this way, the party is still present in all those cognitions that aim at retracing what is special of a certain perspective besides the communal referent.

[230] On this issue, see Emanuela Ceva, "Religione, Rispetto e Guerra: contro la visione canonica della ragione in politca," *Etica e Politca/Ethics and Politics* 8 (1) (2016): 35-48.

[231]H. G. Wells, *First and Last Things* (London: Echo Library, 2006).

what I mean by saying that the object of disagreement exists for us. In other words, the object of disagreement is so important, for the parties, to be like a matter of life and death. It discloses moral differences at many levels so that parties do not have any other shared framework of reference but the object of disagreement itself.[232]

Therefore, it is important to notice that, in this binding situation, individual considerations project non-negotiable aspects of one's life onto the object of disagreement. This means to say that a compromise may be beyond the moral capacity of abstractly characterized parties. Too often, in order to solve deep moral disagreements, people have resorted to apologies of moral compromises. Compromises might offer ready-made normative tools to construct flexible and less-problematic ways out of disagreement than pure consensus.[233] However, despite being such an appealing theoretical instrument to get rid of moral impasses, compromises presuppose a problematic reading of moral agency in the context of moral disagreement. If not problematic, it is, at least, a kind of moral agency that needs to be supported by psychological evidence or a comprehensive moral theory, which, among other things, gives a certain priority to prudential reasons.[234] For instance, Amy Gutmann and Dennis Thompson argue that one should find the justification that minimises disagreement with opposing views. This means to find out policies that are morally defensible, while minimizing the rejection of the position they oppose.[235] Henry Richardson also defends deep compromises. They are processes in which parties reformulate their ends in order to make agreement possible.[236]

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[232]On this issue, Besussi 2012, 22-23.

[233]On compromise, see Christian Rostboll and Theresa Scavenius (eds.), *Compromise and Disagreement in Contemporary Political Theory* (London: Routledge, 2017).

[234] For instance, see Enzo Rossi, "Consensus, compromise, justice and legitimacy," *Critical Review of International Social and Political Philosophy* 16 (4) (2013): 557-72. Vis-à-vis persistent pluralism, he argues that compromises are easier to obtain and more frequent.

[235]Amy Gutmann and Dennis Thompson, *Why Deliberative Democracy?* (Princeton: Princeton University Press, 2004), 134. See also "Moral Disagreement in a Democracy," *Social Philosophy and Policy* 12 (1) (1995): 87-110.

[236] On compromise, see also Richard Bellamy, *Liberalism and Pluralism: Towards a Politics of Compromise* (London: Routledge, 1999), 103-5. Robert Goodin, *Reflective Democracy* (Oxford: Oxford University Press, 2003), 183.

This sort of argument, however, relies upon the idea that a number of different moral reasons are available to the parties in disagreement.[237] They also presuppose that at least one of the party in disagreement is able to give up his or her strongest reason for action in favour of one of the other available reasons. On the other hand, arguments for compromise seem to put pressure on parties in disagreement as if a solution to disagreement is always better than disagreement itself for all the parties who take part in the practice of disagreement.[238] Under these lenses, therefore, when disagreement survives extended debate, it is because parties are searching for the best compromise. To be so, I should have some basis of evidence to demonstrate that parties engage in morally demanding disagreements for the sake of compromise, rather than for defending their position as it is. For all these reasons, I assume that the binding situation is one-dimensional. Parties do not have room for compromise. In this way, there is less room for trade-offs among first, second, and third order preferences. One-dimensionality implies, therefore, a very rigorist account of the parties as moral agents. However, to us, it seems counterintuitive to argue that certain normativity can be general when the parties who constructed it see such a result as a compromise. One-dimensionality gives also the due weight to the public sharing of considerations, and to the importance of some disagreements for an entire project of life. When I postulate that parties have the same object of disagreement, and the consequent considerations are non-negotiable, I also have to admit that a combination of all possible perspectives as a way out of disagreement might also be source of disagreement for some of the parties in our island.

The idea that an object of disagreement can convey different perspectives is not new in political theory.[239] Recently, Ryan Muldoon and Gerald Gaus also have used perspectives to build flexible, open and liberal social contracts.[240] Both the

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[237] Bellamy 1999, 103-5. Robert Goodin has suggested that a way out of one-dimensional disagreement is an agreement on a second-best option. See Robert Goodin "Political Ideals and Political Practice", *British Journal of Political Science* 25 (1995): 37–56.

[238] The preference for a solution of disagreement seems an important assumption of modus vivendi theory and its defence of moral and political compromises.

[239] See Scott Page, *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies* (Princeton: Princeton University Press, 2007).

[240] See Ryan Muldoon, *Social Contract Theory for a Diverse World: Beyond Tolerance* (London: Routledge, 2016), ch.3, ch.6. See also Gerald Gaus, *The Tyranny of the Ideal* (Princeton: Princeton University Press, 2016), ch.4.

political intent and the theoretical resources make my approach different from the work of Muldoon and Gaus.[241] However, there is a common denominator, which is inherent in all approaches that try to appeal to the language of perspectives inside and outside the domain of political theory. Such a component helps us to explain the nature of the binding situation. Specifically, Muldoon also captures the point that, even if perspectives have different accounts of the same thing, they still have a common social object about which they could negotiate. If two agents divide state space in different ways, as Muldoon puts it, they are seeing the same thing, but just interpret it differently.[242] In the same way, in my case, the assumptions that parties have different worldviews and considerations on the same object of disagreement do not imply that considerations share nothing. Clearly, since they are considerations about the same object of disagreement, they are both partial characterizations of the object, and they are modes of the same thing.[243]

This point forces us to open a digression on the scope of the many-to-one relationship. Here, I construct an ideal situation of disagreement, whose central normative question is to construct a normativity that enables parties to bring their worldviews in public, regardless of the content or the context. Unlike, Gaus and Muldoon, I do not aim to find the best combination of different worldviews. Lying behind this picture is the idea that parties in moral disagreement typically does not guarantee convergence on a single understanding of what is fair, because such a disagreement is deep.

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[241] Muldoon and Gaus try to avoid normalization in political philosophy as the practice, in social contract theory, that defines a certain perspective as the correct perspective. In response to this attitude, they advance two different, but similar, kinds of open and dynamic social contracts. They remain explicitly within a distinctive the liberal tradition. 'Our problem,' Gaus writes, 'is creating an overarching "liberal" framework for "republican" communities of moral inquiry and experimentation'. Gaus 2016, 174. 'An open and just liberal society,' he continues, 'would simultaneously like to maximize its accommodation to both types of diversity, being respectful of current perspectives while being open to new one'. Gaus 2016, 175.

[242] Ryan Muldoon, "Justice without agreement," unpublished manuscript. However, Muldoon relies heavily on a procedure of mutual bargaining in which parties conceive a social contract as a mutually beneficial, somehow pragmatic, achievement. Muldoon 2016, ch. 6. Such a move comes at the price of a coherent reading of the object-perspective relation. The point is not to construct an always modifiable interperspectival union of all the available perspectives, but, rather, by stressing the singularity of each perspective on the same object, we should focus on why this being so.

[243] Gaus 2016, 164-9.

4. Three idealizing assumptions

Exchanges among abstractly idealized parties in the light of a binding situation follow three idealizing assumptions. Now, it is important to admit that, seen as a whole, this system of conditions and assumptions tries to replicate the ordinary point of view from which I understand and respond to diversity as living communicative selves at the ideal level.[244] 1) Parties, I assume, have a finite account of the world, which is informed by their worldview, and they are living in an island characterized by a plurality of other finite views, which are equally informed by partial worldviews. For this reason, each abstractly characterized party experiences the binding situation in his or her own way. That is, two parties cannot have undistinguishable considerations on the object of disagreement, and all parties thinks of his or her consideration as true.

The second assumption arises from the idea that parties are agents with the sense of being someone capable of participating in everyday talks with statements that others should accept – they think that their consideration is the universally valid consideration. After all, when there is an issue of transversal concern, people quite often assess and compare different worldviews and empirical evidence. What, then, makes these comparisons possible? I assume that, insofar as the consideration signals a connection with the object of disagreement, validity claims cover both the rightness of norms and the truth of assertions. i assimilate these two types of claims by saying that, around the binding situation, through the assessment of the connection with the object of disagreement, abstractly characterized agents adjudicate both factual claims and moral claims as if the two were truth claims. Since we lack any robust characterized property for a moral statement to be true, here, I take that truth is a mere expressive expedient, useful for purposes of generalization, comparison and semantic agency.[245] By appealing to truth, parties,

[244] This can be seen as an alternative account of Gaus' significant but realistic level of idealization. 'At the end of the day,' he writes, 'you and I wish to know whether the morality we live under is publicly justifies and so sustains the rational moral emotions; the depiction of the Members of the Public must be such that their deliberations enlighten us about this regulative moral and philosophical worry.' Gaus 2012, 275.

[245] This implies a cognitivist approach to morality. For the sake of my argument, I maintain that moral judgments can be judged as true or false. I acknowledge that, in moral philosophy, this position is disputed. However, the many-to-one relationship aims to reproduce a situation of deep disagreement among abstractly characterized people, not abstractly characterised moral philosophers. In the common practice of disagreement, to me, it seems to be a common habit to assess other moral judgments as true and false.

on the one hand, falsify other arguments and formulate truth-functionally compound statements where different considerations are combined. On the other hand, by appealing to truth, parties may subject their considerations to norms of epistemic appraisal.

Now, it is possible, at least theoretically, that by appealing to truth, each party refers to a precise conception of truth, which radically differs from what other parties have in mind. It can also happen that parties have thoroughly different understanding of what means to be true. For a theory of pluralism, these occurrences must be taken in due consideration. I have, therefore, to defend individual capacity to articulate or agree with the definition of truth each party finds more appropriate or suitable for her argumentative strategy. This implies a rather open – minimal – understanding of truth, which, nevertheless, seems to be convenient to keep procedures of public discussion open.[246] For instance, in the department where I work, philosophers, who are taken to be the most informed concerning issues of truth and falsity, and political scientists often have long disputes on rather controversial issues. I know, from their works, that some of us have a rather realistic stance, others are hard-core relativists, someone is sympathetic with deflationary accounts of truth and many do not have a strong epistemological position. In these disputes, 'false' and 'true' are, possibly, two of the most used words. Everyone may understand and evaluate what the others are saying according to his or her epistemological position, without declaring his or her specific commitment. This diversity, nevertheless, is hardly a conversation-stopper. That is probably why these kinds of disputes never reach a conclusion. By utterances like "It is true, but…" or "No, of course not. That's not true, look at…", people seem to postulate the possibility of an ultimate true response, but, in the process of discussion, they apply to truth in a very flexible way. We are, thus, not able to postulate that, for the mere reason of appealing to truth, parties have a well-defined epistemological position; moreover, the acceptance of a univocal epistemological across the various points of

[246] For a minimal conception of truth, see David Estlund, "The Insularity of the Reasonable: Why Political Liberalism Must Admit the Truth," *Ethics* 108 (2) (1998): 252-275. See also, David Estlund, "The Truth in Political Liberalism," in Andrew Norris and Jeremy Elkins (eds.), *Truth and Democratic Politics* (Philadelphia: University of Pennsylvania Press, 2012).

view seems a partial operation, which undermines the purpose of preserving pluralism.

This may open to the objection that parties can pretend to appeal to truth, while using truth only as a communicative expedient to challenge other considerations. In that way, all the constructive procedure would be built upon something like bad communication and misunderstanding. This would be the case, if parties were not assumed to be rational and to use their top preference in the many-to-one relationship. Equally, their being reasonable ensures their substantial commitment in bringing forward considerations that are the actual result of one's self-reflection. So, whose view of truth will be operative? If parties see truth differently, how does true function as a medium, without being informative in any way? Truth does not directly involves anyone's view of the truth, but only how parties appeal to truth in the exchange of consideration. In this way, the intuition that a minimal account of truth may constitute a valid communicative medium across difference clarifies the second assumption. 2) Parties vindicate their moral reasons by appealing to whatever conception of the truth. I avoid, in this way, to make restrictive presuppositions regarding both epistemic literacy of the parties and about evidential equality. Parties bring in the public their considerations as true even if they have a finite perspective on things and, therefore, an incomplete knowledge on the given issue.[247]

In connection with the first two assumptions, I also assume that 3) parties know that they are epistemically vulnerable. Nothing is new in this last assumption. Once we return on what we said or thought in the past, in case we have to answer objections and even when we rebut what other people are saying, we assume that considerations may be credited as false.[248] Now the assumption I shall refer as epistemic vulnerability adds nothing essential to Mill's account of fallibilism.[249]

[247] In epistemology, perspectivism is taken to be a form of relativism about truth. More recently, a burgeoning literature has highlighted the realist nature of perspectivism, as a theory that presupposes the existence of an object out there. I try to leave the dispute aside and to take a neutral position in this debate. As many people have noticed, my use of truth as a communicative medium among agents, given the significance of the object of disagreement, links with what each party believes is the correct account of the object of disagreement.
[248] See also Stuart Hampshire, *Justice is Conflict* (Princeton: Princeton University Press, 1999), 8-9.
[249] John Stuart Mill, *On Liberty* (Cambridge: Cambridge University Press, 1989), 24. 'The beliefs which we have most warrant for have no safeguard to rest on, but a standing invitation to the whole world to prove them unfounded. If the challenge is not accepted, or is accepted and the attempt fails, we are far enough from certainty still; but we have done the best that the existing state of human resource admits of; we have neglected noting

Parties see their considerations as true. Still, their amount of certainty may vary, strengthened when other parties adopt the same considerations, undermined by good counter-considerations and nullified by strong falsifying objections. Even if parties presume their considerations to be true, it is assumed that parties have no additional assurance to their limited knowledge about the issue and the framework of possibilities inherent in their worldviews, from which they single out a consideration as the best way to appropriate the object of disagreement. In this way, parties are in the position to contradict and disprove other considerations as if considerations publicly displayed are, with Mill's words, "invitation to the whole world to prove them unfounded".[250] Parties, therefore, who want their considerations to be relevant in public, have strong incentives to get the most out of what other parties are saying. By doing so, parties are in a better position to disprove other arguments and to frame their limited set of considerations in a way more suitable to those things other parties are disposed to bear.

I can supplement this explanation with the following chart. It represents a partial description of the ways through which the three idealizing assumptions interact with the basic characteristics of the parties in the binding situation.

	Reasonable	**Rational**
Finite perspective	Parties are not fully aware of what their worldview implies at the intersubjective level	Parties act according to their worldview in a given moment
Truth-apt validity	Parties bring forward considerations as if they were truth-claims	Parties select considerations that make sense across the whole range of both explanatory and life uses
Epistemic vulnerability	Parties live falsification as a violation of their moral integrity	Parties try to get the most from the considerations of other parties[251]

that could give the truth a chance of reaching us: if the lists are kept open, we may hope that it there be a better truth, it will be found when the human mind is capable of receiving it,; and in the meantime we may rely on having attained such approach to truth, as is possible in pur own day. This is the amount of certainty attainable by a fallible being, and this sole way of attaining it'.

[250] Ibidem

[251] Parties are fallible, therefore, in order to minimize the chances not to be falsified, they try to have the best picture of other considerations. In this way, they can customize their own considerations accordingly.

The description of the practical identities of the parties, together with the analysis of the object, and the examination of three idealising assumption conclude the description of the fundamental traits of the many-to-one relationship. Before delving more closely into the phenomenology of this ideal episode of disagreement, I can summarize the foregoing discourse as follows. For each fundamental component of my idealization, I list relevant consequences for the articulation of the many-to-one relationship.

1. Parties live in a vast island
    I. Parties may leave the many-to-one relationship
    II. There is a finite number of possible worldviews at stake

2. Abstractly characterized parties
    I. Parties have well-formed worldviews
    II. Parties act in accordance with the finite set of options inherent in their worldview
    III. Parties may adopt comprehensive modes of argumentation

3. Idealizing assumptions
    I. Parties can falsify considerations of other parties
    II. Truth can function as a semantical medium of communication

4. Binding situation
    I. The disagreement among competing worldviews is made explicit
    II. Threshold of reciprocity
    III. Considerations are non-negotiable

5. The many-to-one relationship

In my choice of illustration, I cannot do better than borrow from a general example of deep moral disagreement. In the island, where members have different worldviews and can live in isolation, abstractly characterized parties are presented

with a binding situation that, at different moments, invites them to translate their worldviews into considerations on the object of disagreement.[252] Abstractly characterized parties gather up their considered judgments, they reflect upon the imperatives of their worldview, they opt for an individual consideration. In their view, this consideration enables them to appropriate the object of disagreement in a way that is distinctively theirs. All parties conclude the process of internal deliberation with a distinctive consideration.[253] Such a consideration is coherent with their worldview and, for them, it voices the only way that connects the object of disagreement with their worldview.

For instance, Karl is a Catholic extremist. Donald is a Marxist. Karl and Donald have strong worldviews that inform their actions in the external world. Karl has a moral imperative to pray loudly in the morning. Donald also has a moral imperative to read passages of *Theses on Feuerbach* loudly. For Karl and Donald, failing to do so means to disregard an important command. Unfortunately, they discover the same shanty house, which they claim to be their safe space. Karl must pray between seven and eight in the morning. Donald must do his readings at the same hour. Ordinarily, the two men might come together and arrange to find a schedule that fits with their needs.[254] But, from their perspective, this is not the right solution. It does not take into account the strength of their preference for performing an action in a certain time and place. How they live their connection with the object of disagreement may depend on many other intangible things. To mention some, it depends on how desperately they need a proper place to exercise the moral imperatives, on the emotional attachment with that specific place, on the

[252] The use of the island as a device of representation may seem futile. However, it serves to emphasise the point that parties could withdraw from disagreement and go back to their life in isolation. Despite this opportunity, parties keep participating because the object of disagreement is important for them. In this way, the island is not only a contextual feature, but it serves to characterize the existential character of the binding situation.

[253] This process resembles that of a narrow reflective equilibrium. See PB Lehning, *John Rawls: An Introduction* (Cambridge: Cambridge University Press, 2009), 123. Unlike Rawls, parties end up with different considerations. Scholarship on Rawls has acknowledged this possibility, but, they admit, Rawls has to hope that, despite their different standpoints, individuals will not end up with different reflective equilibria. On this issue, see Thomas Pogge, *John Rawls: His Life and Theory of Justice* (Oxford: Oxford University Press, 2007), 170. Sebastiano Maffettone, *Rawls: An Introduction* (Cambridge: Polity Press, 2010), 156-7. Johnathan Floyd, 'Rawls' methodological blueprint,' *European Journal of Political Theory* 0 (0) (2015): 1-15.

[254] Social contract theories and accounts, which defend compromise, share this observation. For them, the idea is that disagreement must lead to an agreement. In my model, I examine why parties can claim to participate in disagreement, which is a different normative question.

forcefulness of such a discovery for the quality of their life in the island, on prior experiences of exclusion and oppression, and, by no means least, by their ideological rigidity.

Time after time, other abstractly characterized parties aim to appropriate the object of disagreement in their own ways. For instance, David, a nationalist, who spends most of his time close to the place under disagreement, claims that he has an irrevocable right on everything is in his range of action. Tricia, a young woman of colour, aims to appropriate that place as compensation for centuries of injustices. Direct experiences of injustice strengthen her commitment not to give up. Before coming to the island, as a single and black mother, she was denied rents by several landlords. Banks were reluctant to lend her money. Rental agencies prevent her from buying houses in predominantly white neighbourhoods. In this antagonistic environment, resilient prejudices also make some parties impervious to stimuli for cooperation. This is so because commitments have been made, but also because certain issues make people excluding elements from consciousness, if they do not fit their consideration. So, the aim of disagreement, is to appropriate the same object of disagreement that other parties want with energy. In my example, I can describe the logic of action in the following way. Karl, Donald, David, Tricia, and other newcomers have a strict preference only for their own consideration. If we disaggregate their considerations, however, regardless of their actual content, we can recognize that two aspects remain invariant no matter how the preferences are assigned, provided that the commitment to one's worldview remains constant. First, parties claim to have access to a certain disagreement where they have a consideration to advance. Second, they have a common referent, which is the object of disagreement.

Let us explain. The negative experience of seeing one's consideration falsified by other parties with a simultaneous incompatible consideration on the object, and the posturing towards the object of disagreement that all newcomers hold unveil the condition of possibility for such a disagreement to happen. At different moments of their engagement with the object, abstractly characterized parties, who have a consideration on the object, assume that they have a right to appropriate the object in their own ways. By saying so, I do not mean to say that

other entitlement cannot be found in the course of due reflection. I only argue that such an entitlement is the first trans-subjective level upon which parties justify their appropriation of the object of disagreement.[255] Moreover, abstractly characterized parties may affirm this entitlement at different stages of the many-to-one relationship. What I defend, in fact, is the observation that, sometime in the disagreement, an abstractly characterized party affirms his or her entitlement to participate, while he or she advances a consideration that epitomizes a reasonable and rational process of self-reflection. Let us clarify this point by recalling Karl, Donald, Tricia, David, and all the newcomers. Karl and Donald claimed to access the object of disagreement, and their disagreement was exactly about whom, between the two, deserved such an access, given the fact that both Donald and Karl were affirming the same entitlement, despite having different worldviews. When Tricia and David came in, they did on the presumption that they had an entitlement to access the object. For them, if other parties were in disagreement about a certain object of concern, there was no reason to leave them aside, since they felt to have the same entitlement on the same object. When other parties tried to participate, they substantiated their act of appropriation with the presumption that they were entitled to do so, no matter how Donald, Karl, Tricia and David were trying to appropriate the object. The substance of the argument is that I have found a first-order of normativity that all parties affirm from their own worldview when they access disagreements that matter for them. Parties do affirm an entitlement to have a say in that specific respect on the ground that, from their own perspective, they have at least the same status that other participants in the many-to-one relationship have.

Abstractly characterized parties, who affirm the same entitlement to have a say from their own point of view, appropriate the same object of disagreement in different ways. During their exchanges around the object of disagreement, abstractly characterized parties challenge and falsify considerations of other parties who affirm the same entitlement to have a say. All parties have different claims on the same thing, this means to say that their considerations are different, but they are

[255] With trans-subjective, I mean to say that all parties do so from their own perspectives. And they happen to affirm the same entitlement from their own point of view.

just interpreting the same problem in different ways. As there is no semantical pre-configuration of such a disagreement, each party can insist that her or his consideration on the object is better than other considerations. At the same time, parties cannot take the union of all perspectives and presume that all participants will affirm such a general consideration, when participants bring forward a non-negotiable preference. Even though parties are not able to agree on a collective solution to disagreement, we can expect them to share another fundamental normative claim. Namely, abstractly characterized parties affirm that, qua considerations on the object of disagreement, their considerations must count at least as much as the considerations of other parties count.

If we go back to the island, we can imagine that Karl, Donald, Tricia, David and the rest of the interaction community are still arguing against one another. This n-person disagreement is about considerations on the shanty house itself. It is a disagreement about considerations over the same element of the world, which determines what the parties are for one another in that specific respect. Note that, from the initial disagreement, David and Karl can originate another disagreement around the official religion of the island. Their considerations on the shanty house and the considerations on this derivative disagreement are not interconnected. In the two respects, David and Karl, together with all other parties who try to participate, advance different considerations on different objects. In these two contexts, as well as in many other, David and Karl affirm their entitlement to have a say; then, during the interaction, they affirm, from their own perspective, that their considerations on the object of disagreement count the same (or more) than other considerations, which are on the same object of disagreement.

In the many-to-one relationship, therefore, abstractly characterized parties affirm two levels of normativity from their own worldviews, no matter the content of such worldviews. First, they affirm that they are entitled to access the many-to-one relationship without distinction. Second, they affirm that their consideration on the object of disagreement must count at least as much as other considerations on the same object count. Now, it is important to notice that this two-order normativity does not exhaust all the possible kinds of normative solutions that parties affirm around different objects of disagreement. My account clarifies the fundamental

basis upon which parties can sustain their presence in the interaction community. Specifically, the first order normativity tells us that all parties must be in the position to affect an object of concern that matters for them. The second order of normativity clarifies that, within a certain interaction community, only considerations on the object of disagreement count, and they must count the same. The second order of normativity also implies a validity test. Those considerations that count the same must be considerations on the identical object of disagreement. This brings us to the last point of this section. As someone may notice, a certain consideration, as a distinctive way of appropriating an object of disagreement, epitomises a potential translation of the existing object of disagreement into a new and diverse object of disagreement. This may give rise to a new binding situation, which occupies a place in a long history of objects of disagreements, solutions that are new objects of disagreement, and the like. So, disagreement continues despite the possibility of momentary solutions. From the point of view of the two levels of normativity, each disagreement is an opportunity for the party to reaffirm his or her position in the society.

6. Conclusion

I have covered quite a bit of ground in this chapter. Everything can be summarized in a series of simple intents. First, my general enterprise has been that of presenting an ideal situation of disagreement in order to construct a normative account that enables parties with different worldviews to act upon objects of disagreement without conditions concerning the character of their moral commitments in public. Second, I have identified a specific conception of an abstractly characterized party. Such a conception aimed to replicate that of people in un-negotiable moral disagreement. Third, I have isolated three assumptions in order to make exchanges among parties as close as possible to ordinary situations in complex and diverse societies. To do so, I have appealed to a minimal account of truth. Such an account could be blamed by several epistemologists of truth, but I remain convinced that it best serves the scope of reproducing communicative exchanges in a world where

many people think differently, and they have a strong interest in pushing their own truth to the others. Fourth, I have explained the causational aspect of the model – the binding situation. Fifth, and perhaps most controversial of all, I have put together all these aspects in order to develop an ideal model of deep disagreement – the many-to-one relationship, which has brought abstractly characterised parties to affirm, from their own point of view, two lexically ordered levels of normativity.

Such a procedure of construction informs my response to a basic question: Is there a normativity that all people with different worldviews can affirm without compromising their moral commitments? My answer is that such a normativity exists. According to such a normativity, parties are entitled to have individual subject-object relation with all possible objects of disagreement, and their considerations must have at least the same weight that other considerations on the same object of disagreement have. As I shall elucidate in the next chapters, this combined normativity constitutes a standpoint of justice and a theory of political legitimacy.

Chapter 6
The right to have a say

Exclusion has many faces. From blocking the entrance in a particular place and systematically obstructing access to opportunities, to selectively hiding objections to common sense and people who appear to deviate from mainstream norms, exclusion means to undermine individuals' claims to have a meaningful mark on certain aspects of external reality. In other words, without a substantial change in some of their distinguishing features, excluded people cannot have what the rest of the society has. Political theories, as we have seen in the first part of this work, also may be exclusionary. They fail to capture fundamental power discrepancies. They generate demarcations within the society. They restrict their field of application to an idealized community of abstractly characterized citizens. They argue that exclusion is somehow an undesirable externality of all normative projects.

In the last two chapters, I have gestured towards the construction of a perspectivist political theory, whose intent is to show that a non-exclusionary political theory is possible. The scrutiny of social, economic and political relations in our societies also have been central in the program of the critical theories of justice of Axel Honneth, Nancy Fraser, and Rainer Forst.[256] All these accounts converge on the view that the fundamental standpoint of justice has a fundamental intersubjective justification. This common denominator might seem to suggest that whatever kind of general normativity we are looking for, it follows from an eminently intersubjective domain. The thesis of this chapter is that a perspectivist political theory deconstructs these intersubjective exchanges into simultaneous individual relationships with the external world. This change of perspective helps

[256] Axel Honneth, *The Struggle for Recognition* (Cambridge MASS: MIT Press, 1996). Nancy Fraser and Axel Honneth, *Redistribution or Recognition: a political-philosophical exchange* (London – New York: Verso, 2004). Nancy Fraser, *Scales of Justice* (New York: Columbia University Press, 2008). Rainer Forst, "First Things First: Redistribution, Recognition and Justification," *The European Journal of Philosophy* 6 (3) (2007): 291-304. See also, James Tully, "Struggles over Recognition and Distribution," *Constellations* 7 (4) (2000): 469-82.

to illuminate a basic right claim. It also suggests that the right to have a say may be the grammar of a critical theory of justice. From an evaluative perspective, it captures the ways in which existing social practices, economic and political arrangements cause exclusion. From a normative perspective, this standpoint of justice says that a just society is a society in which all persons have aggregate capacities, powers and means to affect objects of disagreement.

To substantiate my argument, I shall proceed as follows. Section 2 identifies a common problem in contemporary critical theory of justice: recognition, participatory parity and justification do not capture all possible forms of social, political and cultural exclusion. In section 3, I argue that, in order to tackle cases of social, political and cultural exclusion, it is necessary to recursively reconstruct the basic claim at the hearth of all claims for participation: that is, the claim to have an effect on external reality. On this ground, I isolate the right to have a say as the fundamental standpoint of justice for a perspectivist political theory. Section 4 and section 5 describe the specific characteristics of this right. Eventually, section 6 concludes the chapter.

2. Recognition, participatory parity and justification

Axel Honneth argues that recognition is an all-encompassing conceptual category with both explanatory and normative value. That is, recognition allows us to make claims about how things ought to be done, how to value them, and which actions are right or wrong in all circumstances of human life – from identity-formation problems, maldistribution of economic resources, patterns of self-realization and advocacy on the behalf of others in the political arena.[257]

So, recognition is both an enabling relation and a normative standpoint to evaluate and rethink social, economic and political relations in our societies. As an enabling relation, recognition describes the communicative exchanges between a

[257] Fraser and Honneth 2004.

"would be recognized person" and other human beings ("the recognizers") that leads to the affirmation of the recognized person as the author of one's own laws.[258] What is at stake, therefore, is autonomy - and a connected account of positive freedom. This brings to a defence of recognition that roots in an idea of the self as one that has internalized patterns of social interaction. 'The individual subject,' Honneth writes,'becomes independent by internalising patterns of interaction, by means of which a kind of space of communication can develop within the psyche'.[259] In the encounter with other human beings, a person affirms herself as free through the actual exercise of his or her agential capacity. From an inward domain, Honneth locates the practical relation to the self at the intersubjective level, where relations of love, institutionalized relations of respect for the dignity of the person, shared values and networks of solidarity cultivate three essential modes of relating practically to the self: self-confidence, self-respect and self-esteem.[260] Relations of mutual recognition, therefore, mark the texture of one's belonging to societal reality in two ways. On the one side, they make possible conditions of self-realization. Conversely, when claims to recognition are rejected, the feeling of disrespect and outrage are so great to motivate contestation to the authority of existing social arrangements.[261]

These two sides bring us to the understanding of recognition as a normative category. When the self is conceived as an interactive entity, Honneth argues, acts of recognition, which put persons in the positon to see one another as peers, denote full membership in the society. Among peers, acts of recognition certify one's distinctive capacities. Now, if we read these two moments in continuity, it is possible to understand the reason why, for Honneth, recognition is the universal normative structure of social life. First, recognition guarantees the legal and social precondition for being a participant in the society. Second, in the society of equals, recognition makes it possible to distinguish oneself from the others. Self-

[258] Honneth 1996.
[259] Axel Honneth, "Postmodern Identity and Object-Relation Theory: On the Seeming Obsolescence of Psychoanalysis," *Philosophical Explorations* (3) (1999), 235.
[260] Alike Charles Taylor, Honneth reads recognition as a positive (enabling) concept. See also Charles Taylor, *Sources of the Self* (Harvard University Press, 1989). For a negative conception of recognition, which draws upon the same Hegelian framework, see Judith Butler, *Undoing Gender* (New York: Routledge, 2004).
[261] Fraser and Honneth 2004, 137.

realization, then, results from the combination of these levels, which define the necessary preconditions for realizing life goals. Then, the normative orientation of a theory of justice, where the connection between the self and its social interaction is so stringent, is equivalent to the ability of securing conditions of mutual recognition, a demand of justice that can emerge in every social reality anew, or, with Honneth's own words, 'from the plurality of all particular forms of life'.[262]

For Honneth, recognition, therefore, is a resilient normative category. If the general applicability of recognition holds true, we can consider debates about economic redistribution as disputes concerning the recognition of certain forms of contributions to the economic and social processes. Not only recognition enables us to envisage how autonomy-based social relationships should be, but also it facilitates the assessment of existing social relations and forms of injustice.[263] Under his perspective, since all human beings depend on some sort of social interaction, and such interactions depends on mutual recognition, recognition can be a valid and universal normative standpoint of justice. From this perspective, then, justice means to secure adequate conditions for mutual recognition. And just societies are societies that ensure institutionally affirmed forms of legal recognition at all required levels.[264]

As we have seen, Honneth conceives recognition as the affirmation of certain qualities of other human beings. Simply stated, a recognizer recognizes something in the recognized person, who, thereby, progresses in the way towards self-realization. However, this conception of the relationships of recognition prevents Honneth from considering the undesirable consequence of normative structures constructed around the idea that one's affirmation depends on the positive acceptance of other persons. Firstly, the preliminary belief that legal relations of recognition attach individuals to one another neglects the number of ways in which legal relations have taken back space for dissent and self-affirmation. For instance, among civil cases brought before 1950 in the United States, only six recognized explicitly homosexual persons. Three of these six cases are divorce cases, but there

[262] Ivi, 172.
[263] Ivi, 173.
[264] Ibidem.

is no judicial recognition of the husband as a homosexual person, only references to improper sexual behaviours. Before 1940, in the United States, the several men and women whom today we would call "gay" conducted invisible lives. No public discourse, there was little information on the subject, lesbian novels gave negative self-images of its characters, and states had laws that criminalized homosexual practices.[265] Legal ostracism brought to internalize negative descriptions and embodied stereotypes. Second, the logic of reciprocal recognition favours a homogenising ethos. That is, the translation of the subjective experience into claims of justice depends upon a prior definition of what is enough for a claim to recognition to be well-founded. Without such a definition, evaluation of one's contribution, and a shared experience of disrespect, one that justifies an uncontroversial normative action, would not be possible. Nevertheless, what an individual contribution stands for and the form of the recognition order, which contain normative claims to consider individual achievements fairly, are frequent objects of disagreement. From this angle, the risk is to question what recognition was thought to illuminate: that is, the ways in which existing norms and social practices cause exclusion.[266]

In this vein, Nancy Fraser argues that the portrait of social, economic and political conflicts as struggles for recognition is psychologically reductionist and, in heterogeneous and diverse societies, it is anachronistic. Unlike Honneth's normative monism, Fraser advances a tripartite theory of justice that culminates in the idea of justice as participatory parity.[267] Participation is not only "political participation". For Fraser, participation means an all-encompassing notion that defines the terms of coexistence in today's society. In order to ensure such a parity, justice-based action must be holistic, but clearly differentiated alongside categories, which she finds ontologically irreducible to one another. Under these lenses, a participant is someone who has the same opportunity that other members have to

[265] For a reconstruction, see John D'Emilio, Sexual Politics, Sexual Communities: the making of a homosexual minority in the United States, 1940-1970 (Chicago: University of Chicago Press, 1983).
[266] Axel Honneth, *Disrespect: the normative foundations of critical theory* (London: Polity Press, 2007), ch. 2 and ch. 4.
[267] Initially, Fraser built her theory of justice upon a perspectival dualism between recognition and redistribution. Recently, she has added a third dimension – representation, but the three dimensions remain ontologically separated from one another. See Fraser and Honneth 2003. See also Fraser 2008.

live a decent life. A kind of life that, together with other members of society, he or she must have been able to choose.

For Fraser, present-day claimants couch their demand in a variety of idioms. They orient their claims towards a variety of competing claims. And this heterogeneity of justice discourse poses a major challenge to the ideal type of rich notions of human dignity, self-realization, and to those accounts, like Honneth's critical theory of justice, that equate the overall aim of struggles for justice with the possibility of leading a good life.[268][269] The emphasis on the diversity and competing agenda of present-day claims for justice pushes Fraser to identify three spheres of actions: that is, redistribution, recognition, and representation in agreement with the economic, cultural and political dimensions that she identifies in justice-based demands.[270] Firstly, economic structure can deny people full participation in the society. Secondly, hierarchies and informal structures can prevent people from participating on par with others. Thirdly, arbitrary community-border making and inappropriate scheme of representation can deny people to have an equal voice.[271] Participatory parity, then, works in two ways. On the one hand, like a counterfactual, it substantiates claims against existing economic arrangements, patterns of identity-formation and mechanisms for political representation. To be clear, since the goal of participatory parity has not been achieved yet, there are good reasons for an immanent critique of existing economic, social and political structures. On the other hand, participatory parity establishes how things ought to be done. Namely, without participatory parity, merits of redistribution, recognition and representation are objects of contestation. Participatory parity is a standard according to which individuals and groups justify competing claims against misdistribution, misrecognition and misdistribution.[272]

Participatory parity, therefore, informs actions across these three dimensions. Specifically, redistribution must ensure economic structures not to deny material resources to participate as peers. Moreover, participatory parity

[268] Fraser 2008, 2.
[269] Ivi, 3
[270] Ivi, 6
[271] Ivi, 59-61.
[272] Fraser and Honneth 2003, 38.

requires a politics of recognition, but in the status model, no longer encapsulated in the question of identity. This means, as Fraser puts it, 'a politics aimed at overcoming subordination by establishing the misrecognized party as a full member of society, capable of participating on a par with the rest'.[273] Representation, then, accounts for the internal demarcations within a certain political community and the primary constitution of the borders of the political space.[274]

So, once we have dismantled barriers, obstacles, structures both material and social, and inappropriate political boundaries, we are in a just society – one where all can participate as peers in social life.[275] In one understanding, if we agree on the glaring injustices of our societies at the economic, social and political levels, the goal of participatory parity functions as the generator of transformative actions. In another understanding, if we agree on participatory parity as an appropriate normative standpoint, we have an ideal type of cooperation in hand. In the two understandings, however, Fraser presupposes that agreement on participatory parity as the standpoint informing fair terms of cooperation is uncontroversial. It is not difficult to imagine that there is disagreement on these terms. The point, however, is not on the characteristics of such standpoint of justice. Here, the concern is with the consequences of the postulation on an agreement on such terms of cooperation. In other words, in my understanding, for Fraser, parties may disagree on what justice demands us to do now, but they do agree on what justice is, and what is a fully just society. In this way, Fraser's investment in the idea of participatory parity downplays some worldviews from a free-floating perspective. This move would necessitate an additional normative justification. As Lois McNay writes in an endorsement of Fraser's model against Honneth, 'the norm of participatory parity provides the standard in relation to which individuals and groups must justify their claims about misrecognition'.[276] Such claims, Frasers says, cannot derive by reference to personal experience only. Individuals must be able to demonstrate that

[273] Fraser 2000. In other words, we can speak of misrecognition when institutionalized patters diminish some actor as inferior because of some cultural values. For instance, status subordination may take its concrete manifestation through juridical discrimination and well-established moral and ideological codes.
[274] Fraser 2008, 6.
[275] Fraser 2008, ch.1.
[276] McNay 2008, 284.

the intersubjective conditions for participatory parity have been violated.[277] Distorted or manipulated claims, identitarian claims, claims from personal experience, and the like are not valid reasons for transformative action.

In this way, the participatory parity paradigm transforms heterogeneous and diverse societies into a set of individuals who agree upon a substantive notion of justice, despite being in disagreement on other moral issues and the specific targets of transformative action. Nevertheless, the paradigm of participatory parity is entrenched with some economic, cultural and political categories that, however desirable they might be, in today's societies, people do not share univocally. This means to displace the consequent exclusion of these groups from the critical perspective and to sustain prejudices against some fringes. And these prejudices may promote conformism in a way that may end up questioning what participatory parity was thought to illuminate: the diversity of emancipatory claims and the ways in which existing social, economic and political practices cause exclusion.

Rainer Forst has advanced a third alternative approach to a critical theory of justice. On his view, a universally valid critical normativity arises from a principle of reciprocal and general justification. In his account, we must distinguish two phases. First, a critical reconstruction of the principle from demands of justice. Second, the evaluative and normative work of the principle on existing social, political and economic structures. On the one hand, for Forst, the claims of all forms of protesting, regardless of cultural belongings and their account of human beings, can be recursively traced back to a fundamental demand of justification.[278] On this view, all claims-bearers demand to be respected as someone who deserves justification (has a right to justification) for rules, actions and structures to which he or she is subjected.[279] In agreement with this, then, the most basic claim for justification is what people cannot reject one another – a right. That is, the logic of justification requires that what is meaningful for the individual, as an equal and free

[277] Fraser and Honneth 2003, 38.
[278] Forst 2007.
[279] Rainer Forst, "The Basic Right to Justification: toward a constructivist conception of human rights," *Constellations* 6 (1) (1999): 40.

human being, and expresses a binding claim that both the person and all other equal and free human beings cannot deny.

On the other hand, once we have isolated the right to justification as an appropriate standpoint of justice, through discursive and intersubjective exchanges, affected members construct norms that, since none of those affected has a reciprocal and general reason against them, have binding force. So, like Honneth, Forst argues for a monistic grammar of justice: justification. The right to justification is a principle that encompasses all contexts of justice by restricting the range of justifiable claims. There must be no political and social relation that cannot be reciprocally and generally justified to all those who are part of the relative context.[280] With reciprocity, Forst means to say that the author of the relative justificatory claim cannot demand rights or privileges that he or she denies his or her addressees. He also means to say that, in a justificatory practice, a person cannot justify a collectively binding norm in the light of his or her own personal opinions and interests.[281] Let us clarify, if you are the CEO of a multinational corporation, and you ask for ninety days of vacation leave, when your employees have a maximum of twenty days per year, you are not using a reciprocally valid reason. Simultaneously, with generality, Forst defines the border of the justificatory constituency in correspondence with the extension of the community of all those affected by actions or norms.[282] In other words, if you are the Job secretary, and you bid for a universally applicable ninety-days-vacation-leave, the community of all CEOs, the relative employees, families, and whoever thinks of being affected by the proposal, inside and outside the geographical borders of the country, must have the opportunity to be part of the definition of such proposals.

Then, the right to justification informs both evaluative and normative action in our society. On the critical understanding, it works as a veto right and it supports a scrutiny of existing social and political structure of oppression and domination. The determination of the appropriate treatment, and the answer to the question of who deserves what, arises contextually, when people ask for reasons, the

[280] Forst 1999, 40. Forst 2007, 40. Rainer Forst, "The Justification of Human Rights and the Basic Right to Justification: a reflexive approach," *Ethics* 120 4 (10) (2010): 722.
[281] Forst 1999, 44. Forst 2011, 51.
[282] Forst 1999, 44.

justification of certain rules and institutions, or when the reasons they receive no longer suffice.[283] On a normative understanding, the right to justification tells us that all norms, relations, structures, institutions and rules have to be generally and reciprocally justifiable. In agreement with this, the standpoint of justice is about how a person is treated – not what he or she has.[284] Justice as justification is, as Forst writes, 'about ending domination and unjustifiable, arbitrary rule, whether political or social in a broader sense; it is about citizens' status as equals in political and social life'.[285] Consequently, for a society to be just from the standpoint of the right to justification, all members have an obligation to recognize affected person as someone to whom they owe reasons that justify their actions.[286] Simultaneously, a fundamentally just basic political structure is an institutional architecture in which all affected human beings have means to deliberate, decide in common about social institutions, and establish concrete norms that are reciprocally and generally non-rejectable.[287]

We can illuminate three guiding threads in this account: the scope of a theory of justice (all affected human beings), the kind of individual engagement with problems and other people (participation), and a qualitative definition of the kind of appropriate participation (through general and reciprocal reasons). These three elements clarify that justice is not about what arrangements deliver, but rather it describes a network of relationships in which persons construct norms through discursive exchanges, when these exchanges admit only reciprocal and general claims as valid at the intersubjective level. In the to-and-fro of a justificatory exchange, each of the member counts on the other and demands of the other as much as she asks of herself. In this kind of reciprocal going and coming, there seems to be, to borrow from Sartre, "a pact of generosity" between addressees of justification (who demands) and speakers of this mutually beneficial exchange.[288] From this perspective, the play of mutual exchange of reasons seems a

[283] Ibidem
[284] Forst 2007, 295.
[285] Ibidem
[286] Forst 1999, 44.
[287] Forst 2010, 736.
[288] Jean Paul Sartre, *Literature and Existentialism* (Open Road, 2016).

fundamentally collaborative process, which, therefore, presupposes a minimal basis of joint coordinated action plan. For Forst, a basic form of recognition works as an assurance mechanism: that is, all human beings claim to be recognized as addressees of reasons for actions, when they are subjected to such actions.[289] By extension, since all human beings believe they rightfully deserve justification, just arrangements are those that are justifiable to their eyes. Again, this way of reasoning relies on two assumptions. First, the assurance mechanism must hold true, and Forst gives us a plausible historical reconstruction for taking this point as valid. Second, a justification-based account of justice presumes that human beings are always able to participate in differentiated discursive practices.[290] As we have seen in the previous chapters, this hardly holds true.

By under-thematising the ability to do something, Forst also fails to capture the ways in which existing norms and social practices cause exclusion. He might argue that the normativity of the right to justification presupposes an equalizing action on all would be participants. In other words, as a possible affected member, the right to justification tells us that he or she must be in the conditions to affect the construction of justifiable arrangement. This is true, but it seems to me that, in this way, by extending its reach to all those affected, a right to justification can empower excluded members only when some kind of justificatory relationship is already in place. However, this argument depends on a partial understanding of the individual experience of exclusion. Exclusion bars a person from accessing something, say something, benefitting from social relations and material resources. Exclusion, in other words, entails isolation and a fracture between the person and the external reality. We cannot capture and solve such a fracture between a person and external elements by extending existing human relationships, because individuals do not necessarily experience exclusion as an intersubjective experience.

In this context, if we want to capture and illuminate exclusion, it seems to me that a critical theory of justice should two do things. First, as I have done in the first chapters of this work, it ought to identify exclusionary practices and narratives. This means to unveil the exclusionary character that political concepts, tradition,

[289] Forst 1999, 44. Forst 2007, 295.
[290] Forst 2013, 2.

conformity, common sense and generalizations may have. Second, it ought to focus on the person as a single entity who tries to affect the external world in a distinctive way. For instance, this means to disaggregate exchanges of reasons for what they are: that is, disagreement among people who have something to say on a certain aspect of external reality that somehow affect their life.

To sum up, in this section, I have argued that, by plugging into their accounts a fundamental intersubjective component, the critical theory of Honneth, Fraser and Forst fail to capture how existing practices and norms cause exclusion. On my view, as I shall demonstrate in the following, if we reconstruct the basic claim as a fundamental demand to appropriate external discursive or material objects, it is possible to defend a standpoint of justice that identifies economic, political and social structures, which, with Rainer Forst's own words, 'are marked by forms of exclusion, by privileges and domination'.[291]

3. The right to have a say (I)

How is it possible to mediate between the individual demand to affect elements of the external world and the intersubjective character of the standpoint of justice, which, of any value, must be valid for all human beings? As I mentioned above, part of the limit of recognition, redistribution and justification is that the determination of the general standpoint of justice occurs predominantly at the intersubjective level, with an inclination to favour conformity and under-thematise exclusion. In this section, I introduce the right to have a say. My idea is that a general entitlement to appropriate external objects can block arguments for exclusion and empower persons to act on objects of disagreement. In my view, as we shall see, the most fundamental principle of justice requires the distribution of a specific good: the entitlement to have a say, which encompasses all necessary legal and economic resources. Consequently, the normative standpoint says that no social and political arrangement can claim to be just unless members have had the

[291] Forst 2013, 8.

legal and economic means to affect its content. And, a fundamentally just society is a society that, through its legal and political structures, ensures the concrete realization of everyone's entitlement to have a say.

For a perspectivist political theory, central is the concern with the relationship between a possible perspective-holder and an external object. On this view, we break the ordinary intersubjective experience of disagreement into its basic components. Usually, we think of disagreements as situations in which people do not have the same opinion over something. Political theorists tend to see this situation from the within: they assume people can access the objects of disagreement, they also assume that they are able to exchange opinions with one another.[292] In this way, the focus is on the qualitative definition of the kind of opinions that people can exchange.[293] My view rejects the two starting assumptions as false. As we have seen in the previous chapters, these assumptions may lead to underestimating internal and external exclusionary demarcations.

To avoid this exclusionary element, a perspectivist political theory advances a methodological claim. The study of disagreements, I argue, must begin with the deconstruction of disagreements into their constitutive parts, which are common across the whole spectrum of disagreements, from epistemic and aesthetic to political and moral. First, for disagreement to exist there must be more than one person. Second, people must have slightly different/different/very different opinions over something. Third, these opinions must be visible to one another so that the difference among the available options is recognizable. The deconstruction of disagreements helps us to unveil their fundamental architecture: two or more persons extend their agency on the same external element, and, because of this common denominator, they enter into a special relationship with one another. In other words, to the traditional focus on what occurs within disagreements, I isolate another object of normative investigation. Namely, the phase in which different persons enter in a relationship with one another because of an object of common

[292] Here, I have in mind Habermas 1998, Rawls 2005, Gaus 2010, Vallier 2012.
[293] For instance, see Kevin Vallier, "In Defence of Intelligible Reasons in Public Justification," *The Philosophical Quarterly* (0) (2015): 1-21.

concern. This phase is both diachronically antecedent and normatively prior to the exchange of different considerations that, usually, defines disagreements. On an object (O), the set of considerations $\{O_1, O_2, O_3, O_4\}$ is the result of P_1, P_2, P_3 and P_4 having a consideration on O – and this consideration being accessible to the others.

This subject-object relationship and the consequent subject-object-subject relationship may look like a reified and atomistic portrait of disagreements. To surpass discomfort with this account, it is important to clarify what I mean with objects of disagreement. My definition of object is deliberately open to different levels of abstraction and discursive contexts. Objects, I stipulate, are those purposes, aims, goals – discursive and materials – of an individual action, which, through recursive reconstruction, we can recognize as the common denominators across different considerations. The object, in other words, is both the reason why different persons are in disagreement – the aim, purpose, goal; and a threshold of reciprocity – common denominator, which enables exchanges. From this, we should not conclude that these two components are symmetrical. Actually, from the asymmetry of these two components, we are able to identify the basic claim that a perspectivist political theory aims to address. Specifically, for something to be recognised as an object of disagreement, more than one person has exercised her command on the same external element. Following these appropriations, an object constitutes an intersubjective relationship that connects all persons with different worldviews on the same object. However, for this intersubjective relationship to be possible, individual appropriations are constitutive. Consider again an object (O), the set of considerations $\{O_1, O_2, O_3, O_4\}$ is the result of P_1, P_2, P_3 and P_4 having a consideration on O – and this consideration being accessible to the others. In this way, P_1, P_2, P_3 and P_4, establish a contingent relationship around O where O_1, O_2, O_3 and O_4 display differences and affinities with one another.[294] This representation

[294]One may notice that, often, physical appearance (sex, skin colour, outfit, hairstyle, smell, and the like) do affect what one is for the other in disagreement. At the same time, different accents and manners also alter this intersubjective constitution significantly. This is true, and they are exactly some of the discriminations that the

tells us how an object can connect P1, P2, P3 and P4. We need more. Why are O1, O2, O3 and O4 accessible? More fundamental than their appropriation of O, there is a claim to access elements of the external reality, including O. This is the most basic claim that associates human beings regardless of their cultural ties or conception of the human being. On this ground, my thesis in what follows is that, if it is true that a non-exclusionary political theory expresses a normative concern for demarcations between who counts and who does not count, and if it is true that there might be disagreement about what justice is, one fundamental claim makes possible all arguments regarding what justice requires us to do. It says, I argue, that human beings claim to access material and discursive objects. And all these claims have a common normative ground in a general entitlement to have a say.

In this way, a perspectivist political theory turns the traditional intersubjective emphasis of philosophical discourses on disagreement into a concern with an original subjective claim. My idea is that prior to all discussion about the scope and justification of a general standpoint of justice, a fundamental entitlement to appropriate external element seems necessary, the denial of which undermines the universal aspiration of all successive rights claims. Without such an entitlement, even the conceptual aspiration to construct universally valid normative principles may be unavoidably partial, or forget someone at the margins of common sense. Without such an entitlement, the justification of the genesis of disagreement also is lacking. Think of questions like, "Why two or more people can exchanges opinions, reasons and considerations on the same thing?", "Why some and not all?" and "Why you and not me?". They presuppose the existence of a reason for the state or condition of being entitled to participate.

The special role of this entitlement identifies its normative priority over other rights. Namely, it considers that demands for rights incorporate a primary activity of potential rights holders to insist upon or against the rights in question. Consequently, the entitlement to have a say transcends the possible spheres of

present approach tries to avoid by constructing an entitlement to have a say. However, for the reconstruction of such a normativity, I reconstruct what makes disagreements possible in their simplest and general form.

available demands for rights and operates as their condition of possibility. In this way, it constitutes a normativity that is above all rights-claims but that all potential right holders are bound to affirm as a condition of possibility for their presence in the intersubjective relationship that defines specific standards of justice. At the same time, the right to have a say confers normative weight to other rights-claims because it asserts that all persons are the ultimate repository of justice. And, if specific standards of justice are to have any meaning, the person as a potential holder of a claim on such standards, is the one we shall empower to continue insisting that the intersubjective construction of binding standards can be binding for all.

Thus, on the view I advocate, the basic demand that one's claim to appropriate external objects is not ignored represents the fundamental constituent for having non-exclusionary relationships. Here, the entitlement to have a say is seen as the result of a subjective reconstruction of the conditions of possibility that ensure participation in intersubjective discourses about rights and other possible sources of disagreement. What confers normative weight to this entitlement is the observation that, in all communicative attempts, the starting point is a basic claim to affect elements of the external reality. In this way, the right to have a say secures the equal standing of persons from their demand to act, transform and assimilate what is given in the external world. Since the right to have a say expresses the fundamental claim at the basis of other rights claims; at the intersubjective level, it cannot be denied without a simultaneous affirmation of its constitutive importance. That is, Susan can try to prevent Luke from accessing an object of disagreement. However, we can bring back both claims, Luke's claim on an object of disagreement and Susan's claim against Luke doing so, to the same basic claim to affect some aspects of external reality. This implicit common terrain ensures that, from all perspectives, the right to have a say is the anchor for the construction of shared, norms, rules and arrangements. Therefore, the right to have a say is a basic right, which is conductive to other rights. At this point, a clarification of the form of this basic right seems in point. In the next section, I shall elucidate the structure of the right to have a say.

4. The right to have a say (II)

How, then, should we think about the right to have a say? The right to have a say is a normative principle that enables individuals to construct other rights (principles) and constitute relative network of duties (obligations). The belief is that, without a general entitlement to appropriate objects of disagreement, there is no justification for the claim for the universal validity of processes and principles. In my view, such an entitlement overcomes a limit of contemporary political theory. It helps to individuate an important normative vacuum: that is, when theories leave possible affected subjects at the margins of construction procedures, the excluded subjects have no ground for claiming their due position in the definition of rules, norms and arrangements. To solve this impasse, I have argued, we need a universal pre-institutional right, which, as a first order of normativity, places demands on what other political, social and economic arrangements must be like.[295] It is pre-institutional in the sense that its existence is logically prior to other political structures, legal systems and social practices. Since the claim to affect elements of external reality can be possessed even by human beings who live isolated or in a state of nature, such a claim, in my view, authorizes other normative arrangements and construes the role of each person in the community of human beings. There might be other important claims, but, as we have seen in the previous section, because this basic claim defines a person presence in the world, other rights, like the right to justification, can be accorded once all the necessary elements to exercise the right to have a say have been granted.

The right to have a say compounds different layers. I take the right to have a say to be a complex enabling and active right (Frida has a right to X), which includes two Hofeldian incidents.[296] Wesley Hohefeld distinguished different senses of a right, which he classified in four incidents: the privilege, the claim, the power, and the immunity.[297] The right to have a say includes two of the four

[295] I borrow this point from Thomas M. Scanlon, "Reply to Weinar," *Journal of Moral Philosophy* 10 (2013), 401.
[296] Wesley N. Hohfeld, *Fundamental Legal Conceptions* (New Haven: Yale University Press, 1919). For an excellent reconstruction, Leif Wenar, "The Nature of Rights," *Philosophy and Public Affairs* 22 (3) (2005), 224-37.
[297] Hohfeld 1919, 36-8.

incidents. The right to have a say expresses a 'paired privilege'.[298] Specifically, Frida has a paired-privilege right to have a say or not to have a say. The right to have a say, therefore, endows Frida with discretion concerning her possible range of actions.[299] Together with the paired-privilege, Frida also has the ability to change the normative situation of oneself and the other.[300] The right to have a say, thus, also indicates a higher-order Hohfeldian incident: paired power. Specifically, Frida has the power to annul, and the power not to annul, Louise's right to have a say. To clarify, at the level of privilege, the right to have a say enables Frida to have a say or not have a say, as she thinks appropriate. At the level of paired power, Frida has the discretionary authority to waive her claim against being silenced. The right to have a say, in other words, gives Frida the authority to authorize other people to impose her not to have a say. For instance, George is a monk who voluntarily submits his agential capacity to a higher authority, like the abbot Benedict, who, in turn, authorizes the Pope to have a say in his place. On the other hand, this basic scheme allows us to detect those cases when the right to have a say is not actually at stake. Should a member of the society asserts that his or her right to have a say has been violated by forbidding him to prevent someone else to have a say (i.e. by silencing him with violence), this explanation shows that such member is not asserting the privilege right to have a say. He is rather asserting a one-sided claim-right towards the others, according to which others have a duty of non-interference on his right whatsoever.

Hence, from the view I advocate, there is no derivation of a fundamental standpoint of justice from an intersubjective practice, the construction of the basic right claim derives from a recursive movement from disagreement to the most fundamental claim that substantiates the individual presence in intersubjective discursive practices. In this section, I have deconstructed this standpoint of justice to clarify its normative architecture. In the next section, I shall continue this explanatory work by reading the right to have a say in analogy with other defences of political participation. For now, we can conclude that, according to the right to

[298] Weinar 2005, 227.
[299] Ibidem
[300] Ivi, 23.

have a say, a norm must be the result of a disagreement whose participants are all human beings with a claim on the source of disagreement. From this perspective, no morally or political reasons count against the norm rightness: that is, the fact that all human beings have exercised their right to have a say.

5. The right to have a say, the right to have rights, the right to politics

Now, someone may claim that the right to have a say is a limit (regulates action of a third counterpart upon members), rather than a privilege. Under these lenses, the crucial claim is that institutions lack the authority to regulate participation.[301] This is true. However, such a way of thinking begins with the assumption that political arrangements accord with the right to have a say. From that perspective, a society is just because it secures everyone's right to have a say. At that level, the right to have a say presupposes a limitation to state's power: that is, it has no ground to force members with a right to have a say to participate in certain ways. Simultaneously, if a state claims to be just, the right to have a say grounds a claim-right towards its institutions. That is, all members, qua human beings with a claim to affect external reality, have a right to have a say; consequently, when a state derives its just power by incorporating such a right, then it must secure and protect it.

At this stage, a clarification seems in point. The language of a right to have a say resembles that of a "right of right", "right to politics", "right to political participation" and "right to have rights".[302] "The "right to have rights" defends a superior right to access institutional rights by a given political regime. Most prominently, it entails the right to belong to a political community where one can

[301] Scanlon 2013, 401-2.

[302] For the "right of rights", see Jeremy Waldron, "Participation: The Right of Rights," *Proceedings of the Aristotelian Society* 98 (1998): 307-37. For the "right to have rights", see Hannah Arendt, *On Revolution* (London: Penguin Books, 1965). See also, James D. Ingram, "What is a 'Right to have Rights'? Three Images of the Politics of Human Rights," *American Political Science Review* 102 (4) (2008): 401-16. Frank I. Michelman, "Parsing A right to have Rights," *Constellations* 3 (2) (1996): 200-09. See also, Richard Bellamy, *Citizenship: a very short introduction* (Oxford: Oxford University Press, 2008), ch. 4. For the "right to political participation", see Fabienne Peter, "The Human Right to Political Participation," *Journal of Ethics and Social Philosophy* 7 (2) (2013): 1-17.

recognize one another as equals.[303] The "right to politics" and other forms of a "right to political participation" vindicate a right to participate in the process that constitutes positive rights.[304] In the two understandings, the belief is that, since institutional and positive rights claim authority on all who live in a certain territory, would be affected subjects must be empowered with a claim to shape the ways these rights are conceived and implemented. The assonance with a right to have a say is obvious, but these overarching rights to access legal or political rights respond primarily to demands of legitimation and contestation of authority. 'My argument,' Fabienne Peter writes, 'aims to show that human rights will fail to secure political legitimacy if the right to political participation is excluded from the set of basic right'.[305] For Waldron, 'one can plausibly say that participation is the right-theorist's most natural answer to the problem of authority and the disagreements about rights'.[306] According to Balibar, the right to politics is 'a universal right to political activity for every individual in all the domains in which the problem of collectively organized possession, power, and knowledge is posed'.[307] Such rights, therefore, illuminate the space of manoeuvre for changing established juridical and political orders. Under these lenses, when rights to politics are not uniformly allocated across the society, rightlessness justifies non-conformity or, existing arrangements have to be reformed coherently with all citizens' claim to shape and transform legal and political arrangements. The right to have a say is a general principle that evaluates both these arrangements and the right to politics itself. For instance, a demarcation between citizens and non-citizens, and the corresponding allocation of the right to politics, is itself an object of critical scrutiny from the perspective of a right to have a say. This does not mean to say that the right to have a say and these typologies of rights are not compatible. The present proposal argues that the right to have a say is the basic normative principle upon which we can construct and evaluate systems of rights, the agreement on the underpinning moral values, and strategies to ensure participation.

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[303] Arendt 1965.
[304] Bellamy 2008.
[305] Peter 2013, 1.
[306] Waldron 1998, 37.
[307] Etienne Balibar, *Masses, Classes, Ideas* (London: Routledge, 1994), 212.

The difference between the right to have a say and the different typologies of empowering rights introduces another important observation: the right to have a say is not "the right for everyone to have a say". The difference is thin, but evident. When human beings affirm their right to have a say from their basic claim to affect the external world, they do so from their distinctive point of view. By affirming this right, they claim that they deserve what is required to affect external reality, since this is the enabling condition for establishing other kinds of arrangements. Contrariwise, "the right for everyone to have a say" presupposes an intersubjective connection among human beings who have already exercised their most fundamental entitlement to have a say. In my view, this form of normativity would require a degree of reciprocity, mutually binding duties, and a contractualist component, which, at the level of the construction of such a right, may be circular. Namely, by defending general and universal participation, in the name of benefits for all, the most tolerant and open-minded members of the society impose their view on some other pockets. According to my perspective, despite leading to analogous normative propositions, a right to have a say is a most basic right that the right for everyone to have a say, and, as an enabling right, it is its very condition of possibility. So, this section has tried to demonstrate the relationship between the right to have a say and existing normative proposals to ensure participation of all affected subjects. As we have seen, a right to have a say is not necessarily in conflicts with these strategies. The difference is mainly conceptual. Simply stated, the right to have a say is a normative standpoint that evaluates these proposals critically from the point of view of the basic individual claim to have an effect on external reality.

6. Conclusion

To conclude, in this chapter, I have argued that, when it comes to grounding a critical theory of justice, the right to have a say has two merits. It identifies forms of social, economic and political exclusions, which may remain under-thematised in the important accounts of Axel Honneth, Nancy Fraser and Rainer Forst. Moreover, the right to have a say envisions a just society where all members have

the due means to mark objects of disagreement meaningfully. In this society, the justice of legal, political and economic arrangements ties with the inclusion of all members with a right to have a say. Similar to existing critical theories of justice, my account emphasises the need to avoid forms of privilege, domination and exclusion. Unlike other accounts, I argue that justice is about the relationship between a person and elements of the external world.

Chapter 7
Legitimacy and the two orders of normativity

In the previous chapter, I have defined the characteristic standpoint of justice of a perspectivist political theory. As we have seen in chapter IV and chapter V, a second order of normativity also is constitutive of my account. When individuals have a right to have a say and, in this way, can appropriate external objects of disagreement, they constitute disagreements around issues of communal concern. At that point, a perspectivist political theory says that, for a solution of disagreement to claim authority, all perspectives on the same object must count the same.

Now, it should be clear that the subject-object relation is central for a perspectivist political theory. From this point of view, we may think of disagreements as the expressions of simultaneous and satisfied demands to enter into relationship with external objects. However, the constitution of subject-object relations on a specific object of disagreement does not guarantee that, when other members act upon the same object of disagreement, all subject-object relations are protected in the practice of disagreement. For this being so, there is a second normative layer, which has two functions. On the one hand, it equalizes subject-object relations within disagreements. On the other hand, it anchors the authority of the outcome to such an equalization.

In this chapter, I explain that, in a society where all members have a right to have a say, the second order of normativity is a procedural mechanism that determines the legitimacy of collectively binding decisions. From this observation, my thesis is that political institutions, as sites of systemic decision-making, are legitimate if all members can recognize an individual subject-object relation with the outcome of disagreement. To substantiate my position, I hold some fundamental stipulations. For me, legitimacy means the way through which people authorize an

institution to exercise power and enact binding decisions.[308] I also use institutions and basic structure of the society interchangeably. Here, I borrow from Rawls: that is, the basic structure is 'the way in which major social institutions distribute fundamental rights and duties and determine the advantages from social cooperation'.[309] Moreover, on purpose, I use the word "members" to explore the normativity of a perspectivist political theory. By using members, I aim to stress the idea that both the standpoint of justice and the second order of normativity encompass all human beings who live in a territory where political, social and economic arrangements are organized around the right to have a say. In agreement with this, I consider temporary immigrants, refugees, foreign students, labour immigrants, diplomats as members. One caveat also is in point. This account of legitimacy depends on the institutionalization of the right to have a say. Without members having such a right, the second order of normativity does not hold. In other words, this chapter tells us how a legitimate decision would be, if members had the right to have a say. With these postulations in mind, in section 2, I shall define my conception of legitimacy. Section 3 answers some objections. One of these objections introduces a problem of scalability. Then, section 4 and section 5 construct the outline of a decision-making procedure that may make legitimate decisions regardless of the scale of disagreement. Section 6 concludes the chapter.

2. Legitimacy and the two orders of normativity

The right to have a say submits the basic structure of the society to a general right claim – the individual claim to appropriate objects of external reality. This standpoint of justice tells us what non-exclusionary societies must guarantee. However, it leaves under-thematised the way through which a society so-conceived can take decision in a context of deep moral disagreement. In the present account, therefore, the two levels of normativity are interrelated but uncoupled. They are different evaluations of a state's basic structure that respond to two different

[308] This definition is the starting point of contemporary disputes about legitimacy. See Robert Paul Wolff, *In Defense of Anarchism* (New York: Harper and Row). See also John A Simmons, *Justification and Legitimacy* (Cambridge: Cambridge University Press, 2000).
[309] Rawls 1971, 7.

political issues. The right to have a say, as we have seen, is a standpoint of justice. It attends to the concern of thinking about the ways through which the basic structure can shape chances in life across the members of a society. The second order of normativity, as I shall clarify in this section, is about the legitimacy of decisions in a context of disagreement. As well known, legitimacy addresses the apprehension regarding the ways through which decision-makers take decisions and concerns with the coercion following from such decisions.[310] It is important to notice that, here, I do not take justice and legitimacy as conflating with one another, alternative or independent. The present conception of legitimacy is a conception of legitimacy for a society where members have a right to have a say, and the basic structure is constructed accordingly. On this view, therefore, the institutionalization of the right to have a say is the necessary condition for this conception of legitimacy to be valid. I am not constructing a conception of legitimacy for all worlds, but one that, under specific circumstances, says when institutions can expect people to comply with collectively binding decisions.

Here, the question is: how can institutions substantiate the claim to rule over people who have a right to have a say and different worldviews? Two observations seem in point. Since there might be disagreement over collectively binding decisions, the quality of the outcome does not seem a plausible candidate to ensure legitimacy. Second, since the right to have a say ensures a right claim to appropriate all possible objects of disagreement, the claim to rule over people has to include a built-in quality of being revisable. A collectively binding decision, regardless of its legitimacy, remains a possible object of the external world that members are fully entitled to appropriate. With these two observations in hand, following the many-to-one relationship, my thesis is that, from the point of view of each member with a right to have a say, for an institution to have a claim right to rule, for all decisions, a member's valid consideration must count as much as other considerations count. The valid consideration of a member incorporates two expressions of agency: first, the choice to exercise the claim right to appropriate objects of the external world,

[310] For a comparative assessment of justice-claims and legitimacy-claims, see Matt Sleat, "Justice and Legitimacy in Contemporary Liberal Thought: a Critique," *Social Theory and Practice* 41 (2) (2015): 230-52.

second, the action upon a specific external object. If we keep these two elements in mind, then, a coherent definition of legitimacy has to hold the subject-object relation before, during and after disagreement. If so, it is possible to say that a decision has a claim right to rule when all members can recognize an individual subject-object relation with the outcome of disagreement.

From this definition, someone may notice that, in the present account, there is a disaggregation of the legitimacy of institutions into the legitimacy of the decisions resulting from properly constructed disagreements. In this way, for the basic structure to have a right to rule, we can say that a proceduralist component integrates the substantive action of the standpoint of justice. Therefore, the legitimation of decision-making power depends on two things: the articulation of procedural mechanisms and the right to have a say. Seen in this way, the present account is a hybrid form of proceduralism. For proceduralist accounts of legitimacy, it is sufficient to have an appropriately constrained process to take decisions.[311] Here, the idea is that two kinds of constraints must be in place. While members' entitlement to appropriate external objects is necessary for legitimacy, another condition helps to make specific outcomes legitimate despite disagreement. First, the substantive standpoint of the right to have a say commands institutions to enable all members to access all possible objects of disagreement. It also secures the members' entitlement to challenge collectively binding decisions. Second, the procedural element requires institutions to construct disagreements in certain ways. Specifically, the condition that all valid and available considerations count the same helps to neutralize elements that are external to the individual subject-object relation with the object of disagreement. A legitimate decision, in other words, must be the result only of individual subject-object relations with the object of disagreement, either in the form of an absent relation (members decide not to participate) or in the form of an unmediated relation with the object (members decide to participate).

[311] For instance, deliberative democrats think that legitimacy, at least in part, depends on the process of public deliberation. See James Bohman, *Public Deliberation* (Cambridge MASS: MIT Press, 1996) and Jürgen Habermas, *Between Facts and Norms* (Cambridge MASS: MIT Press, 1996).

In this way, regardless of the object of disagreement and the composition of the interaction community, institutions may enact legitimate decisions, because, without unbalances, such decisions are ultimately expressions of all members' subject-object relations. This argument seems to recall that of Jürgen Habermas. For Habermas, democratic procedures, which deal with a wide series of argumentative strategies, must guarantee that, despite the diverse gamut of available reasons, intersubjective exchanges lead to the communicative coordination among actors, who mobilize their knowledge potential in order to achieve a rationally motivated agreement on the best available reason.[312]

For him, politics introduces a degree of complexity that cannot be fully satisfied by an application of discursive ethics without any adaptation.[313] Two passages are required. On the one hand, Habermas needs to modify the discursive principle in accordance with the heterogeneous nature of political communication. On the other hand, it is necessary to begin a recursive reconstruction of the evaluative standards that make possible differentiated communicative exchanges in the political domain. First, as Jeffrey Flinn summarises, 'the principle of discourse … must be brought to bear on the medium of law if it is to specify a procedure for legitimate law-making'.[314] This brings Habermas to define the principle of democracy: 'Only those statues may claim legitimacy that can meet with the assent

[312] Habermas 1996, 450.
[313] See Jürgen Habermas, *The Theory of Communicative Action* (Boston: Beacon Press, 1984). See also Habermas 1996, 3-6, 17-19, 107, 158-68, 196-7. See also, Jeffrey Flynn, "Communicative Power in Habermas's Theory of Democracy," *European Journal of Political Theory* 3 (4) (2004): 444-51. Habermas' account relies upon a distinctive account of communicative rationality. Communicative rationality is rooted in the intersubjective structures of communication according to which the paradigm of a successful communication is a communication in which parties reach an agreement. Whoever makes use of a natural language in order to come to an understanding with an addressee about something in the world inscribes such an exchange within 'the linguistic telos of mutual understanding' as a basis to pursue illocutionary goals and structural conditions to tell other people what they ought to do. When a speaker participates in an exchange of reasons, as a discursive procedure in which parties share reasons that they expect the addressee to accept, she makes speech acts that condense a series of background justificatory reasons. Discursive processes of argumentation, then, unveil these reasons in a chain of mutual communicative exchanges that are oriented towards reaching an understanding between the two parties. From this reflective continuation of actions oriented towards reaching understanding among parties, who are moved by the force of better argument only; Habermas introduces the principle of discourse for the impartial justification of norms: 'just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses'.
[314] Flynn 2004, 436.

of all citizens in a discursive process of legislation that in turn has been legally constituted'.[315] Second, discursive theory evolves in an analysis of differentiated discursive processes aiming to clarify the standpoint for mutual evaluation. The interconnection of these two theoretical operations leads Habermas to defend a proceduralist account of legitimacy. According to the discursive model of democracy, therefore, the locus of a governing body's authority are the interconnected, but differentiated, processes of making laws that connect moments of opinion formation among affected members, and, in institutional settings, actual decision-making mechanisms, which deliver outputs in agreement with the expectations of those affected.[316]

Unlike Habermas, according to my view, members have both opinion formation power and decision-making power. Members do not only monitor and think of policy solutions. In order to maintain the subject-object relation, the decision-making process has to put all members in the position to see the programs carried out by the basic structure of the society as their own programs. The grounding idea is that legitimate decisions are decisions that the members make, and legitimate institutions are institutions that make these decisions possible. In this way, all members, with or without valid considerations, can recognize their subject-object relations in the collectively binding decision. If this is demonstrably true, the basic structure has a legitimate authority to enact collectively binding decisions, even if someone disagrees with the specific outputs. So, for a decision to be legitimate, the basic structure has incorporated the standpoint of justice (all members can appropriate elements of the external world), and the basic structure construct procedures of decision-making in which all members with a consideration on the object of disagreement exchange considerations without unbalances.

If these two aspects hold true, all members are in the same position to read the outcome in the light of their individual subject-object relation. How? This thesis does not mean to say that all members identify with the outcome in the same way, but that, if willing to do so, they could recognize their individual subject-object relation in three ways, at least. Specifically, when members do not act upon the

[315] Habermas 1996, 110.
[316] Habermas 1996, 486.

object of disagreement, they can identify their action upon the object in two phases: the first choice to do otherwise, and the entitlement to act upon the outcome in the future. When members act upon the object and their considerations shape the form of the collectively binding decision, they can identify their action upon the object at three levels: the initial choice, the action upon the object within the interaction community, and the entitlement to revise the decision. When members act upon the object but their considerations fail to shape the outcome, they can identify with the first choice and the entitlement to challenge the outcome. They can identify with the outcome itself if and only if their considerations counted as much as the winning considerations did. When the power to shape the outcome is equalized, and all members with a valid consideration on the same object have the same limited physical, rhetorical and financial capacities to act upon the object; retrospectively, they are in the position not to deny their expression of agency in the disagreement. Certainly, this equality within disagreement is artificially constructed. Such a procedural mechanism integrates the entitlement to advance demands and ensures that the individual subject-object relation is the only thing that matters within disagreements. Therefore, to rephrase my first definition of a legitimate in the light of the argument I have developed so far; for a society where members have different worldviews, and a right to have a say, a legitimate basic structure is a basic structure that secures, for all members, recognition for the individual subject-object relation in all objects of disagreement.

3. The tyranny of the outcome

The thesis advanced so far may seem radical. For institutions to have a claim right to rule, they have to recognize their individual subject-object relation in the outcome. Therefore, judgements about the legitimacy of institutions depend on judgments about the way through which these institutions take decisions. Concerns with the desirability of my conception of legitimacy may look at the quality of outcomes. Forms of direct participation may be responsible for reform blockages. This might be true, but it also shows a lack of concern with diversity and

heterogeneity. Now, three other objections are in point. By addressing these objections, I begin with the description of an archetypical decision-making procedure that, through the protection of the subject-object relation, brings about decisions with a sound claim right to rule. First, someone may argue that, since the present account inspires forms of direct participation, it entails a majority bias. However, when we focus on the individual subject-object relation on a certain object of disagreement, there is no such a thing as monolithic majority that, through vote, regularly forces its will upon a minority. With such an emphasis on individual and differentiated subject-object relations with different objects of disagreement, when the issues changes, considerations also change so that the balancing of forces between majority and minority is issue-specific.

The second objection argues that, since minorities are minorities, it is impossible for their considerations to count the same. From the present perspective, if this claims holds true, there is no legitimate decision. For instance, if a small minority opposes public education, this makes public education impossible. As someone may notice, now and in the future, this minority is inherently inhibited to have equal weight on the object of disagreement. However, I repeat, my account of legitimacy stresses the individual subject-object relation with the object of disagreement. On this view, would be members of minority groups are members with a right to have a say that have a claim right to access external objects: their considerations count as considerations on the object, not as considerations of a person who belongs to a minority group. If we see the problem from this point of view, there is no such a thing like an inherent minority position: that is, all disagreements entail different individual subject-object relations that, only retrospectively, we can divide between majority and minority views. Moreover, "all considerations must count the same" does not mean to say that a consideration has to be as likely to be successful as others are.[317] I aim to say that all considerations on the same object must have the same chances to affect the construction of a collectively binding solution. On this view, if, within disagreements, we isolate

[317] This claim would entail either an empirically informed theory of disposition or the idea that we can predict all possible objects of disagreement in a society where members have a right to have a say.

aspects external to each individual subject-object relation with the public issue; the observation that some considerations are particularly unlikely to get credit across members with a right to have a say does not entail that the relating solution is illegitimate.

The third objection argues that, in modern states, it is impossible to achieve legitimate solutions of this kind. They are too large and too diverse. This objection introduces a point concerning the feasibility of the model, which may affect its very desirability. Simply stated: since it is almost impossible to achieve legitimate solutions under these conditions, why should we desire to organize the basic structure accordingly? I divide my response into two parts. In the remaining part of this section, I show that the present account is no less desirable than alternative proposals, and I argue that this remark is biased. In the next sections, I shall demonstrate that, even at a large scale, it is not implausible to think of decision-making procedures in agreement with my conception of legitimacy for a society where all members have different worldviews and a right to have a say.[318]

This objection points towards an important characteristic of many deliberative theories. Indeed, alternative accounts also do not guarantee that deliberation will reach collectively binding outcomes. The point is taken somehow as granted. For instance, for Habermas, abstractly characterized agents will reach a rational agreement because of the force of the best argument. We do not know the length of the process of deliberation, and whether or not, on certain issues, disagreement will be longer than the average life expectancy. In a well-ordered society, Rawls defines the kind of outcomes that citizens, who hold reasonable comprehensive doctrines, can support with moral reasons. However, he does not explicitly tell us the moment in time in which suitably constructed institutions reach such decisions. Rawls concentrates on the ways people should disagree on certain issues – constitutional essentials, and he defines how decisions on these issues can be acceptable, despite the fact of reasonable pluralism. This objection also reveals a widespread bias in political theory, which I contest. I contest the assumption that agreement is necessarily more desirable for people than participation in lengthy

[318] Scalability also is a problem for existing literature on mini-publics, see John Parkinson, "Legitimacy Problems in Deliberative Democracy," *Political Studies* 51 (2003): 180-96.

disagreement, which might cultivate one's sense of self-respect and the dignity to feel oneself as a member of a community of peers. At the same time, often and in different contexts, hunger for outcomes and decisions has generated illegitimate decisions and instances of injustice.[319] These two ways of addressing the feasibility/desirability objection aim to show that my conception of legitimacy, which may cause lengthy disagreements rather than fast and correct outcomes, is not necessarily less desirable than the other accounts. The generalization and scalability of this account are the objects of the next section.

4. A decision-making procedure

Now, the present conception of legitimacy allows for a justification of institutions independent from the quality of the outcome, but sensitive to the individual subject-object relation. The idea is that, when there are members with different worldviews and a right to have a say, by favouring identification with its outcomes, institutions gain legitimacy. On this view, irrespective of the worldview one has, an institution, which enacts decisions in which all members can reconstruct their subject-object relation before, during and after disagreements, is legitimate because the source of the authority comes directly from those people who are subjected to a claim-right to rule.

Therefore, from this perspective, the higher is the identification between the considerations of members and the decisions they have to comply with, the easier it is for members to accept the authority of these decisions. For this reason, in order for the political power to be legitimate, the political decision-making procedure has to exceed the institutional perimeter and favours the direct involvement of members, who raise questions and provide answers for the questions, while the

[319] On this issue,see William Easterly, *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done so Much Ill and so Little Good* (New York: Penguin, 2007). See also Elisabeth Pisani, *The Wisdom of Whores: bureaucrats, brothels and the business of AIDS* (London: Granta Books, 2008).

basic structure ensures the logistics to ensure correspondence between the demands of the members and the political decisions.

Traditionally, arguments against direct forms of participation stresses the belief that, the more opinions exist, the more difficult is to achieve correspondence between opinions and the outcome of collective decision-making procedures.[320] Now, there is a question of scale. In complex, large and diverse societies, is it plausible to argue for decision-making procedures that bound the authority of the outcome of disagreement to the individual subject-object relation with the object? Such a decision-making procedure must secure equality, not because all members agree with the idea that equality matters, but, because members have different worldviews and approach objects of disagreement from distinctive viewpoints, so we need a mechanism that, in each context, ensures that individual subject-object relations are the only thing that matters within disagreements.

The model here is that of local assemblies.[321] Members of local assemblies meet to discuss specific issues. These fora aim to create spaces of decision-making through direct participation of those affected. By establishing mechanism of government administration through which members could control rulers, advance policy demands, deliberate and vote, these political bodies favour identification with public affairs.[322] Despite proximity, even in these deliberative spaces, when particularly urging issues are at stake, there may be impasses and alternative strategies to reach collectively binding decisions are required. One of the available solutions is a voting procedure. Alternatively, an additional deliberative phase may anticipate the vote. In that phase, members with analogous considerations may construct a comprehensive position on the object of disagreement. Eventually, when members formalize all the available and valid options, they vote on the shared assumption that the resulting solution is binding. In these cases, since voting procedures are issue-based, allegiances may also change. Seen from my

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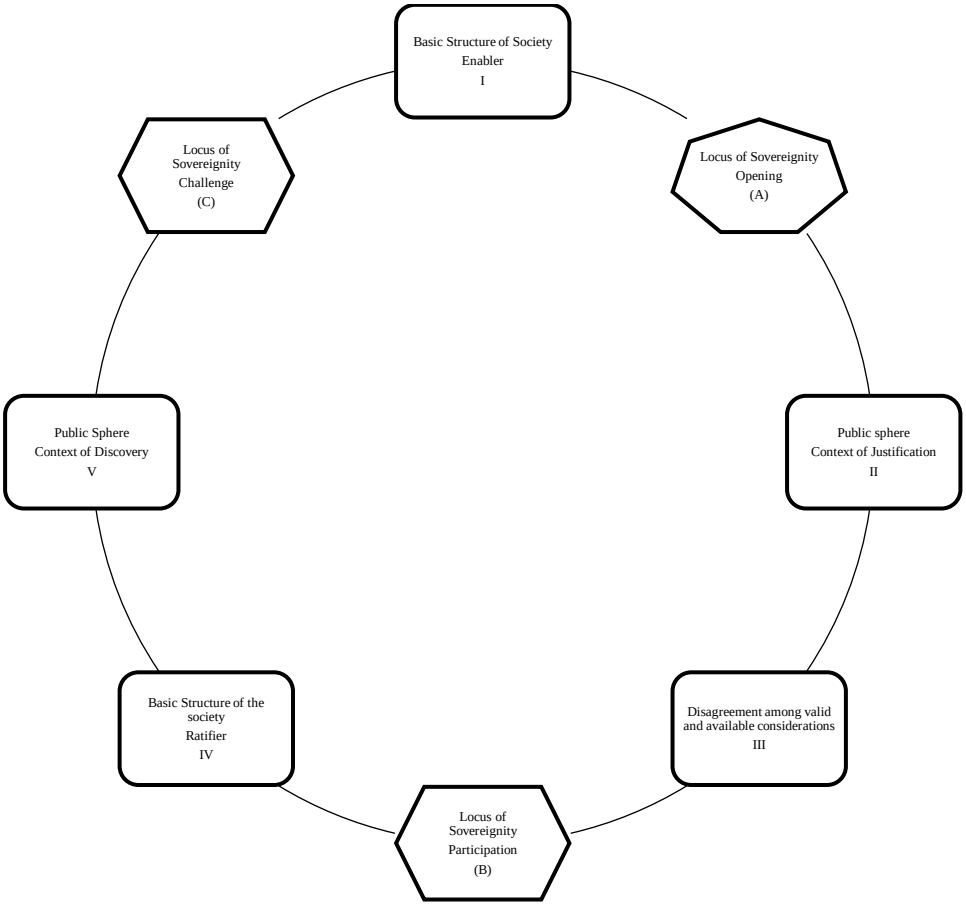
[320] James Madison, *The Federalist Papers* (Harmondsworth: Penguin Book, 1987), 127.
[321] On this issue, see Yves Syntomer, *Petit Histoire de l'expérimentation démocratique* (Paris: La Découverte, 2011). For some examples, see Archon Fung, *Empowered Participation* (Princeton: Princeton University Press, 2004). See also "Putting the Public Back into Governance: The Challenges of Citizen Participation and its Future," *Public Administration Review* 25 (2015).
[322] See also Archon Fung, "Empowered Participation in Minneapolis: The Neighbourhood Revitalization Program," *International Journal of Urban and Regional Research* 30 (3) (2006): 638-55.

perspective, the extension of local assemblies has five requisites: a) members can advance policy proposals; b) members decide on these policy proposals; c) participation is open; d) the mechanism is issue-based; e) all participants have an equal weight in the decision-making procedure. The following model outlines a model that, irrespective of the scale of disagreement, leads to legitimate decisions.



In practice, a decision-making procedure so-conceived is used for construction, approval and disapproval of public policies. For all possible objects of disagreement, in three phases [(A), (B), (C)], identification with the collective binding outcome is at stake. First, at (A), the basic structure of the society takes insights from the public sphere and opens disagreements on public issues. In (B), members display their considerations on the object of disagreement according to a

procedural mechanism, which ensures their equal weight. When members with valid considerations reach a collectively binding decision, the basic structure of the society enacts the solution of disagreement as a collectively binding decision. This decision is not final. Once the basic structure of the society has ratified the decision, such a decision may generate other moments of disagreement and contestation, like (C), where members can initiate the process of decision making anew. On this view, opening, participation and the opportunity to challenge the outcome protect the individual subject-object relation with the object of disagreement at different phases. Members with a right to have a say push institutions to consider issues of their concern; through institutionalized procedures of decision-making, they decide and call upon institutions to ratify the outcome of their disagreement. Then, they hold the entitlement to act upon legitimate binding decisions and open another disagreement on the same public issue.

In this account, it is central the idea that legitimacy depends upon the popular proposal, acceptance and deliberation of public issues. It defends a direct connection between members and decisions so that members can realize their control over mechanism to exercise power. Thus, if members feel that the degree of their influence over policy-making is low, legitimacy is also likely to be low. By extending the architecture of local assemblies, my account designates a procedure of direct consultation of the whole body of the society on issues that the body of the society demands. On this view, the realization of the claim-right to rule means the promotion and articulation of public consultations, and the adoption of norms and rules that members have constructed and voted. Now, as someone may notice, much of the grounding for the claim-right to rule takes place at (B). At (B), in disagreements of a large scale, without the required procedural mechanisms, distance, heterogeneity and length of the process may undermine the subject-object relation. In the next section, I shall address this concern.

5. The layout of a non-exclusionary decision-making procedure

Concerns with (B) also are about the feasibility of the idea that all considerations must count the same. How could we group these considerations? Who does so? How? These preoccupations do not affect the claim that, when all members, through their subject-object relation, can identify with the outcome, a decision is legitimate. They say something else. Since, at present circumstances, we cannot know all available and valid considerations on public issues, and we lack adequate procedures to group considerations in comprehensive proposals, it is unlikely for my account to achieve its purpose. This kind of remarks does not question the desirability of a conception of legitimacy that focus on the general identification with public policy outputs. With these observations in hand, in this section, I shall outline a tentative proposal to answer concerns with the feasibility of procedural mechanisms at (B). In so doing, I want to show that, even under present circumstances, there are appropriate instruments to secure identification with collectively binding decisions. Consequently, an account of legitimacy that aims to defend such an identification should not be dismissed as implausible therefore undesirable.

Now, it is important to unpack the three phases of (B): public display of valid consideration, grouping of analogous and valid considerations, vote. First, how we make sense of public display at the state level? Actually, the existing system allows for some participation in political debates via regional and national forums that channel considerations at the national level. Additional channels may be created to favour peer-to-peer exchange of considerations on existing public issues.[323] Prominently, to secure the display of all valid considerations, the internet is an asset. The basic structure of the society may comprise media platforms in which all members can advance policy demands, display their considerations and disagree on public policy issues.[324]

[323] See Graham Smith, "Taking Deliberation Seriously: Institutional Design and Green Politics," *Environmental Politics* 10 (3) (2001): 72-93.

[324] To solve the problems of scalability, literature on mini-publics also suggest the deployment of online deliberation. See Dvy Janssen and Raphael Kies, "Online Forums and Deliberative Democracy," *Acta Politica* 40 (3) (2005): 317-35.

Second, as we have seen, deliberation may be at impasses when there are too many options on the table. At the national level, it is not only difficult to deliberate, but it is very likely to be at impasses. For this reason, a mechanism that, without clashing with the fundamental subject-objection connection, translates all the available and valid considerations into subsets of eligible options is crucial. On the institutional media platform, we can imagine a software that groups all valid considerations and creates a limited number of subsets. Otherwise, we can think of representatives as having exactly this kind of cognitive role. On this view, there is no special moral or political relationship between the represented and the representatives. Representatives are functional to the command that all members with a right to have a say have to see that their considerations count no less than other considerations do. They group analogous considerations, and they open the resulting proposals to the vote of the members, who have expressed valid and available considerations on the object of disagreement. To ensure that this burden is equally distributed across members with a right to have a say, short mandates and a lottery selection favour the cyclic nature of this role. So, for all objects of disagreement, representatives generate new subsets. It is important to emphasize one point: representation would be issue based. Subsets are not the direct results of pre-existing moral or political worldviews, but rather they are the consequences of the individual specific connection with the object under investigation. When all the available subsets are available, public referenda among the members who displayed valid considerations may be proxies to re-establish the connection with the object of disagreement.

6. Conclusion

In this chapter, I have substantiated the normative consequences of the second order of normativity. My claim has been that, for institutions to have a claim-right to rule, they have to create conditions for members to affect directly public issues, decide, and contest collectively binding decisions. The idea that, when all members can identify with the outcome, a decision is legitimate aims to push policies back to the

centre of public opinion. The guiding thread is that, for a decision to be legitimate, the action of the standpoint of justice is not enough. In other words, the basic structure may lose legitimacy without losing justice. For this reason, it is necessary to think of a justice-based enabling action and procedural mechanisms, which are internal to the very practice of disagreement. These procedural mechanisms equalize valid and available considerations so that, regardless of the quality of the outcome, members are in the position to identify with the outcome.

This chapter concludes the construction of a perspectivist political theory, which combines a general entitlement to have a say with the condition that all available considerations on the same object of disagreement must count the same. Central to this approach is the deconstruction of intersubjective relations into individual relations with communal objects of concern. From such a perspective, at all levels, the object of fundamental normative concern is the connection between a subject and the object. As we have seen in the last four chapters, when we focus on this juncture, we can ground a general claim not to be excluded. A claim that all individuals, irrespective of their worldview, can affirm as the precondition for any other disagreement. In the third part of this work, I will imagine a pluralistic society where the two orders of normativity are in place. For now, as a provisional conclusion, we can hold that, to be non-exclusionary, theories have to secure, for everyone without distinction, the tangible opportunity to make his or her difference visible.

III

THE PLURALISTIC SOCIETY

Chapter 7
A revisable utopia

The use of ideal theory has divided scholars in contemporary political theory.[325] Political theorists, who share intellectual affinity with the scope of this project, have shown antipathy and harsh criticisms against ideal theorising. At different levels, people have criticised ideal theory for imposing rationalistic standards on the practice of politics, for neglecting the structures that embed individual agential capacities, for neglecting violence and oppression, for proposing normative standards that people will never be able to meet, and the like.[326] Here, I certainly do not want to delve into the respective merits of ideal and non-ideal political theories; however, some preliminary observations are a necessary prelude to the rest of this work.[327]

First, it is important to distinguish the two dimensions of an ideal theory: on the one hand, we have the theory itself, whose standards and preconditions might or might not ever met.[328] At this level, philosophers form ensembles of normative prescriptions, which we judge for their quality to follow logically from a certain set of assumptions and conditions. On the other hand, we have the staging of the principles in imaginary social settings, which usually, in the eyes of the

[325] Among many others, see Alan Hamlin and Zofia Stemplowska, "Theory, Ideal Theory and the Theory of Ideals," *Political Studies* 10 (1) (2012): 48-62. Zofia Stemplowska and Adam Swift, "Ideal and Non ideal Theory," in David Estlund (ed.), *The Oxford Handbook of Political Philosophy* (Oxford: Oxford University Press, 2012). See also, Laura Valentini, "Ideal vs. Non-ideal Theory: A Conceptual Map," *Philosophy Compass* 7 (9) (2012): 654-664.

[326] Here, among many others, I have in mind Emanuela Ceva, *Interactive Justice: A Procedural Approach to Value Conflicts in Politics* (London: Routledge, 2016). Raymond Geuss, *Philosophy and Real Politics* (Princeton NJ: Princeton University Press, 2008). Bonnie Honig, *Political Theory and the Displacement of Politics* (Ithaca: Cornell University Press, 1993). Chantal Mouffe, *The Democratic Paradox* (London: Verso, 2003). Janosch Prinz and Enzo Rossi, "Political realism as ideology critique," *Critical Review of International Social and Political Philosophy* 20 (3) (2017): 334-48.

[327] The observation that I do ideal theory in this work does not mean to say that ideal theory is the best available methodology for all the possible issues in political philosophy.

[328] On this point, I have benefitted greatly from the work of David Estlund. See David Estlund, "Utopophobia," *Philosophy and Public Affairs* 42 (2) (2014): 114-34.See also David Estlund, "Human Nature and the Limits (If Any) of Political Philosophy," *Philosophy and Public Affairs* 39 (2011). David Estlund, "Methodological Moralism in Political Philosophy," *Critical Review of International Social and Political Philosophy* 20 (3) (2017): 365-79.

philosophers, are plausible approximations, abstractions and generalizations of the society in which they write.[329]

In the previous chapters, I have moved within the first dimension. At this level, two clarifications are in point. First, by constructing a perspectivist political theory, I have tried to respond to a problem of this world – exclusion - with a generalizable account. A problem that, according to many theorists, notoriously, ideal theorists fail to detect and account for. Specifically, I have isolated a generalizable demand of justice, I have assembled a set of normative toolkits, I have constructed what is, for me, given certain premises, a sound response to an important political philosophical problem. Of course, for many readers, my response might be unconvincing. However, to borrow from the influential work of David Estlund in this field, considerations of the likelihood or success in realizing my normative standpoint are separate from the evaluation of a sound conception of justice.[330] As a philosophical theory, like conceptions of truth in epistemology and of being in ontology, a political philosophical account can be a cogent account of justice without being explicitly prescriptive. A normative theory is just one in limitless series of different responses to the same philosophical problems.[331]

Even if ideal in its character, a perspectivist political theory can play another role. For some, it works as an evaluative framework for thinking about justice in non-ideal societies. Nothing special indeed. This is common among defenders of ideal theories.[332] As Rawls says, a conception of justice 'clarifies cases of how to deal with existing injustices,' it also elucidates 'which wrongs are more grievous and hence more urgent to correct'.[333] Thanks to this categorical framework, Rawls thinks, we can employ our knowledge about justice to orient comparative judgements on today's society.[334] Estlund also radicalises the same point. A hopeless theory, he says, 'might seem not to counsel any action, and so not to be

[329] This distinction seems applicable to the difference between the original position and the well-ordered society in John Rawls's political philosophy.
[330] Estlund 2014, 114-115.
[331] This does not mean to fall in relativism. There can be one true conception of justice, but, for me, my theory is just the best available conclusion given my premises.
[332] Moreover, the evaluative disposition of a theory of justice also is a comparative merit among critical theory of justice. On this issue see Fraser and Honneth, 2001.
[333] Rawls 2001, 13.
[334] See Gerald Gaus, *The Tyranny of the Ideal* (Princeton NJ: Princeton University Press 2016), 5.

normative … A theory can be normative by being evaluative, whether or not evaluation itself counsels action'.[335] As he continues, 'hopeless aspirational theory might be merely evaluative, without any practical import'.[336] In other words, statements such as "society would be better like this" might be true independently from the possibility of doing something in the light of this fact.[337]

With these preliminary claims in mind, in this and in the following chapters, I shall stage my normative account in an ideal social setting: the pluralistic society.[338] At this stage, I need to make explicit some stipulations. A) In a pluralistic society, all members have different worldviews. B) In a pluralistic society, the two orders of normativity are public; and C) all people who happen to live in that territory (members) have a right to have a say. D) In a pluralistic society, the basic structure of society incorporates the two orders of normativity. E) The two orders of normativity apply to both the basic structure of society and relationships among members.

As someone may notice, these stipulations do not tell anything concerning the process of constitution and consolidation of a pluralistic society.[339] People may wonder about the several stages that divide the world where we live from a hypothetical society that meets all my stipulations.[340] Otherwise, people also may invoke a procedure of selection; one in which some idealized representatives pick my normative scheme to construct the basic structure of society and the distributions of benefits and burdens.[341] A close look at the present normative scheme, I think, should clarify the reason why I cannot postulate intermediary passages or preliminary forms of intersubjective agreement. Specifically, as we have seen in the previous chapters, the two orders of normativity are not the result of an agreement among abstractly characterized parties. Because of the experience

[335] Estlund 2014, 121.
[336] Ibidem
[337] Ibidem
[338] Here, we use "the" and "a" interchangeably.
[339] The transition from today's society to the ideal world has been an object of major concern for the recent work of Gerald Gaus. His point is essentially epistemic. Namely, our view of the best foreseeable ideal is inevitably partial, since we do not have any knowledge of the entire landscape. The global optimum – utopia, therefore, is intrinsically difficult to determine, or, more simply, to find. See Gaus 2016, 60, 84.
[340] See Gaus 2016. See also Amartya Sen, *The idea of Justice* (Cambridge MASS: Harvard University Press, 2011).
[341] See the famous four-stage sequence in Rawls 1971.

of disagreement, parties with different worldviews affirm the two orders of normativity from their own perspective. In disagreement, they do not affirm these two levels at the same time. All parties have a differentiated experience of disagreement that they reconcile individually in the two orders of normativity. Eventually, a society turns out to be a pluralistic society when, in the same territory, all parties happen to affirm the two unnegotiable orders of normativity simultaneously. At this juncture, all members think that disagreements must be organized so as to ensure them all possible subject-object relations with external objects of disagreement. In some of these preliminary disagreements, in agreement with the two orders of normativity, would be members of a pluralistic society can define the specific shape of their contextualized institutional arrangements. The specific form of such arrangements, however, hinges upon the content of each of the considerations that participants in these first disagreements advance. We are not able to imagine the diversity of ideas in a group of people with different worldviews. On the other hand, we can say that all outcomes of these disagreements will be subjected to the two orders of normativity. For me, as we shall demonstrate until the end of this work, the two orders of normativity are strong enough criteria for the examination of the attributes of a pluralistic society, even if we are not aware of the actual institutional arrangements that such a society constructs.

In this chapter, unlike other political utopias, I shall demonstrate that a pluralistic society has a built-in reflexivity – it is a revisable utopia. In other words, a pluralistic society is not the end-point of human imagination; but, rather, it is the first step of a series of different and interdependent non-exclusionary societies.[342] To describe the revisable character of a pluralistic society, I have to follow quite a long-route. The chapter shall clarify the problem gradually through the explanation of those elements that, one after the other, and at different levels, constitute the revisable form of the pluralistic society. In section 2, I shall explain the relevance of the problem of reflexivity for ongoing debates about ideal worlds. In section 3, I shall examine the extent to which my non-exclusionary conception of justice can

[342] This revisable character is crucial to avoid policies that, on the assumption that there is no better ideal than a pluralistic society, regulate the conduct of members. From the present perspective, this kind of regulation would be exclusionary.

be one among many other conceptions of justice without presupposing asymmetry between worldviews. This section shall function as a conceptual background to section 4 and 5, where I shall demonstrate the reflexivity of a pluralistic society. In section 4, I shall argue that the entitlement to have a say justifies expectations among members, between members and institutions, but also from institutions to members. These expectations constitute the relational surface of a pluralistic society, which, as I shall see in section 5, informs the reflexive character of this utopia. To anticipate the central idea of the argument, unfulfilled expectations may transform the normative architecture of the pluralistic society into an object of disagreement. Eventually, in section 6, I shall conclude. Taken together, the argument reads as follows. From the right to have a say, members have expectations to access objects of disagreement in their own ways. In some cases, pluralistic institutions may fail to fulfil expectations of justice. This failure opens the space to the demand for more non-exclusionary arrangements. Such a demand may disclose a series of better-than-ideal-worlds.

2. Revisable and non-revisable utopias

There are two main ways to read utopias in contemporary political philosophy. On the one hand, people think that the construction of utopias is an admirable example of overcoming existing injustices and "thinking otherwise". For instance, 'utopias', as Rainer Forst writes, 'present colourful, literary depictions of political communities in which social conflicts are not primarily canalized and dealt with in legitimate and just ways, but in which the causes of such conflicts are eradicated'.[343] For this reason, he argues, utopian thinking is radical: that is, 'it aims to pull out the roots of social evil'.[344] On the other hand, people believe that utopias are mere dreams. The ideal construction of a more just social world functions, as Ingrid Robeyns puts it, as a 'mythical Paradise Island'. An ideal, she continues, shows us

[343] Rainer Forst, *Justification and Critique: Towards a Critical Theory of Politics* (London: Polity Press, 2013), 177.
[344] Ibidem

where ‘the endpoint of our journey lies’. It does not necessarily give us specific indications about the route towards the Paradise Island. The ideal serves to orient our navigation, and it tells us what we are aiming for.[345] From that perspective, utopias also are unchanging ideas that rely upon absolute principles and rationalistic means, which embed free agency for the sake of establishing partial forms of social cooperation.[346] These two interpretative trajectories converge on the idea that utopian thinking is perfectionistic. No matter whether utopias read as instances of “thinking otherwise” or as dangerous collectivist interpretation of human agency, people agree with the idea that utopias establish perfect institutions and perfect societies once and for the all.

In this context, questions about the possible reflexivity of utopias do not address the internal dynamics of these ideal accounts. In this way, the aspect of reflexivity reveals a normative question for the society where we live now: that is, what exactly do utopias mean for us? For instance, utopias can cause change in emotions and actions, which may result in unexpected ruptures. This means, however, to focus the normative analysis on the study of such ruptures, rather than on what utopias are. Specifically, Gaus puts the normativity of utopias under the language of choice. Why, he asks, should we forgo opportunities to create a more just social world so that we can pursue an uncertain ideal? Inherently uncertain ideals, he argues, are dangerous, since they commend autopoietic, unverifiable and perhaps unattainable constructions in lieu of the pursuit of mundane justice.[347] As Mill famously puts it, ‘It must be acknowledged that those who would play this game on the strength of their own private opinion, unconfirmed as yet by experimental verification … [They] must have a serene confidence in their own wisdom on the one hand and a recklessness of other people’s sufferings on the other’.[348] Alike Gaus and Mill, Forst reads utopias in connection with existing reality. As he says, a utopia ‘is distant, and yet still within the human world because the picture of the perfect society not only shows us how wrong and perverse our

[345] Ingrid Robeyns, “Ideal Theory in Theory and Practice,” *Social Theory and Practice* 34 (3) (2008), 345 -47.
[346] On this issue, see Karl Popper, *The Open Society and Its Enemies* (Princeton: Princeton University Press, 2013), vol. 1.
[347] Gaus 2016, 142-43.
[348] John Stuart Mill, “Chapters on Socialism,” in *Principles of Political Economy and Chapters on Socialism* (Oxford: Oxford University Press, 2008), 737.

society is, it also shows us the risks of the new'.[349] By unveiling the key aspects of a better world, as Forst continues, utopias inspire action in this world: that is, utopias are matters 'for human imagination and creativity' that may 'try other doors with this key or to think up other keys'.[350]

Under these lenses, utopias reveals the problem of deciding between different courses of action, when we are aware only of the hypothetical endpoint of the journey. Alternatively, utopias disclose the contingency of what we consider immutable social and political practices. In this vein, when we stress the practice of questioning social and political practices, we take utopias for what they might mean for us, finite beings, who live here and now. This generalized way of approaching utopias implies a reduction of the problem of reflexivity in the ideal world. Namely, ideal worlds invite thoughts on current states of affairs. There is, however, another way of thinking about reflexivity in the ideal world. From such a perspective, the focus of the philosophical inquiry is on the conceptual space for internal revisability and change that utopias may or may not have.

This way of approaching the revisability of utopias is not new.[351] In his argument for the intransitivity of reforms, Jon Elster has claimed that worlds better than the allegedly perfect ideal world also must exist. From our point of view, he argues, we can imagine these higher worlds in an empty way. By reaching the first available perfect society, we unveil a new array of ideas, demands and possibilities, which are otherwise dormant in our imaginary. These possibilities disclose new angles for our ideational capacity. In other words, Elster says, unless we get to the best available perspective, we are not in the position to see options that might be better-than-ideal.[352] In his reading of Elster, Gaus points out that two constraints substantiate such imagine of progress and reflexivity of the ideal. First, once we have reached the current ideal society, the better-than-ideal worlds must be visible. Second, this progressive series of ideals implies that ideal worlds are coherent with one another in the most relevant respect – that there is a movement upward in the

[349] Forst 2013, 181.
[350] Forst 2013, 186.
[351] For instance, see Rawls 2005, 582. "Political liberalism … does not try to fix public reason once and for all in terms of one form of one favoured conception of justice". For an extensive analysis of this issue, Gaus 2016, ch. 1 and ch. 2.
[352] Jon Elster, *Logic and Society: Contradictions and Possible Worlds* (Oxford: Wiley, 1978), 57.

pursuit of the ideal.[353] The idea of a progressive series of ideals depends on the first internal idealizing premises, which are the basis of the current ideal. In other words, there will be some path-dependence in the articulation of better-than-ideal worlds. It is less obvious to assume that, despite this kind of internal coherence, a better-than-ideal world must be visible to the inhabitants of our present ideal. If this holds true for all the possible worlds, from our present perspective, we could just imagine incremental changes to our utopias – the better-than-ideal worlds. By doing so, however, we also would admit that our ideal is not the best option among the set of available ideal worlds. This observation seems to contradict the idea that a utopia is a world where everything has all the required or desirable qualities and characteristics. There is an alternative option that hold the theoretical possibility of better-than-ideal words without losing the aspiration of utopian thinking. We can think that members of the ideal society will construct better-than-ideal worlds in the same way we conceive ideal states of affairs here and now. On this view, we may assume that, if achieved, utopias eradicate some causes of conflicts – those causes that the utopian thinker sees as relevant, but we cannot have the same degree of self-assurance, admitted we have, that other sources of conflicts will not arise. For us, given the observation that, according to the relevant criteria, utopias claim to be the closest possible implementation of such criteria, it is difficult to prefigure the motives and form of conflicts in the ideal world. However, these complications do not erase the possibility of conflicts once and for the all.

For me, thanks to the normative architecture originating from the subject-object relation, a pluralistic society has such a built-in revisability. Without such a built-in revisability, the risk is that of containing avant-garde forms of political action and causing exclusionary practices within the ideal world. As I shall see in the next sections, the two orders of normativity constitute a network of demands among members and between members and institutions. Central to the argument is the idea that demands do not necessitate their own fulfilment. Members can leave such demands unfulfilled. Members can feel that other members have not satisfied such demands adequately. Members can demand institutions to do things that are

[353] Gaus 2016, 86.

beyond the institutional reach, given a certain state of affairs. At some critical junctures, these demands may push for a rethink of the basic normative scheme of the society. In order to open to this scenario, the normative requirements of the present conception and the normative requirements of other worldviews, which members of a pluralistic society may have, must be compossible. This kind of investigation will be the object of section 3.

3. A worldview among many other worldviews

In this section, therefore, I shall clarify the position of my normative scheme in a society where all members may have different worldviews. When this is the case, two levels of analysis seem indispensable. First, I must explain the reason why members of a pluralistic society also can sustain the present normative scheme; even if they have different views on how a society should organize its basic structure. Second, it is important to elucidate the conceptual position of a non-exclusionary normative scheme as one among many different conceptions of justice.

Now, I should go more into the details of the way through which members of a pluralistic society affirm the present normativity. This means to examine whether members with different worldviews can affirm the entitlement to have a say, and the consequent theory of political legitimacy. Observe first that, for this theory, a person acts in ways congruent to the first-order normativity when affirms her or his entitlement to appropriate objects of disagreement. In a pluralistic society, members act upon public issues, but the clash with other people doing the same motivates the reconstruction of the point of view that justifies the individual subject-object relation. By doing so, the member of a pluralistic society reaffirms the fundamental normativity that organizes the pluralistic society. At this level, the right to have a say empowers each member by furnishing his or her individual subject-object relation with a universal entitlement. In this way, members of a pluralistic society complement their distinctive worldviews with the affirmation of an individual allegiance to the right to have a say. Regardless of the nature of these

worldviews, the right to have a say ensures that members can enter into differentiated and simultaneous relations with external objects. In other words, it recognizes the observation that, in order not to be excluded from participation in all kinds of disagreement, members must have an entitlement to do so – an answer to questions like "why do you want to have a say on this?", "why do you count?" and the like.

Let me explain this passage in greater length. If members of a pluralistic society affirm both a non-exclusionary conception of justice and other worldviews, which can also be conceptions of justice, we have to deal with the formidable difficulties of a normative theory that applies to a society in which worldviews of all sorts coexist. This task becomes even more compelling when we want to demonstrate that members with different worldviews can affirm both a right to have a say and their own conceptions of justice. To make the point clear, imagine we have a certain number of different conceptions of a concept A. We define them as A_1, A_2, A_3, and A_x. What seems to be sure, as conceptions of the same concept, A_1, A_2, A_3, and A_x are one besides the other in a horizontal sequence.[354] The same is valid for the normative conception we are advancing here. It can have different premises, and a distinctive scope; nevertheless, as one among many other worldviews, we must place it at the same level of generality. So, I need to demonstrate that the present non-exclusionary conception of justice is one that everyone, regardless of his or her prior commitments, can affirm. How can this be possible?

Let us think of an example. Let us imagine five people who sit at the same long wooden table in a coffee shop. Mark, Bettie, and Louise are good friends. Frida and Karl, the other two persons, do not have any connections with the others. Mark, Bettie, and Louise discuss slavery, the topic of their last class in American History. They come from the same social backgrounds, and they have attended the same high school. However, their ideas on the topic divide them. The object of disagreement draws the attention of Frida and Karl, who try to enter into the

[354] This reading allows for a kind of realist position about truth, as if there were different degrees of approximation to a certain concept. Even if this a question of great interest for us, for the sake of clarity, I leave a long treatment of this problem to another place.

disagreement. Mark, Bettie, Louise, Frida, and Karl help us to clarify the subject-object relation. Objects of disagreements affect pre-existing interpersonal ties up to bring about a temporary relational network, which binds together a sub-set of the members of a pluralistic society qua persons with an individual subject-object relation with the object of disagreement. At the same time, the same object of disagreement causes to come to participate members who are alien to existing interpersonal ties. In disagreements, the object of disagreement causes new intersubjective relationships to exist, and it gives a new face to those that are already in place. For this reason, the relationship between a member and a certain object of disagreement is the specific territory where a non-exclusionary conception of justice operates.

The focus on this specific juncture allows me not to consider what a certain worldview says. Since we take the subject-object relation in general terms, the distinctive features of each object of disagreement lose relevance in the process of selecting which relation counts. At the same time, it is not important to know what each worldview aims to do, but I only need to know that all members of a pluralistic society have different worldviews, and such worldviews direct members toward objects of disagreements in the external world. From this standpoint, then, we can argue that a non-exclusionary conception of justice – expressed by the right to have a say, which ensures the access to all possible objects of disagreement, does not preclude a concurrent commitment to organize collective arrangements in manners that are different from those of a pluralistic society. By commanding the erosion of the barriers of entrance that prevent people from exercising their agency upon public issues, a non-exclusionary conception of justice enables members to advance their deepest moral commitments without internal contradictions.[355] For instance, when Frida is in disagreement on an object O with Luke, she is also affirming her entitlement to do so. Therefore, without assuming any asymmetry between a non-exclusionary conception of justice and other worldviews, a conception of justice, which protects the individual subject-object relation with objects of disagreements,

[355] I must remind the reader that all members of a pluralistic society have a certain worldview. This being so, when members do not aim to access objects of disagreement, it is suffice to say that, as potential appropriators of objects of disagreement, they might sustain the present normative scheme.

is not necessarily in contradiction with other commitments that members of a pluralistic society may have.

Now, someone may argue that, in this way, members of a pluralistic society may have worldviews that deny precisely what a non-exclusionary conception of justice stands for. Paradigmatically, people with a racist worldview may claim that a certain group of people should be denied the subject-object connection with certain objects of disagreement. Machos also may think that women are irremediably flawed in certain contexts. Now, even if this account avoids raising barriers of entrance on grounds of existing pre-commitments, it does not fall into a naïve defence of an everything goes kind of society. A defence of the normative claim that all persons have an entitlement to act upon external objects is not like saying that all members of a pluralistic society can do whatever they feel like. For the latter, all members would be morally justified for all kinds of action they do. Such a position has two implications. On the one hand, members can never be penalised. On the other hand, other members cannot claim for compensation when they are the addressees of discriminating and marginalizing deeds. From our point of view, in turn, all members must be put in the same position to act upon external objects. This means to say that, when members contest some people's entitlement, victims have a right claim to external objects that outweighs all other considerations.

There are two ways to illuminate this claim. Let me use two examples. First, we can think that, within a pluralistic society, Frida is a racist person. She denies that a certain minority-group is entitled to have a say. This kind of issue concerns the first order of normativity. From the standpoint of the right to have a say, Lucy, a member of the targeted minority group, cannot be refused such an entitlement. As a consequence, she must be in the position to act upon objects of disagreement. The point is to understand what the object of disagreement is in this case. For Frida, Lucy is the very object of disagreement because Frida does not want her to participate (her participation in disagreements). If this were the case, how can Lucy access herself? Or, to put the same question in general terms, what happens when the triangular relationship subject-object-subject is not so transparent? It seems plausible to say that, even if the target of Frida is Lucy, Frida's consideration

includes a general point on humanity as a whole: that is, "all human beings but Lucy have a right to have a say". With this claim in mind, under the normativity of the right to have a say, Lucy is entitled to appropriate the discursive object in her own ways, and to demand pluralistic institutions to enable her to do so, regardless of Frida's aspirations.

Alternatively, we can imagine that Frida thinks that Lucy's considerations are not relevant in all the possible communities of interaction. In other words, Frida accepts that Lucy has a right to have a say, but she also thinks that what Lucy thinks and says never counts. This issue falls within the second order of normativity: members affirm the general normativity, and they have to reach binding decisions accordingly. Within a pluralistic society, Frida is fully entitled to think so, and Lucy is entitled to think the same about Lucy. Frida and Lucy will have the right to act upon external objects, and, in the interaction community, their considerations will count the same. If this is not the case, both Lucy and Frida can take the collective decision as non-binding. In a pluralistic society, people like Frida are entitled to act upon objects of disagreement. Lucy, and other people with an egalitarian spirit, also have such an entitlement. Even if there is no barrier of entrance for those worldviews that aim to act upon objects of disagreement in an exclusionary way, when all members affirm the right to have a say, it is (at least) unlikely for Frida to affect the outcome substantially.[356] If we follow the two examples, it is plausible to defend the claim that members of a pluralistic society can have reasons to support our normativity even if they pursue a conflicting conception of justice. A non-exclusionary conception of justice enables them to be in the position to argue for a diverse normative order to be in place, and it provides a justice-based argument for introducing new disagreements on collectively binding decisions that members find unacceptable for their own reasons.

In this way, the justification of a general normativity is internal to the member qua holder of a certain worldview. The affirmation of the right to have a say furnishes his or her access to objects of disagreement with a universal

[356] In another context, Emanuela Ceva has an analogous observation. See Emanuela Ceva, "Just Procedures with Controversial Outcomes: on the grounds for substantive disputation within a procedural theory of Justice," *Res Publica* 15 (3) (2009): 219-35.

justification. However, by defending a general entitlement as the normativity that members of a pluralistic society can accept whatever it may entail, I have to recognize that the perspective of entitlement does not allow naturally for an intersubjective metric of obligations.[357] The right to have a say is eminently individual. The consequent view of a legitimate decision also links with the member as a person with a distinctive subject-object relation with an object of disagreement, not with the member as a part of a larger collective. This means to say that, when members know their gender, religious, political and moral status, and they know that they are entitled to act upon external objects; the perspective of obligations can be defined only once all parties have actually experienced such an entitlement.[358] It is, therefore, important to think of the type of relation that arises from the entitlement to have a say, as the unnegotiable condition for the construction of other compossible entitlements, and reciprocal obligations. My response to this question shall be the object of section 4.

4. Expectations of justice and expectations of legitimacy

In this section, I argue that, when the basic structure of the society is non-exclusionary, members of a pluralistic society expect to be able to act upon public issues. From the beginning, we have to make clear that support to the right to have a say does not bound members to do certain things. The right to have a say is an entitlement. As such, it guarantees only that all members have the power to act upon external objects. This assurance is the basis to regulate all subsequent distributions of benefits and burdens in the society, including the structure and terms of social contracts. However, since there is no presupposition of interpersonal ties in the subject-object relation, the right to have a say does not oblige members to do certain things. In this scenario, obligations and duties originate from social and political

[357] The intersubjective character of obligations is a central feature of contractualism. See Scanlon 1998. On this issue, see Nicholas Southwood, "Moral Contractualism," *Philosophy Compass* 4 (6) (2009): 926-937.
[358] It is important to notice that the member must experience his or her entitlement. This means to say that, for obligations to be valid, members must be able to have a subject-object relation with the relevant object of disagreement.

arrangements that are the result of interactions among members with the right to have a say. In other words, they do not spring from the right itself, but, rather, obligations arise from the consolidation of agreements among members, whose right to have a say has been already secured.[359] For example, specific institutional arrangements, the form of punishment, the organizations of powers, and the like, generate obligations that are internal to the terms of their constitution, but these obligations can aspire to general validity if and only if members with a right to have a say have constructed them. Now, does this mean to say that the general standpoint of justice has no influence of intersubjective relationships? Of course not, but this point deserves clarification.

As a general entitlement, the right to have a say ensures that all kinds of public conducts fall under the heading of a communal, but differentiated, attempt to act upon external objects. Even if, unlike collectively binding agreements, obligations and duties do not arise naturally from this standpoint, the right to have a say empowers members of a pluralistic society to act as if other members were bound with them by certain obligations. This demand, eventually, regulates all consequent exchanges among members with the same entitlement. Let me explain this passage in details. The reasoning is simple: even without an agreement among parties, members with a right to have a say recognize as just only those relationships that respect their claim to act upon objects of the external world. When members act on this presumption, they take for granted in advance that other members will recognize their status in virtue of a communal adherence to the same standpoint of justice. At that point, the demand to act upon objects of disagreement includes a strong belief that other members cannot deny the subject-object relation with external objects of disagreement. So, when all members have a right to have a say, even if the general standpoint of justice does not bound other members, a person, who has a right to have a say, thinks that others have an obligation to let her act upon objects of disagreement.

[359] The form of such arrangements is contingent to independent variables like the content of all worldviews, population, natural resources, languages, and the like. In this chapter and in the rest of this work, I shall draw conclusions from the two orders of normativity only, without looking at the character of all possible agreements. The idea is that, by empowering the individual, the two orders of normativity provide an evaluative standard to judge all possible disagreements, even those disagreements that concern structural components of a pluralistic society.

One after the other, the claims to access objects of disagreement originate a network of other-directed demands to be recognized as an entitled participant in disagreements. They are other-directed because members, by advancing their claims on objects of disagreements, demands other members to let them doing so. From their own points of view, all members, in other words, expect others to accord them the status as an entitled participant, the same status they deserve in virtue of the general standpoint of justice, which regulates the pluralistic society. When all members have a right to have a say, therefore, a spread and differentiated network of expectations constitutes the basic relational grammar of a pluralistic society.[360] This grammar substantiates all right-based-claims, toward both institutions and other members of a pluralistic society.

Let me pause on the nature of these expectations. With expectations, I mean to say that a member X demands (implicitly or explicitly) another member Y for a certain state of affairs to be achieved. In a pluralistic society, such a state of affairs is the subject-object relation with an object of the external world. In general terms, from the point of view of X, between X and Y, Y that undertakes a certain action becomes the object of expectation. When X has explicitly showed her expectation, Y can avoid fulfilling such a demand, but, by doing so, she acknowledges that C might penalise what she thinks to be a wrongdoing. When a mutually binding agreement justifies the expectation of X, Y also knows the specific kind of sanctions she can incur. Under these lenses, for X, an expectation is a discrete event in an imagined and predictable series of deeds. A break in this chain may generate reactive sequence of events, which inaugurate new relational trajectories between X and Y, and a novel sequence with different expectations. Otherwise, the interruption of an expected course of action also might justify attempts to force the sequence back to its original cadence. So, whether Y takes the expectation of X as binding depends largely on the degree of coordination and common knowledge between them. At the same time, even if Y does not takes the expectation as binding, X can still think that she deserves compensation.

[360] In the conceptual structure of expectations, there is a certain degree of path-dependency, which founds on existing social institutions, habits, contextual forces. In another context, Rawls also draws attention to the link between expectations and social institutions. See Rawls 1971, 311. On habits, I benefitted greatly from Steve Matthews, "The significance of Habit," *Journal of Moral Philosophy* (2017): 1-22.

Moreover, expectations can be of different kinds. In a pluralistic society, there are at least three sorts of expectations. 1) Members may have expectations toward one another. Since all members have an entitlement to have a say, each member may have a strong belief that other members recognize his or her entitlement. 2) Members also may direct their expectations towards pluralistic institutions. Once the basic structure of the society has incorporated a non-exclusionary conception of justice, members may have a strong belief that pluralistic institutions enable them to affect objects of disagreement. When someone is denied his or her own entitlement, this expectation also may imply the demand to bring back the pluralistic society to the normal course of action. Moreover, 3) pluralistic institutions may expect members to accept collectively binding decisions when members can recognize their subject-object relation in the outcome.

As someone may notice, the first two kinds of expectations appeal to the general standpoint of justice – I call them expectations of justice. The third expectation, in turn, expresses an unsophisticated reason for action that legitimate institutions may have. Specifically, pluralistic institutions expect members to accept decision that are legitimate according to the general standard. This is what we call expectation of legitimacy, which, therefore, connects with the second order of normativity. Now, let me specify the normative consequences of these two further classifications for a pluralistic society. An expectation of justice is the belief to act upon all possible objects of disagreement in ways that meet the criteria of one's worldview. Expectations of justice may vary in intensity. One's worldview affects what a member asks from his or her entitlement to participate. For instance, a solipsistic worldview may induce a member X not to demand vehemently his or her right to act upon external objects. Otherwise, strong political and moral commitments may push a member Y to demand loudly the recognition of her entitlement. Clearly, pluralistic institutions cannot force X to form subject-object relations. Pluralistic institutions are required to ensure the due means for X to enter into relation with external objects and to recognise this relation in the outcome. The intensity of one's expectation of justice also may vary because of participation in disagreements. Namely, the participation in disagreements may strengthen the

demand to access other objects of disagreement, and, therefore, it may increase the intensity of the future expectations of justice.

In the same vein, when members of the society are denied the full exercise of their entitlement, they expect institutions to put an end to existing barriers, with a strength that is linked with the moral imperatives inherent in their worldviews. For someone, reparation might be enough. Nevertheless, in my case, quantifying reparation is particularly problematic, and it presupposes an agreement, which is alien to the normativity of the right to have a say. Moreover, albeit expectations may vary in intensity and direction, they are not scalar. A member fulfils an expectation, or a member does not fulfil such an expectation. Equally, pluralistic institutions fulfil an expectation, or they do not. This is so because the demand to participate cannot be partially satisfied. How can a member form a subject-object relation with an object of disagreement only to a certain extent? On the one hand, it is plausible to think that members may simply delegate decisions to someone else, or they do not exercise their entitlement at all.[361] On the other hand, members, who demand recognition for their entitlement, do not feel that their expectation is fulfilled until they have formed the expected subject-object relation with the object of disagreement. The strength of this demand may vary, but the non-scalar property of expectations does not change. Once members or institutions fulfil an expectation of justice, for that member, participation in disagreements materialises as a non-negotiable entitlement. Within disagreements, for an institution to expect acceptance of collectively binding decisions, pluralistic institutions must ensure equal weight in the actual process of decision-making.

This brings us to expectations of legitimacy. Before delving into the second category of expectations, it is important to pause on an aspect we alluded to in passing. There is a lexical priority between the two categories of expectations. Fulfilled expectations of justice allow interaction communities to produce decisions that can aim to be legitimate. Undeniably, the priority of expectations of justice may

[361] It is important to notice that pluralistic institutions must put members in the position to decide what to do in front of meaningful public issues. Institutions are pluralistic if and only if all members can have subject-object relations with all possible objects of disagreement. Therefore, when members do not have subject-object relations with external objects, the explanation must reside only in reasons that are internal to the member of the society.

furnish decision-making procedures with moral considerations that can sensibly undermine the ideation of the most epistemically correct collective decisions. This is true. In a pluralistic society, by granting access to the object of disagreement without distinction, disagreements may be long and complex, and they do not necessarily lead to the favourite decision of an external observer. However, as I said earlier, it seems plausible to think that members with a right to have a say will have more reasons to accept decisions in which they can recognize the traces of their agency, rather than alien impositions from above.[362] Therefore, from the perspective of pluralistic institutions, an expectation of legitimacy is the belief that, when members can recognize their subject-object relation in the outcome, members will accept the outcome of disagreements as binding. This does not mean to say that, if the procedure of disagreement applies correctly the two orders of normativity, members lose their fundamental entitlement to have a say in that specific respect. Expectations of legitimacy implies that, after a suitably constructed disagreement, pluralistic institutions can enact the outcome as if everyone agreed. Alike other types of expectations, members may not accommodate the expected course of action – they do not fulfil the expectation of legitimacy.

As one may notice, the expectation of legitimacy recalls the procedural basis of the second order of normativity. This point helps me to clarify the relationship between the two kinds of expectations. All in all, if all the requisites for having a legitimate decision have been met (subject-object relation and equal weight of all available subject-object relations); institutions have a legitimate belief that members will comply with the enactment of controversial decisions.

Nevertheless, members of a pluralistic society retain the entitlement to access all possible objects of disagreement. If we see collective decisions from another point of view, they are new objects of disagreement, and members of a pluralistic society can act form a subject-object relation with all possible objects of disagreement. In other words, despite legitimacy expectations, members' claim to

[362] On this issue, see Albena Azmanova, "The Right to Politics and Republican Non-Domination," *Philosophy and Social Criticism* 42 (4) (2016): 465-75. This kind of reasoning echoes debates on the human right to political participation, which discuss the legitimacy of binding standards at the international level. On this issue, I have benefitted greatly from Fabienne Peter, "The Human Right to Political Participation," *Journal of Ethics and Social Philosophy* 7 (21) (2013): 1-17.

contest the outcome must be recognized. It follows that, in a society where all members have a right to have a say, the outcome of communicative exchanges among members, whose considerations count the same, are legitimate, even if they are controversial from the general standpoint of justice. Then, institutions can have an expectation of legitimacy on such a decision. However, members' expectations of justice can always trump institutional expectations of legitimacy. Specifically, the general standpoint of justice ensures members to access legitimate outcomes. In this way, the quality of outcomes loses relevance, since all decisions are possible objects of disagreement, which are accessible to the members of a pluralistic society.[363] If projected to the general outlook of a pluralistic society, this point anticipates the fundamental revisable character of a pluralistic utopia. This character shall be the object of section 5. As we shall see, members with a right to have a say always retain the entitlement to access objects of disagreement; therefore, they can appropriate terms of cooperation qua possible objects of disagreement, and think of more non-exclusionary arrangements.

5. Why the pluralistic society is a revisable utopia

So far, I have explained what kind of network can arise from the two orders of normativity – and the protection of individual subject-object relations with external objects of disagreement. Specifically, a person with a right to have a say expects other members to recognize his or her own entitlement to act upon external objects. With different degrees of intensity, she also expects institutions to make the exercise of this entitlement possible. Therefore, when expectations of justice remain unfulfilled, institutions may become objects of contestation. But, as we shall see in this section, fulfilment of expectations does not secure the solidity of institutions over time. Namely, since all members have the right to have a say, unfulfilled expectations justify disagreements whose objects may be the ruling institutional

[363] When all members have an entitlement to have subject-object relations with legitimate outcomes, the contestation of legitimate outcomes becomes essentially a problem of feasibility in the framework of the pluralistic society, which includes variables such as physical costs, motivations, the length of the decision-making procedure, probability of success, and social support.

architecture. Alternatively, when members think that other members and institutions have fulfilled their expectations of justice, they might crave for more non-exclusionary arrangements. In other words, participation in disagreements may give new strength to one's claim to act upon all relevant objects of the external world. In the two cases, members of a pluralistic society break the chain of expectations in order to claim their right claim to act upon elements of the external world again.

Therefore, members require pluralistic institutions to fulfil expectations whose intensity depends on the combination of external circumstances and the worldviews members have. When external inhibiting circumstances undermine the exercise of one's entitlement to have a say, pluralistic institutions must do something. They must do something until the member does not feel that he or she can act upon all external objects of disagreement. Moreover, by doing so, institutional action may strengthen the intensity of one's expectation to act upon external objects. The overall intensity of expectations of justice, however, is a subjective matter, which institutions are not able to anticipate. If intensity depends on individual moral dispositions, worldviews, together with contingent circumstances, there is not so much that members or institutions can do, when other members think that their expectations are unfulfilled. In this way, on the part of the members, the intensity of expectations can strengthen without predictable limits. However, it seems plausible to think that, if members have very strong expectations, it is more demanding to fulfil them fully, and this transforms members with expectations of justice into members whose expectations have not fulfilled, therefore with a justice-based claim to claim for arrangements that can ensure their basic entitlement to have a say – more non-exclusionary arrangements.

Now, within the pluralistic society, unfulfilled expectations of justice may originate a mismatch: a pluralistic society itself can be the cause of strong expectations that are unfulfillable without significant changes. Let me explain. Since the right to have a say entitles all members of a pluralistic society in the same way, it has an inherent unconditional character – all members have a right to have

a say without distinction. And, when the expectation of justice is unfulfilled, the person has justice-based reasons to break intersubjective relationships and be firm on her battle. When members have new and strong demands to act upon external objects, and the available normative architecture has not adequate instruments to fulfil such demands; for some members, the normative architecture turns out to the object of their subject-object relations. In this way, the full realization of a pluralistic society, one in which all members act upon objects of disagreement, may bring to the continuing articulation of its own contestation.

As a non-exclusionary society, disagreements are pivotal for the reaffirmation of the general standpoint of justice.[364] On this view, therefore, a pluralistic society is the state of affairs in which, for the first time, all members of a society have an entitlement to act upon all objects of disagreement. From a certain point of view, a pluralistic society is not the perfect social order, it is only the direct consequence of people with different worldviews, who all adhere to the same normative scheme. From another perspective, a pluralistic society is a perfect society. It presents an image of a community in which exclusionary relations are eradicated. Moreover, it embodies a truly experimentalist posture. By adjusting the outcome of disagreement to new subject-object relations, a pluralistic society constitutes outcomes that are always more non-exclusionary. And, by doing so, the pluralistic society opens the door to more non-exclusionary arrangements. For a non-exclusionary society, this plasticity is indispensable. It avoids a status-quo bias and the justification of those normative arrangements that, to protect the coherence of the ideal world and its normative commitment, support exclusionary practices. To be non-exclusionary, a pluralistic society must keep the door open for all kinds of subject-object relations, which means to instil in a revisable component in the ideal-world. In a pluralistic society, members can always access objects of disagreement, and, among many other possible objects, the normative scheme at the heart of non-exclusionary arrangements is a possible object of a subject-object relation. So, without being in contradiction with two requirements, the protection

[364] Usually, social utopias are society where there is no room for disagreement. Ernst Bloch makes this point very clear: 'however much more future social utopias contain, this future is certainly more one of happy human flora than of demands that have been forced through'. See Ernst Bloch, *The Principle of Hope* (Cambridge MASS: MIT Press, 1995), 543.

of subject-object relations regardless of their content, and the observation that a non-exclusionary conception of justice is one among many other worldviews, there is no justice-based reason to deny members the entitlement to rethink the normative structure of a pluralistic society.

6. Conclusion

In this chapter, I have investigated the revisable character of a non-exclusionary utopia. To do so, I have illustrated the kind of relationship that members establish with one another because of their entitlement to have subject-object relations with all external objects. I have argued that the two orders of normativity inform a network of expectations among members, and between members and institutions. To sum up, my argument has followed three steps. First, I have isolated the problem of revisability in the ideal world. Second, from the study of the relation between a non-exclusionary conception of justice and other conceptions of justice that people may have, I have extrapolated a network of expectations. Members have expectations of justice to have subject-object relations with all external objects, and they expect institutions to protect this claim upon external objects. In agreement with this perspective, the range of possible objects may include the normative architecture of the pluralistic society. Third, I have argued that, in some cases, institutions generate expectations of justice that are not able to fulfil. Because of this mismatch, members may contest pluralistic institutions and demand for more non-exclusionary arrangements. Together, these three steps have shown that the pluralistic society is a revisable utopia, one that can open for other better-than-ideal worlds.

A revisable utopia is an ideal representation of a society, whose fundamental normative scheme has a built-in perfectible character. This ideal world is perfectible, but, in the pursuit of a certain subsets of ideal worlds, it cannot be bypassed. For the discovery of better-than-ideal non-exclusionary worlds, the pluralistic society is a necessary condition. In this case, necessity is a matter of

agency, not probability. The observation that there might be other better-than-ideal non-exclusionary worlds does not mean that they will be discovered. Without the entitlement to act upon all objects of disagreement, members lack the claim right to revise the non-exclusionary terms of a pluralistic society and develop alternatives to the existing ideal. In the end, a pluralistic society is an ideal society, which might not be achievable from our world, but, if reached, it would put its members, without distinction, in the position to construct better-than-ideal worlds.

Chapter 9
Freedom of expression in a pluralistic society

In a pluralistic society, the core idea is that members with a full entitlement to have a say are able to have individual subject-object relations with all possible objects of disagreement. In this chapter, I focus on how people can and cannot advance their worldviews in public as members of a pluralistic society organized on the two levels of normativity. A pluralistic society seeks to open the space of public discourse for collective self-constitution; within this enabling environment, some members may seek the space to rethink the articulation of the standpoint of justice in different ways. As we shall see, this discourse brings together two different objects of analysis: oppositional politics and hate speech. On the one hand, oppositional politics and hate speech are practices that affirm freedom of expression as functional to the full enjoyment of the entitlement granted by the right to have a say. Simply, the right to have a say specially protects freedom of expression as a necessary means to access objects of disagreement in one's own way.[365] On the other hand, oppositional politics and hate speech serve the purpose of political legitimation. All communicative act on a certain public issues can express the individual subject-object relation that is necessary for legitimate decisions in a pluralistic society. Together, these two levels of analysis shall demonstrate that, in a pluralistic society, restraints to communicative acts are justified only when these acts undermine someone else's enjoyment of his or her status as a member of the pluralistic society with a right to appropriate all possible objects of disagreement. First, for regulation to be justified, there must be a higher value in favour of

[365] See also, T.M. Scanlon, "Freedom of Expression and Categories of Expression," *University of Pittsburgh Law Review* (40) (1979): 519-21. It is beyond the scope of this section to assess liberal arguments in favour or against restrictions on freedom of expression. On this issue, see John Stuart Mill, *On Liberty* (Cambridge: Cambridge University Press, 1989): 44-6. See Frederick Schauer, *Free Speech: A Philosophical Enquiry* (Cambridge: Cambridge University Press, 1982). See Eric M. Barendt, *Freedom of Speech* (Oxford: Oxford University Press, 2005). More recently, the Dworkin-Waldron exchange has animated the debate in legal and political theory. See Ronald Dworkin, 'Foreword' in Ivan Hare and James Weinstein (eds.), *Extreme Speech and Democracy* (Oxford: Oxford University Press, 2007), v-ix. Jeremy Waldron, *The Harm in Hate Speech* (Cambridge MASS: Harvard University Press, 2012), ch. 3, 4 and 8.

regulation that survives the requirement of freedom of expression for all members who have the right to have a say. Second, all regulations also are restrictions of the legitimating constituency, therefore, given the direct connection between participation and legitimacy, they are dysfunctional for the enactment of decisions that pluralistic institutions can consider to be legitimate.

Here, in my examination of oppositional politics, I focus only on its semantical aspects, those aspects that connect with the existence of shared objects of disagreement. An examination of the justification of oppositional politics will be at the centre of the last chapter of this work. With oppositional politics, however, I mean all those practices that express considerations on objects of disagreement in ways that are not necessarily discursive. Hate speech is a broad category that groups together a number of diverse speech acts. Broadly understood, hate speech attacks other human beings on grounds of their race, nationality, gender, sexual orientation, religious identity, and other membership, where this group membership is a morally arbitrary distinguishing category.[366] Such definition of hate speech leaves implicit two fundamental aspects of hate speech, which are often at the heart of prohibition of fascist ideologies and discriminatory viewpoints. First, hate speech is a public act that, by targeting a certain group, aims to send a message to the society widely understood. Second, hate speech is in principle a rightful exercise of freedom of expression, which becomes problematic because of its content.[367]

To build my argument, I recall the assumptions that regulate a pluralistic society. All members of a pluralistic society have a right to have a say. Members know that other members have a right to have a say. Institutions are pluralistic, therefore constructed in agreement with the two orders of normativity. Since all members have a right to have a say, institutions are required to ensure all the possible arrangements that are functional to the appropriation of objects of

[366] This definition draws upon Corey Brettschneider, *When the State Speaks, What Should It Say? How democracies can protect expression and promote equality* (Princeton: Princeton University Press, 2012) and Caleb Yong, "Does Freedom of Speech Include Hate Speech?" *Res Publica* 17 (2011): 385-03.

[367] Hate speech does not undermine the stability of liberal democratic societies. It is an extemporaneous coup to an otherwise relatively stable order of values. In certain case, problems of law and order as well as discord among the members of the community are the immediate consequences of hate speech. This is the case of India, where restrictions to hate speech find justification in the need to avoid threats to the precarious equilibrium among groups. The same is not valid for the case of France and Italy, where hate speech laws appeals to values taken as central for the community.

disagreement without distinction. With these assumptions in mind, I shall proceed as follows. In section 2, I recall the two orders of normativity, and I place the right to have a say and the second order of normativity in the context of a pluralistic society. This work is preliminary to the study of oppositional politics and hate speech as different articulations of freedom of expression in the pluralistic society. In section 3, I shall examine oppositional politics in connection with the second order of normativity. This analysis shall leave open important normative questions, like the permissibility of protesting against pluralistic institutions, which are the object of chapter 10. Here, I assume that protests are permissible, and, if they are permissible, we ask ourselves how they can channel their message in existing disagreements. In other words, the question is: what is the discursive meaning of oppositional politics in a pluralistic society? In section 4, I shall examine hate speech. First, I see hate speech in connection with the first order of normativity. Second, I examine hate speech as a communicative medium through which individuals affects the forms of their communal life. In section 5, I shall disaggregate hate speech into four different practices. Traditionally, political and legal theorists have defended two kinds of positions. On the one hand, we have the neutralist approach, which affirms that state should not endorse any values.[368] Neutralist approach does not protect threats, but protects opinions that are hostile to the core ideals of liberal democracy from coercive sanctions.[369] On the other hand, there are theorists who argue that freedom of speech does not protect viewpoints that are inimical to a liberal democratic society.[370] In this chapter, we will not address the question of whether hate speech should be regulated within a liberal democracy, but rather whether it should be regulated in a pluralistic society where all members have a right to have a say. As we shall demonstrate, physical and psychological harms, and wrongs, that affect the entitlement to appropriate external objects require adequate compensations. Eventually, in section 6, I shall conclude by answering a possible objection to the pluralistic society.

[368] See Ronald Dworkin, "A new map on censorship," *Index on Censorship* 35 (1) (2006): 130-33.
[369] Bretschneider aptly coins the term "hateful viewpoints" to define these opinions. Bretschneider 2012, 1.
[370] Kenneth Lasson, "Group Libel versus free speech: when big brother should butt in," *Duquesne Law Review* (23) (1984): 77-130.

2. The two orders of normativity in a pluralistic society

In this section, I shall clarify the work of the two orders of a normativity in a pluralistic society. This work of framing shall enable me to draw the perimeter for the study of controversial communicative practices. The right to have a say involves a normative claim about a right that encompasses quite a few elements. There is the inherent assumption that something a person has reasons to care about is of great importance – the basic claim to appropriate elements of the external world (A). Moreover, this claim encapsulates the idea that, given the importance of the subject-object relation with objects of the external world, burden and benefits across the society should be defined accordingly (B). Ultimately, this claim encapsulates the expectation that other members bear the same constraints (C).[371] Alongside these three trajectories, what the right to have a say encapsulates can be set out as follows. Individuals realize that subject-object relations are necessary to unfold their agential capacity in public (A). At the same time, benefits and burdens must be distributed in accordance with the original demand for act upon external object (B). Such demand incorporates the belief that, once the demand has been satisfied, right holder will be able to bear, until a certain extent, the resulting limitation (C). In this vein, it is unjust to enforce a collective decision without allowing members with a right to have a say to use their entitlement to have subject-object relations with the object under scrutinity.

This normative basis of equal standing correlates with a second-order normativity, which organizes decision making-procedure in order to bring about legitimate decisions. In a context where all members have a just demand for acting upon elements of the external world, the second order normativity requires that legitimate decisions are decisions in which all members can recognize their subject-object relations. The guiding idea is that members of a pluralistic society can reconstruct the path of interconnected intentional actions to their initial decision to participate in a certain disagreement. Consequently, for the diversity of worldviews,

[371] I develop the three elements in analogy with Thomas Scanlon. See, T. M. Scanlon, "Why not base free speech on autonomy or democracy?," *Virginia Law Review* (97) (3) (2011): 541.

within the present framework of justice, the most legitimate decision is a decision in which all members can recognize their individual subject-object relations.

Therefore, when we put the two orders of normativity in place, the requirement arising from the right to have a say is that such a non-exclusionary society ensures that all members are able to have subject-object relations with all objects of disagreement. This normativity requires that social and political arrangements allow members to have the same opportunities and basic capabilities to act upon all possible objects of disagreement. Against asymmetry of power distribution and structural inequalities, a pluralistic society inspired by the right to have a say ensures material resources to put members in the position to voice their claims. At the same time, institutions of a political society, whose construction is informed by the right to have a say, must avoid social subordination - in the sense of being denied participation when all other members can act upon the object. The second order of normativity participates in the definition of legitimacy within a pluralistic society: a decision of public interest can be enforced when all members can recognize their individual subject-object relations in the collectively binding decision.[372] The right to have a say ensures that members can establish subject-object relations and challenge collectively binding decisions. The second order of normativity says that all subject-object relations that have a demonstrable reference with the same public object of disagreement, and only those relations that have the same referent, must count the same. At the same, the second order of normativity introduces a validity test: that is, only considerations on the object count the same.[373]

Therefore, the first-order-normativity secures participation in disagreements, and thee second-order-normativity regulates disagreements so that all those available considerations, which have a demonstrable connection with a

[372] Clearly, decision-making procedure must be just in order to bring about decisions that can claim to be legitimate. There is no such a thing as the pluralistic decision-making procedure. A just decision-making procedure is a decision-making procedure that ensure all members can exercise their franchise as peers. At the outset of a pluralistic society, this will be object of disagreement too. The legitimate decision from that initial disagreement is the canon of justice for the following decision-making procedures until some members prove this decision-making procedure to be exclusionary.

[373] In this chapter and in chapter 10, I use considerations and subject-object relations interchangeably. Clearly, by definition, subject-object relations are on the object of disagreement. For this reason, unlike the previous chapters, in the following, I understand the subject-object relation in a more relaxed way. It may be the case that the object of the subject-object relation is not the object of disagreement.

certain public issue, must have equal weight.[374] In this way, the two orders of normativity encompass a series of claims to institutions, which are required to ensure the non-exclusionary character of a pluralistic society. For the members of the pluralistic society, it seems that the only deriving obligation is to communicate a demonstrable connection with the relevant objects of disagreement. These two aspects, demanding normative prescriptions for institutions and a seemingly relaxed set of normative demands for members of a pluralistic society, posit central questions that will accompany us in the rest of the chapter.

3. Oppositional politics and the two orders of normativity

If all available and valid considerations are to be included in the interaction community, two questions follow: Who is in the position to say that a consideration is not valid (validity test)? What about those communicative acts whose referent is not decipherable easily? In this section, I answer these questions by explaining the work of the validity test – and its application to the case of oppositional politics. The validity test is a relationship through which people debate over the relevant character in each subject-object relation. It opens and closes the borders of disagreements. Essentially, we do not have to think of the validity test as a procedure of selection. Voting, asking why a certain consideration relates with the issue of concern, pointing out that the connection with the object is fallacious, demanding clarification, labelling another consideration as irrelevant, finding another form of expression as misleading, falsifying one's consideration, but also incorporating new considerations in the interaction community and many other forms of discursive exchange, these are some examples of the validity test. The validity test, then, is a communicative exchange among individuals in which one's consideration is judged for its connection with the object of disagreement. The two poles must convince one another, and the rest of the members, that there is (or there is not) such a connection.

[374] It is important to notice that these considerations are considerations that someone has expressed. If someone does not care about a certain issue, his or her consideration does not count for the legitimacy of the decision. For legitimacy, it matters only the initial decision between participation and doing otherwise.

Let me explain. Considerations are prima facie equally valid before the validity test. Through the validity test, a consideration may be proved misleading, therefore, left aside. For instance, in the pluralistic society X, considerations 1,2,3,4,5 and 6 concerning BOGEYMAN are part of the set of considerations on BOGEYMAN. The validity test enters in action if Frida calls Louise on her consideration. If Louise convinces Frida that her consideration is actually about BOGEYMAN, the status of Louise's consideration is confirmed. The validity test, therefore, does nothing more than reaffirming the status of one's consideration as valid.[375] An individual with a consideration on X enters into the interaction community and his or her presence is not questioned until someone else calls his or her consideration. This is so because, under the universal regime of the right to have a say, all members have an unnegotiable entitlement to act upon external objects of disagreement. The validity test simply enables members of a pluralistic society to have the opportunity to block deliberately invalid communicative acts, and it grants every individuals the same opportunity to prove others the connection with the relevant object of disagreement. If we imagine hypothetical dialogical exchanges, the logic of the validity test is ordinary: your consideration does not count until it is actually a consideration on the object of communal concern.

Things complicate when, from the mechanics of the validity test, we try to imagine its institutionalization. Now, let us think of the work of the validity test at a national scale. The pluralistic society is deciding on a military intervention against a coalition of terrorist groups. To build our examples, we need to add some other stipulations. First, we have to postulate that the pluralistic society has adopted a certain decision-making procedure, which ensures all members the right to have a say, and their considerations, if valid, count equally in the process of decision-making. To be in agreement with the theory, this procedure varies according to the size, worldviews, and population of a certain country. However, for the sake of simplicity, let us think of a potential pluralistic procedure. This is a procedure of five steps. (1) All members vote their representatives. (2) Members enjoy

[375] This does not mean to say that, once Louise's consideration has passed the validity test, she is granted the status in the interaction community forever. For instance, new evidence may demonstrate that her consideration is not actually on the same object. Until this happens, however, Louise's consideration enjoys equal status within the interaction community.

institutional channels (petitions, mini-public, and public consultation) to determine the agenda of the representatives. (3) Representatives pool proposals in the light of the available set of valid consideration. (4) Members vote a proposal among a limited set of proposals in a public referendum. (5) After the results of the referendum, the basic structure enacts the proposals, and members retain the right to challenge such a proposal. In such a procedure, the validity test works at step (2). In the case of military intervention, let us assume that IR experts lobby representatives. They push for a strong military intervention, and, for influencing the construction of the public referendum, they brand other considerations as invalid. However, those members who hold such considerations enjoy full entitlement to show that their considerations are indeed valid, and they must count in the formulation of general proposals. For instance, taxpayers do not want public resources to be wasted in an uncertain war, pacifists abhor wars, risk-adverse members are worried for economic repercussions, and the like. The validity test, therefore, may force these members to reaffirm their considerations. However, if there is such a thing as the connection with the object of disagreement, representatives must give them equal weight in the procedure of pooling different considerations in a small number of proposals, which, eventually, members vote in a public referendum.

In this way, the validity test seems more an encouragement to demonstrate the connection with the object rather than a proper procedure of selection. Let me explain. We say that a consideration is a connection between the object and one's worldview, which an individual makes available to the public. With the subject-object relation in mind, it seems implausible to say that a person, who has a certain worldview, develops a consideration that is unrelated with the object of disagreement. This means to say that all considerations are prima facie valid. At this point, a fundamental interrogative arises. How comes that a procedural mechanism denies people an entitlement that is at the basis of their franchise as members of a pluralistic society? Yet, even if this paradox gives the impression that the validity test does not bring any advantage to the commerce of considerations within a pluralistic society, it does help to construct a certain condition that rules out person-to-person vituperation – a problem of justice - without shutting off from

the interaction community all those people that have a say on that issue – a legitimacy-related issue. In other words, the aim of the validity test is to delimitate the space until which legitimate-based reasons are justified. The purpose of the validity test is to place temporary limits on those speech acts and deeds that question the fundamental entitlement of other members, and that do so without appealing to the same referent. This comes to be clear when we place the reasoning in context. If the dispute is between two members of the interaction community, an individual who holds a consideration on the object of disagreement might be required to polish his or her speech acts until the connection with the referent is cognitively demonstrable. If the performative character of one's communicative act is a relevant part of his or her own considerations, the required referent must be cognizable from the point of view of people's with other considerations.[376] If the consideration is deliberately excluded, the person with a un-cognized connection with the object is fully entitled to appeal to the first order normativity, which forces other members to include her or his consideration in the interaction community of available and valid considerations.

When the contentious is between a member of the interaction community and another individual of the pluralistic society, we have to consider other two possible scenarios. On the one hand, the validity test ensures that a direct attack against a member, who has a valid consideration, from outside is not directly translated into an argument for falsifying her consideration within the interaction community. Roughly, offences on a consideration-holder do not count as ground for legitimacy-based evaluation. The other side of the coin tells us that, if a person translates the same denigrating opinion into a consideration on the object of disagreement, his or her consideration counts in the relevant legitimating set. Specifically, let us try to imagine a heuristic state of affairs. Frida (the hater) attacks verbally and physically Louise (the victim), whose consideration is part of a certain interaction community. Regardless of its motivations, such a despicable act may influence how Louise's consideration is cognized in that specific interaction community. If this is the case, the validity test ensures that only the considerations

[376] For instance, fasting, strikes, public concerts, and the occupation of public spaces are practices of oppositional politics whose performative character seems to be inextricable from the referent.

on the object count. Therefore, no lateral judgments on the person should be taken into account for a person and her consideration to be considered as a relevant element of the legitimating constituency. This excludes judgments that look at the relationship between Frida and Louise. This also excludes judgments that speculate on Louise. Eventually, this leaves aside wider examination of recurring episodes of marginalization of the victim in other sites of disagreement.[377] These forms of expression undermine the full enjoyment of the right to have a say and they may undermine the equal weight that a consideration is due to have in order for a decision to be legitimate. We can continue with Frida and Louise. Now, Frida attacks again Louise verbally and physically. Frida is so determined to put a spoke in Louise's wheel that she constructs a consideration that mediates between her worldview and Louise's object of disagreement. In this case, Frida's consideration passes the validity test. Frida's consideration is now part of the legitimating constituency. Perhaps Louise rejects Frida's consideration, but Frida's consideration counts.[378]

This conceptual work opens to the study of practices of oppositional politics in a pluralistic society. Let me explain. The validity test does not imply a concession to the use of violence directed at suppressing other considerations. An exercise of pure violence on another member of the interaction community is not recursively generalizable by a member of the interaction community in terms that are demonstrably coherent with the object of disagreement. Expressions of violence per se have no claim to be included in the legitimating constituency. Moreover, the pure exercise of violence on another person violates also the first order normativity, because it prevents a member from playing her due part in a pluralistic society. However, many forms of violence do not involve direct harassment of other members of the pluralistic society. For instance, burning cars, turning garbage bins

[377] Actually, marginalization is not possible in a pluralistic society, where all members have a right to have a say. In order to be non-exclusionary, pluralistic institutions must enable all members to act upon all possible objects of disagreement. However, this does not exclude the possibility that, in worse-than-ideal worlds, some members have experienced exclusion and marginalization.

[378] Someone might object that, by forcing Frida to frame her argument against Louise within the interaction community, Frida's argument becomes simply another argument, which fails the initial intent. This is true, but, as we shall see later, outside the interaction community, the first-order normativity protects Frida.

upside down, sending intimidating messages, window-smashing, stones-throwing, the possession of public spaces, fasting, and the like. Usually, these forms of violence have a semantical connection with a certain object of public concern. Should we consider them as appropriate components of the legitimating constituency?

The literature on civil disobedience takes violence as the discriminating component to define the perimeter of reasons that count.[379] Civil disobedience, for instance, especially if we consider the often-invoked examples of Martin Luther King, Gandhi, and Thoreau, is not violent, and it must be acceptable within liberal democracies.[380] Riots, like protests in Ferguson and 2011 chaos in Northern London, have an explicit violent character. This component makes them object of measures of law and order, and it discharges the acceptability component.[381] Traditionally, violent forms of protesting, therefore, have no claim to be included in the relevant legitimating constituency. In a pluralistic society, civil disobedience meets both the first order and the second order normativity. Civil disobedience is just, but also considerations advanced through civil disobedience must have the due weight in the relevant legitimating constituency. For instance in a disagreement on race-equality, there is no justice-based reason to exclude Martin Luther King's communicative acts. Moreover, given the clear connection with the object of disagreement, Martin Luther King's consideration is valid and must have a due weight in order for him to accept a decision in that context.

For examples like Ferguson and 2011 riots in London, the role of the validity test is more complex. People do have a referent to a certain object of concern, but the aesthetic character of their action might make difficult for the interaction community to cognize the demonstrable connection with an object of

[379] Habermas and Rawls's definitions of civil disobedience emphasise its non-violent character. See Jurgen Habermas, "Civil Disobedience. Litmus Test for the Democratic Constitutional System," *Berkeley Journal of Sociology* 30 (1985): 100. See also Rawls 1971, 364. Hannah Arendt sees civil disobedience as a practice of self-determination against the rigidifying tendencies of state institutions. See Hannah Arendt, "Civil Disobedience," in Hannah Arendt, *Crises of the Republic* (New York: HBC, 1972), 49-102.

[380] This point comes out particularly clear in Andrew Sabl, "Looking forward to Justice: Rawlsian Civil Disobedience and its Non-Rawlsian Lessons," *Journal of Political Philosophy* 9 (3): 307-30. See also William E. Scheuerman, "Recent Theories of Civil Disobedience: An Anti-Legal Turn?," *Journal of Political Philosophy* 23 (4) (2015): 427-49.

[381] In this chapter, I am not aiming to develop an analysis on civil disobedience and resistance. I focus on the way through which a pluralistic society channels valid considerations in the relevant disagreements.

public concern and, therefore, include them in the legitimating constituency. Clearly, the problem is not only of inclusion. When considerations, which are available and valid, do not have equal weight, a decision applies illegitimately on the individuals who hold such considerations. To put otherwise, individuals, whose considerations are left aside despite being valid, have a legitimate claim not to accept the collective decision. In this sense, riots are a very thorny case. When riots do not prevent anyone from exercising the right to have a say, in a pluralistic society, considerations, which members express through forms of violence against things or themselves, must be part of the relevant legitimating constituency.[382]

In such occurrence, the validity test is crucial to extend the legitimating constituency. Without the validity test, the risk is that of denying some members their entitlement to act upon external objects of disagreement.[383] The validity test functions as an enabler. In its initial application, we saw that considerations were prima facie valid, and the burden of proof was on members who called other members to demonstrate their connection. With riots, considerations are prima facie invalid and the burden of proof falls on the protesters. Let me explain. In its general application, the validity test restricts the camp of the legitimating constituency whereas, here, the validity test extends the range of valid considerations. The vehement manifestation of one's consideration may hinder the cognition of the communal referent and, eventually, it can frustrate the due inclusion in the interaction community. In such occurrence, if the validity test proves to be very demanding for the protesters, and if they think of having a valid consideration, institutions, because of the first order normativity, which requires everyone to be in the position to affect issue of his or her concern, must facilitate their inclusion in the legitimating constituency. By making the claim of protesters more transparent, through communicative mediation and advocacy action on the two parties of the

[382] Actually, by reading the rhetoric and the motivations of such expression of violence, we often find out that it is the result of systematic exclusion. On riots, see Tommie Shelbie, "Justice, Deviance, and the Dark Ghetto," *Philosophy and Public Affairs* 35 (2) (2007): 127-60. Robin Celikates has tried to relax the non-violent component of civil disobedience. See Robin Celikates, "Rethinking Civil Disobedience as a Practice of Contestation – Beyond the Liberal Paradigm," *Constellations* 23 (1) (2016): 41-2. Joseph Raz's example of a strike of ambulance drivers also reminds us that non-violent forms of protesting may be more damaging than violent riots. See Joseph Raz, *The Authority of Law* (Oxford: Clarendon Press, 1979), 262-75.

[383] The embarrassment of this kind of exclusion also comes from the observation that the would-be excluded parties have already expressed their connection with the object of disagreement. In this case, the validity test is a mechanism that enables some members to exercise their due entitlement in a specific disagreement.

validity test, institutions may channel inclusion within the interaction community. For instance, concerning a hypothetical disagreement about global warming within a pluralist society, fasting and strikes against land-grabbing must be translated into valid considerations. At the same time, when immigrants block borders, if there is disagreement on the degree of social inclusion that a pluralistic society can ensure for immigrants, in the pluralistic society, members of the interaction community may call the validity on the act of blocking borders. This puts the burden of proving on the protesters. Once protesters have demonstrated the relevant connection, their presence in the interaction community falls within the scope of the first order normativity, and, despite ostracism of other members of the interaction community, institutions of a pluralistic society must ensure that, for a decision to be legitimate, their subject-object relations have equal weight. This observation brings me to the conclusion of this section. The study of the validity test has shown the flexibility of legitimating constituencies in a pluralistic society. As we have seen, inclusion or exclusion of otherwise valid considerations cause problems of legitimacy for pluralistic institutions, which, therefore, find incentives to maximize the number of valid considerations on public issues. All-things-considered, this way of reasoning opens decision-making processes to forms of oppositional politics, despite their unorthodox performative character.

4. Hate speech and the two orders of normativity

The practice of protesting can be linked to freedom of expression as functional to the exercise of one's fundamental entitlement as member of a pluralistic society. With forms of protesting, the task was easier because, normally, they point their fingers on specific policy proposals, and the problem of admissibility is eminently dependent on the way they advance their claim. Now, freedom of expression can also imply the diffusion of communicative acts that aim to affect one's very status as equal member. A reading of this problem under the lenses of my two orders of normativity shall be the subject of the next two sections. If a hate speech act threatens to undermine one's demand to participate qua member of a pluralistic

society; what does the standpoint of justice require us to do, considering that everyone has the entitlement to have a say? Alternatively, in a pluralistic society, if all the considerations should have equal weight in the decision-making procedure, to what extent members of a pluralistic society have to deal with offensive and discriminatory considerations? Whereas, in the previous section, the argument relied upon the traceability of one's agency in the decision of a pluralistic society; here, we must make clear the extent to which the right to have a say protects all forms of expression, like forms of expression that attack other members. This is an important point for a pluralistic society because, for the sake of enabling subject-object relations without distinctions, it can generate a circular assault on some members, who, because of hate speech, cannot enjoy their entitlement as granted.

As we have seen in the previous chapters, the right to have a say demands institutional action at several complementary levels in order to ensure that members of a pluralistic society do actually have a say. Such first-order normativity protects members from both material and social barriers in a way that puts them in the position to access objects of disagreement. Maldistribution, distribution of injustice and unjust economic structures are obstacles that undermine what means to be a member of a pluralistic society. At the same time, cultural hierarchies and structural injustices, like sexual and gender discrimination, may be great hindrances that deny people the same standing as peers. For a pluralistic society, all members must have the equal status as agents that act upon external objects, and bear the consequences for doing so. Among the possible hindrances for the full exercise of the right to have a say, limitation to freedom of expression might be one of the most visible ones. Therefore, the first-order normativity, in order to ensure action upon objects of disagreements, demands institutions great protection of freedom of expression. It seems that this is the case also when freedom of expression means to attack other members on grounds of their race, nationality, religion, identity, gender, and the like. By saying that freedom of expression demands great protection, we means to say that, since freedom of expression is functional to the full exercise of the right to have a say, restrictions requires a stringent standard of justification.

Arguments for the restriction of hate speech are generally motivated by the harm produced.[384] The idea is that a law regulating racist vilification because of the wound it inflicts is still viewpoint neutral because it is not motivated by disgust toward the racist speakers but rather by the effects that such speech act has on some members of the society. Another dominant idea is that restriction of hate speech are motivated by the harm it inflicts on the stability of democratic practices. Mobilisation for exclusionary worldviews creates the danger that a large majority of the population might choose an exclusionary or despotic government.[385] Another approach has been the use of legal regulation to eradicate visible signs of hatred.[386] For some, hate speech legislations defend the dignity of equal citizenship against those who threat to undermine that status for a whole class of citizens.[387]

There is something unconvincing in these responses. After all, the regulation of hate speech operates on the tangible manifestation of hate without addressing the unequal power relation between members of the same society. This way of reasoning seems to take as assumption that there are vulnerable groups. Because of an inescapable chain of past injustice, vulnerable groups, for good and for worse, will continue being vulnerable in the future, and that it is desirable this vulnerability not to become as visible as to determine a different distribution of benefits and burdens within the society. Deterrent actions, like fines or short incarcerations, would compensate the harm of reopening a wound that will never heal. They would also discourage haters from putting at stake harmony of the social community. In line with other harm-based arguments, the emphasis on unequal and open-ended power relations between members of the same society puts emphasis on what means hate speech for the addressee. Within the same community, different people are in the position to take advantage of their right to freedom of expression

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[384] Susan Brison, "The autonomy defence of free speech," *Ethics* 108 (1998): 312-39. For a review, see Robert C Post, "Racist Speech, Democracy, and the First Amendment," *Yale Law School Faculty Scholarship Series* 208 (1991).

[385] On this point see Nancy Rosenblaum, *On the Side of the Angels: an appreciation of parties and partisanship* (Princeton: Princeton University Press, 2008), 412-55. Corey Brettschneider argues that liberal democracies should indirectly limit the harm of hate speech through their discourses and practices. See Brettscheneider, 2012.

[386] Joel Kovel, *White Racism: A Psychohistory* (New York City: Columbia University Press, 1984). Jonathan Seglow defends regulations by using an argument for self-respect, see Jonathan Seglow, "Hate Speech, Dignity and Self-Respect," *Ethical Theory and Moral Practice* 17 (1) (2016): 1-14.

[387] Jeremy Waldron, *The Harm in Hate Speech* (Cambridge MASS: Harvard University Press, 2014), especially chapters 3 and 4.

in many ways and at different prices. This is exactly what the right to have a say and a pluralistic society do not stand for. A society so-conceived is an exclusionary society in which unassailable structures prevent some members from acting upon objects of disagreement.

For this being so, the right to have a say has an unconditional character and applies to all members of a pluralistic society. If the aim of the first order normativity is to ensure that all members are able to appropriate external objects, the call for restrictions trumps great protection of freedom of expression when speech acts prevent a member from the exercise of his or her due right. In this way, restriction is justified in order to penalize those behaviours that prevent someone from exercising a due right, rather than addressing the ways members of a pluralistic society perform such a right, however objectionable these practices might be. For the sake of clarity, it is useful to turn back to Frida and Louise. We are in the pluralistic society X. Both Frida and Louise have a right to have a say and they can disagree with one another as peers. In order to ensure that all members can participate on an equal footing, institutions of X have enacted a system of affirmative actions that reserves places in top-tier colleges. This policy has brought about widespread disagreement, which have not stopped with the implementation of the policy. Louise is a member of a minority group. Frida campaigns against quotas. She does so, by using a racist language, attacking others on grounds of their race, nationality, religious identity, gender, sexual orientation or other membership. For harm-based arguments, the best way to keep the public perception of Frida and Lucy's equal status is to regulate the space of manoeuvre within which Frida can campaign. The rationale for this regulation lies in the vulnerability of Lucy, the detrimental effect on the values of the society, and the special significance that equal status has for Louise's group, given a long history of discrimination and injustice. For a right to have a say-based argument, Frida and Louise must have the same capacity to appropriate external objects of disagreement. If this is not the case, Louise has a justice-based claim to see differences equalized. Since the first-order normativity has the form of a general entitlement, pluralistic institutions do not have a justice-based claim to curtail Frida's hate speeches. They must ensure that Louise has everything she needs to fight Frida on an equal footing.

The same is not valid if Frida deliberately prevent Louise from participating. In this case, the general entitlement to have a say not only imposes to equalize Louise's status as potential participant, but it also grounds a justice-based argument for institution to penalize Frida. In her action, Frida is not making use of the spaces granted by the right to have a say as intended to protect everyone's agency in the pluralistic society – she is not trying to access any object of disagreement. Therefore, justification for punishing Frida trumps the compelling reasons for freedom of expression, such as that every member must be able to find his or her own way to act upon objects of disagreement. Therefore, the first-order normativity requires institutions to find appropriate solutions to enable the addressees to affirm their status as members of a pluralistic society. In this way, even if the first-order normativity does not furnish institutions with a justice-based claim to curtail hate speech, it does provide institutions with a justice-based claim to work on the addressee of hate speech acts. In a pluralistic society, being able to participate on an equal footing means also to have the due means to rebut. This strategy is not necessarily less effective than regulation and curtailment. By protecting everyone's entitlement to participate, institutions of a pluralistic society gain a comprehensive liability for realizing an atmosphere of widespread affirmation of one's agential capacity.

To sum up, so far, we have used a broad definition of hate speech that favours reflection in general terms. Such broad definition of hate speech does not pay the due tribute to the different kinds of communicative acts, all of which are instances of hate speech. It seems reasonable that even, within the scheme of a pluralistic society, different kinds of hate speech demands appropriate responses. In the following section, therefore, in unison with the literature in this field, I single out four categories of hate speech: targeted vilification, diffuse vilification, advocacy and campaign for exclusionary policies, libels.[388] By examining these four categories, I aim to clarify how and why hate speech should be regulated within a pluralistic society.

[388] I take these four categories from Yong 2011, 386.

5. Four kinds of hate speech and the two orders of normativity

Before beginning with the study of all four kind of situations, it is important to fix what I have argued so far, and the assumptions upon which the model of a pluralistic society has been built. First, all members in a pluralistic society have a right to have a say, and they know that other people have the same right. Second, institutions of a pluralistic society have an obligation to ensure that all members of the pluralistic society can act upon all possible objects of disagreement. Third, members of a pluralistic society expect institutions to remove all obstacles and hindrances, both in terms of material and cultural resources, which prevent them from the exercise of their franchise. Moreover, as we have seen in the previous sections, the pluralistic society is built upon two kinds of normativity that follow one another with a strict order of priority. The right to have a say constitutes the general standpoint of justice from which members of the pluralistic society, with their own worldviews, can adjudicate institutions and collective decisions. Then, a second-order normativity completes this first-order normativity by clarifying how to organize disagreements in non-exclusionary ways. In this context, freedom of expression enjoys special protection as functional to the full exercise of the right to have a say, and as functional to the legitimation of collective decisions. At the level of the first order of normativity, this means to say that, when someone is prevented from expressing things in his or her own ways, he or she has a justice-claim to erase the obstacles. At the level of the second order of normativity, special protection of freedom of expression means to say that the only way to exclude a consideration from the legitimating constituency is to prove that its connection with the object of disagreement is false.

Now, with these ideas in mind, we are in the position to study the different types of hate speech. Restrictions of hate speech would be justified if and only if they are grounded on a justice-based argument that trumps the justice-based argument for special protection of freedom of expression. Taken together, this analysis should help me to answer another objection. According to this objection to

the ideal of a pluralistic society, the protection of the right to have a say, regardless of the content of the worldviews, is likely to let despotic worldviews flourish and, perhaps, get consensus. Hate speech will be divided into four categories: targeted vilification, diffuse vilification, political advocacy for exclusionary politics and libels.

a. Targeted vilification

A vilification is a communicative act whose dominant intention is to wound and intimidate its audience. Its motivation is hostility towards specific elements of the addressee's identity. In the case of targeted vilification, the hater directs the communicative act towards a specific individual. It can be a face-to-face encounter, immediate contacts and incidents without immediate contacts. For instance, target vilification includes sending intimidating letters and emails, the persistent course of a conduct that aims to exercise power over another person by using false messages and social mockery such as derision on the social networks. The case of a person who proceeds to yell profanities such as "fag and homo" against a colleague because of his sexual orientation is also a case of targeted vilification. The delivery of a pig's head in front of a house where a Muslim family lives is another example of targeted vilification. The combination of persistent derogatory comments, name-calling, wet paper hurled towards a targeted person is also an instance of targeted vilification. In a pluralistic society, targeted vilification is not protected by a justice-based claim.[389] This is so because the hater does not direct his or her communicative act to a precisely demonstrable referent. The aim of these communicative acts is not to advance an opinion, but rather they aim to induce certain psychological reactions in the addressee in a way that denies his or her due right to access objects of disagreement. Targeted vilification is like physical violence and abuse. Therefore, a pluralistic society does not ensure any protection because the justice reason for enabling people to participate trumps the justice-based claim to act in one's own way. To impose restrictions on this kind of hate speech is justified even in a pluralistic society, where everyone has a right to have a say. On the one hand, the cognitive and moral content of these acts is very limited

[389] I borrow this definition from Yong 2011.

and they struggle to look like evaluative opinion to a significant degree. On the other hand, they build barriers and obstacles that prevent a member from the exercise of his or her own right to have a say. The balancing of the communicative relationship among members of a pluralistic society is more important for its institutions, and it does not preclude the hater to frame his or her worldviews in ways that allow everyone else to do the same.[390]

b. Diffuse vilification

Diffuse vilification does not direct to a specific member of a pluralistic society, but rather it addresses a sympathetic public audience. Examples of diffuse vilification are recent anti-Islam demonstrations, 2015 demonstrations of Neo-Nazis movements in England, Rashtriya Swayamsevak Sangh (RSS) rallies in India, the demonstration of the National Social Party of America in the village of Skokie where a predominantly Jewish community lived, as well as Northern-League anti-immigrants posters and auctions in Italy. The intention of the majority of these speech acts is to wound and insult minorities because of their race or religious identity. From wearing Nazi Uniforms and the display of Swastika symbols to anti-Roma posters in Italy and sit-in against mosques, the intention of diffuse vilification is to cause emotional distress on identity-grounds. Usually, these demonstrations are part of a larger strategy whose intent is to communicate evaluative opinions in order to gather political consensus. Therefore, the cognitive content is ostensibly directed towards a discursive referent that can be accessed also by the targeted minorities simultaneously. Since the aim is to address a sympathetic audience and to get consensus, the harm is minimal. By trying to win adherents to discriminatory views, diffuse vilification does not cause direct harm. The harm is connected with the intervention in the public sphere. Such intervention sends public signals that can be harmful.[391] However, targeted minorities still have the capacity to organize counter-demonstrations. For instance, this has been the case in England, where civil society organizations mobilised against Neo-Nazis demonstrations. In a pluralistic society, diffuse vilification is protected. The general protection of freedom of

[390] No acts that undermine one's entitlement to have a say can be supported by justice-based reasons. This is so because all barriers that deny action upon external objects are violations of a non-exclusionary theory of justice.
[391] This analysis draws upon Yong 2011, 397.

expression as functional to the full exercise of the right to have a say includes also diffuse vilification. The harm of diffuse vilification is minimal and it does not prevent other members of the pluralistic society to exercise their right to have a say. Targeted groups do not lose the agential power to use their entitlement to have a say. They are able to counteract and gather consensus against diffuse vilification. Moreover, since demonstrations as a form of participation are fully protected by the right to have a say, an attempt to regulate diffuse vilification implies a content-based regulation, which infringes the viewpoint neutrality of a pluralistic society. Therefore, justice-based claims to ensure everyone to have a say outweighs attempts to regulate targeted vilification. Consequently, the inclusion/exclusion of considerations that are inherent to acts of diffuse vilification depends on two things. First, the content of these communicative acts can be an object of public disagreement. In this case, their considerations are valid, and can claim equal weight in the interaction community. Second, the content of these communicative acts try to affect existing disagreements. If this is the case, they deserve equal weight if and only if there is a cognizable connection with the object under scrutiny.

c. Political advocacy for exclusionary policies

Exclusionary policies are policies under which certain identifiable groups are excluded from full and equal participation in the society. Usually, advocacy for such policies aims to deny racial or religious groups of their franchise in the society. If successful, this can be as infamous as ethnic cleansing and forced repatriation. In the literature, a regulation of these kinds of communicative acts is harm-based. When advocacy gains enough support, proponents of regulation argue, there is high probability that the translation of this policy discourse into practice leads to political overturn. In the literature on hate speech, this is one of the thorniest category: it epitomizes problems in the relationship between democratic procedures and democratic outcomes. The danger that a minority might choose anti-democratic forms of governments leads theorists to defend indirect form of democratic self-defence, such as the spread of democratic values through political parties or through the examples of politicians and relevant institutional actors.[392] From the point of

[392] See Brettschneider 2010. See also Rosenbalum 2008 and Yong 2011.

view of liberal democracy, it is common sense to despise exclusionary policies that work on identity-based grounds, since there is widespread acceptance that a less liberal and democratic regime is not a desirable prospect. In the same context, it is not as immediate as in the first case to find strong support against advocacy of exclusionary policies that are libertarian, aim at abolishing redistributive policies and the welfare state. However, by limiting the access to due material means, these policies, if implemented, deny many people their franchise. In a pluralistic society, political advocacy for exclusionary policies should not be regulated. The protection of freedom of expression as functional to the exercise of the right to have a say includes also the advocacy of exclusionary politics. Reasons for the regulation of this kind of hate speech are not justice-based. As slippery-slope-kind of arguments, they direct the attention to the risks that a certain worldview may entail. When haters do advocacy for the exclusionary policies, they are not preventing anyone from the exercise of the right to have a say. Therefore, justice-based reasons for ensuring everyone to have a say trump non-justice based reasons on the content of one's worldview. In a pluralistic society, there is no normative ground to regulate this sort of hate speech. And, for the second level of normativity, considerations at the hearth of advocacy of exclusionary policies are to be included in the legitimating constituency, when they refer to existing public issues.

d. Libels

With libels, we mean all those public assertions of facts and evaluative opinions that constitute adverse judgments and attacks on specific groups. Cartoons, media articles, videos, parliamentary racist invocations, pamphlets, partial interpretation of statistics and data, propaganda paintings are all examples of libels. Libels are also posters showing support for foreign dictators and hagiographical biography of despots as well as form of revisionism of historical accounts of genocide and mass cleansing. Libels have a significant potential harm. Libels target some members of the society directly and they foster divisions while disseminating sources of discontent and conflicts within the society. Despite the harm potential, libels, however, should be protected in a pluralistic society. Freedom of expression as functional to the right to have a say protects this form of hate speech. Libels have a clear cognitive content and they do not directly prevent anyone from the exercise

of the franchise. Against libels, members of a pluralistic society can answer with new evidence, an array of diverse argumentative means and mass counter-mobilisation. For example, denigrating speech on crimes rates among Roma people can be challenged by providing data and statistics that tell members the truth. Documents and relevant historical materials may challenge negationist theses. These examples are all instances of disagreement within a pluralistic society. Moreover, in the practice itself of libels, there is no justice-based claim that can justify regulation. On the one hand, the first order normativity is worldview neutral. Then, no democracy-based arguments, for instance, are justice based. On the other hand, a restriction of opinions and factual interpretations because they are false, against common sense and disrespectful implies that truth, common sense and respect are requirement for participation in a pluralistic society, but this contradicts the normativity of the right to have a say. The right to have a say aims at enabling members to participate in the way they find more appropriate. In this vein, for the second order of normativity, when libels intervene in disagreements on public issue, they must have equal weight. If they deliberately attack participants in disagreements without addressing the issue under scrutiny, pluralistic institutions are expected to find ways to grant the addressees full enjoyment of their rights, despite such a discrimination. Eventually, libels themselves, can be objects of disagreements. In this case, the considerations of the authors, addressees and third-party individuals must have equal weight. In other words, from this perspective, libels can be seen as valid/invalid considerations and as objects of disagreement.

6. Conclusion

In this chapter, I have tried to clarify how the two orders of normativity work in a pluralistic society. The operationalization of our standpoint of justice and the relating conception of legitimacy generate disputes about the regulation of freedom of expression. Freedom of expression is functional to the full enjoyment of the right to have a say because it allows members the opportunity to find their own ways toward objects of disagreement. At the same time, freedom of expression also may seem dysfunctional to the non-exclusionary character of a pluralistic society. Prima

facie, the protection of hate speech and some forms of oppositional politics may be a justification for acts that curtail someone's entitlement. Specifically, violence per se is a violation of the first order of normativity, then, it is not justified in a pluralistic society. Violent acts on things, which do not undermine one's right to have a say, must be counted as valid considerations in the definition of the legitimating constituency, if they have a cognizable connection with a referent. Hate speech also is protected unless it undermines one's entitlement to have a say. As we have seen, institutions must regulate only targeted vilification. Diffuse vilification does not hinder the exercise of one's right to have a say, while a scrutiny of political advocacy for exclusionary policies and libels shows that arguments for restrictions are not justice-based.

To conclude, I want to address a possible objection. Someone may argue that a pluralistic society, despite its non-exclusionary intent, can be more vulnerable to fanatics and haters than alternative models. This is not true. In a pluralistic society, when fascist members target directly other members in a way that would deny the full exercise of the right to have a say, institutions have justice-based reasons for blocking their action. When members with fascist considerations organize rallies and demonstrations, there is no justice-based reason for institutions to stop them doing so. The same reasoning is valid for political advocacy of exclusionary policies and libels. Being plenty of space within a pluralistic society, the burden of challenging fascist considerations is on the other members of a pluralistic. When holders of fascist considerations do not accept collectively binding decisions, they might act otherwise and bear the consequences for doing so, but the pluralistic society, as a whole, is not required to rethink the decision unless fascist members get so strong support to open a disagreement in which they can win. At that point, whether or not fascist considerations succeed is a speculative endeavour. Nevertheless, since all members of a pluralistic society are entitled to access such hypothetical objects of disagreement, against the prospect of seeing their rights curtailed, it is reasonable to believe that the vast majority of the members prefers the protection of their right to have a say. All in all, fascist ideas do have room in a pluralistic society, but it is far from being demonstrated that, in a pluralistic society, fascist ideas can get momentum more easily than in alternative

accounts. The success of one paradigm over another depends on disagreements among members with valid considerations. From the outset, no worldview has a preferential channel in the scheme of the pluralistic society.

Chapter 10
The stability of a pluralistic society

This chapter concludes the description of the pluralistic society as a utopian society in which all members have a right to have a say. In the last chapters, I have described some fundamental aspects of the pluralistic society, like mutual relations among members, its normative structure, hate speech and forms of oppositional politics. In this chapter, by answering the instability-objection, I shall conclude the description of the pluralistic society. Against a non-exclusionary conception of justice, people may argue that the resulting society will be inherently unstable. In the following, I argue that, when members exercise their entitlement to act upon objects of disagreement, the pluralistic society is stable.

Taken together, this chapter also provides insights on other important aspects of the pluralistic society such as the form of institutional action, the nature of penalisation, disobedience and resistance. Therefore, by reading this chapter in continuity with chapter 8, chapter 9, and the normative argument of chapter 6 and chapter 7, I expect the reader to have a clear picture of the pluralistic society. Specifically, this chapter shall proceed as follows. In section 2, I shall clarify the nature of the stability-problem. With a stable society, I mean a society in which members have reasons to support institutions over time.[393] This brings me to address the first case: "damaging considerations" within existing disagreements. Under the present account, as we shall see, "damaging" means "in contrast with the first order normativity". In section 4, I shall investigate the position of "damaging members", namely those members who live in the pluralistic society, but refuse the first-order normativity. In section 5, I shall think of members who resist on pluralistic institutions on non-exclusionary grounds. Section 3, section 4 and section 5 demonstrate that, when members make the most of their right to have a

[393] For an analogous understanding of stability, see Rawls 2005.

say, a pluralistic society is non-exclusionary, stable, and perfectible. In Section 6, I shall conclude.

2. Stability, damaging doctrines and damaging members

In a pluralistic society, where institutions have incorporated the two orders of normativity, the right to have a say is a claim-right against institutions and a liberty-right to have subject-object relations with external objects of disagreement. As a claim-right, the right to have a say entitles the right-holder to some agreed-upon, compensatory actions, or to provision in case of need.[394] It also includes protection against exclusion and deterrence. As a liberty-right, the right to have say protects the individual entitlement to have individual subject-object relations with objects of disagreement. In this work, I have argued that pluralistic institutions may penalise members when the exercise of the right to have a say (as a liberty-right) takes the right to have a say (as a liberty right) away from other members. On the part of the victim, such an occurrence generates a claim-right for compensatory action, or provision. Penalisation of the right to have a say, therefore, is permissible because of such a claim-right.

At the same time, I have argued that, when members can recognize their individual subject-object relation in the outcome, institutions may expect members to comply. When institutions have this expectation of legitimacy, as we have seen in chapter 8, members also expect institutions to enforce decisions on those who do not comply. At the same time, because of the entitlement to act upon all possible objects of disagreement, members also can challenge legitimate outcomes. When they oppose legitimate outcomes, members affirm the right to have a say (liberty right) as an entitlement to disobey certain policies. For one has a right to perform it, since the right to have a say motivates ongoing and reflexive participation. So, to deny a member the appropriate space to act in keeping her view public means not to respect the normative demand that all members are entitled to appropriate

[394] On compensation and provision, see Wenar 2005.

objects of disagreement. When, with the aim of bringing about a change in the laws or polices, a member acts in contrast with a collectively binding decision, he or she displays a commitment to the non-instrumental value of a non-exclusionary conception of justice. In other words, it does not directly question the stability of the pluralistic society. In the form of civil disobedience, like 'a public, nonviolent conscientious yet political act contrary to law,' or as public discursive practices, members have justice-based reasons to dispute and argue against allegedly legitimate decisions.[395] This does not mean to say that pluralistic institutions ought not to enforce a contested but legitimate collectively binding decision. This means to say that, even if pluralistic institutions can require a person to comply with a legitimate collectively binding regulation, they cannot deny members the possibility to disobey publicly.[396] Indeed, as Antony Duff puts it, for a person, the belief that a decision is wrong implies an avoidance of such a decision, a negative judgment about the conduct of other people who pursue such decision, and the communication of the negative judgment in some circumstances.[397] All these aspects can be fundamental to grant a person his or her full right to have a say.

Forms of ongoing contestation against legitimate but disputable collective decisions are not threats for the stability of a pluralistic society. Despite questioning specific regulations, these forms of contestation, more or less explicitly, show support for a non-exclusionary conception of justice. Contrariwise, when members advance considerations that go against the general standpoint of justice, someone may argue, I need to consider the possibility that the pluralistic society will be unstable. As anticipated in the introduction, these doctrines are the so-called

[395] I borrow the definition of civil disobedience from Rawls 1971, 364. For the present purpose, it is suffice to say that accounts with different premises also do not consider civil disobedience as a threat for stability. Actually, a widespread assumption is that the civil disobedient expresses fidelity to the law. On this issue, Habermas, 1985, 100. Sabl 2001, 307. Scheuerman 2015, 428. Smith 2011, 145. Robin Celikates argues that such a constraint to civil disobedience should be relaxed in favour of less-normatively loaded definitions of civil disobedience. See Celikates 2016, 39.

[396] I do not deal explicitly with the right to civil disobedience. On my view, a defence of the right to have a say as a claim-right to resist (section 5 of this chapter) functions also as an argument in favour of civil disobedience within a pluralistic society.

[397] See Antony Duff, *Punishment, Communication and Community* (Oxford: Oxford University Press, 2001), 98. I borrow this point from Kimberley Brownlee, "Rights, Civil Disobedience, and Punishment," Unpublished manuscript, 2008. A shorter version of this paper is Kymberley Brownlee, "Penalising Public Disobedience," *Ethics* 118 (2000): 711-16. She emphasises the communicative aspect of civil disobedience also in Kymberley Brownlee, "The Communicative Aspects of Civil Disobedience and Lawful Punishment," *Criminal Law and Philosophy* 1 (2) (2007): 179-92.

"damaging doctrines". The standard approach when examining damaging doctrines is to give conditions for the account to remain stable, that is, to specify necessary and sufficient conditions for stability within the theory. However, this methodology tends to be inelastic and, as a consequence, oversimplifies problems. There are generally valid conditions for the account to remain stable and there are unusual, but justified, concessions to the promise of treating all affected members in the same way. Consider Rawls's claim to contain unreasonable doctrines as wars and diseases.[398] Consider Sleat, who claims that non-liberals are an inevitable presence in liberal societies, he also claims that coercion, and violation of persons' freedom is, therefore, an unavoidable feature of liberal regimes.[399] Consider Quong's idea that there is nothing like a right to be unreasonable in a liberal democratic society inspired by a liberal democratic conception of justice. Consequently, restrictions of hate speech or literature as well as transformative educational policies are justified.[400]

Moreover, in this literature, the point of view is never that of the members who do not support the dominant conception of justice. Authors always focus on members who uphold the basic principles of the society – what they can and cannot do to be coherent with requirements of justice and the demand for stability. When this is not the case, the point of view tends to be that of institutions.[401] Within this class of approaches, there will be some variations in the extent to which central interrogatives are addressed, but key features are always exemplified. Note, the questions will be: to what extent do members (who align with the assumptions of the theory) have a political obligation to take other members (who do not align with the assumptions of the theory) into account in the construction of collective decisions? Are there normative resources that allow institutions to undermine or restrict (coerce) the spread of particularly damaging doctrines while being within the limits of the standpoint of justice? So, the burden of political action is always placed on the members who best align with the assumptions of the theory, no matter what the responses to these questions are. Alternatively, there is an unproblematic

[398] Rawls 2005, 64.
[399] Sleat 2013, 363.
[400] Quong 2004, 334.
[401] Ivi, 333-34. Rawls, 64-66. Sleat 2013, 362.

confusion between "damaging doctrines" and "damaging members", as if they were one and the same thing.[402] The simplification of damaging members' moral agency, together with the confusion between the dissemination of doctrines and the performance of damaging worldviews, means to underestimate what means for a member to hold a damaging doctrine in a hostile environment – a society where institutions and social relations are organized in agreement with a certain conception of justice. On my view, "damaging doctrines" and "members who hold damaging doctrines" generate two different kinds of problems. Damaging doctrines, if translated into individual subject-object relations with objects of disagreement, cause problems of legitimacy. Should we consider damaging-doctrines-inspired subject-object relations as part of the legitimating constituency? Does viewpoint neutrality count also for those doctrines that explicitly contradict the non-exclusionary desideratum of a pluralistic society? The discourse on members who hold damaging doctrines, in turn, addresses directly the general standpoint of justice. If we think of the right to have a say in terms of all members' entitlement to have subject-object relations with external objects of disagreement, does one's communicative act have to be related to that of his or her opponents in a way that makes room for all of them?[403]

3. Damaging considerations in a pluralistic society

In this section, I shall focus on damaging doctrines and the position of damaging considerations (damaging individual subject-object relation with a certain object of disagreement) within a pluralistic society. The theoretical question is the following: in a pluralistic society, which is worldview neutral, to what extent do considerations inspired by damaging doctrines find space in legitimating constituencies? In a

[402] Quong thinks that containment targets doctrines. However, in his example of Nazis, he focuses his attention on people who hold unreasonable doctrines. See Quong, 323, 331-4. For Rawls, unreasonable doctrines are the object of containment. See Rawls 2005, 64-65. According to Sleat, illiberal people are the target of action. See Sleat 2013, 363.

[403] In an early essay, Waldron argued that hate speech had to be banned. According to Waldron, hate speech contradicts the systematic interpretation of the right to free speech: all must be in the same position to participate; therefore, our speech acts must also make room for us and the opponents. Jeremy Waldron, "Rights in conflict," in Jeremy Waldron, *Liberal Rights* (Cambridge: Cambridge University Press, 1993), 223.

pluralistic society, damaging considerations, we shall argue, must have equal worth in the legitimating constituency.[404]

For instance, in a disagreement on the school calendar, a member of the pluralistic society argues that only Catholic Holidays count. Other members may also argue that, in a disagreement on the construction of the country's statement on climate change and global warming, only the interests of oil companies matter. The two statements are valid considerations. They link a worldview with an object of disagreement, but they do so by advancing exclusionary messages, which disputes the non-exclusionary component of the right to have a say. To put it bluntly, it is as if these members were exploiting the right to have a say to challenge the pluralistic society from the within, by advancing considerations that the majority of the members should consider as wrong.

It is important to distinguish between two claims we might make when we say of a person that her belief is legitimate but wrong. First, we might mean to say that she is not acting in accordance with the relevant evidence. The consideration of a person is not questioned for its fit with a pluralistic society, but, relative to the evidence available, this weakness gives other member an excuse to confute the consideration. Were the agent become aware of additional evidence to which other members have access, it would have a stronger case to prove her consideration as the best available in the legitimating set. Second, we might mean that one's consideration is morally wrong. In this case, the consideration is deemed inappropriate because it shows any kind of failing relevant to moral assessment.[405] Crucially, here the problem is not a difference in the evidence available, but rather a dissimilar interpretation of what is supposed to be a common ground for mutual understanding. It seems, therefore, that the participation in the legitimating set is not at stake, but considerations deemed wrong furnish other members with strong-enough prima facie excuses not considering them as appropriate for the final decision. In any case, we suggest that, considerations deemed wrong have chances to affect the collectively binding decision, but, in the deliberative phase within

[404] Remind that, in a pluralistic society, we assume that institutions incorporate the right to have a say because all members do so.
[405] In the case of a pluralistic society, wrong means a belief that contradicts the non-exclusionary character of a conception of justice inspired by the right to have a say.

disagreements, persuasion may be very demanding. Moreover, following what I have said in chapter 9, members of a pluralistic society do not have any validity-based reason to deny individual subject-object relations, when these relations have a demonstrable connection with the relevant object of disagreement. Consequently, around different objects of disagreement, there might be legitimating constituencies that are full of valid but damaging considerations, which may lead towards exclusionary outcomes.

For instance, a Catholic member may argue that the working calendar has been organized around Catholic festivities and Sundays, therefore, a unilateral change might cause loses in efficiency and competition vis-à-vis competing markets. On this ground, other members with different worldviews might accept unless they find this to be a serious hindrance for them to participate as peers (have individual subject-object relation with all possible objects of disagreements) in the pluralistic society. Equally, a robber baron may argue that the petroleum industry is so prominent for the pluralistic society that a strong commitment to the reduction of anthropogenic climate change may prevent several members from having adequate means to participate as peers. In the two examples, if exclusionary considerations win the two disagreements, and the procedure allows members to recognize their individual subject-object relations in the outcomes, decisions are legitimate, even if they are plainly exclusionary.

However, to paraphrase Lev Tolstoy, all decisions are legitimate alike, each exclusionary decision is exclusionary in its own way. With climate change and school holidays, we see two stereotypical cases of exclusionary but legitimate decisions. In the former case, a legitimating constituency brings about an exclusionary decision that frustrates the entitlement to participate of some members. This is possible if and only if, once the decision has been enacted, the affected members themselves do not realize that the costs they pay are so high to preclude the full exercise of their entitlement. If they become conscious of obstacles they did not think of before, they do have a justice-based reason to ask pluralistic institutions for a new balancing, despite, in the meanwhile, the first decision remains fully legitimate. Simply, justice-based reasons trump legitimacy-based reasons for action. In the second case, the discourse is more complex. In a pluralistic

society, it seems to be very difficult to think that climate change palpably undermines one's participation as peer in an immediately recognizable way. Despite evidence shows the horrendous effects of climate change especially on the poorest ones, in order to ground a justice-based reason, there must be proof that someone, who lives in the pluralistic society, cannot exercise his or her right fully.[406] So, in order to challenge an exclusionary decision, which does not directly affect one's entitlement to have a say, individuals, who have non-exclusionary considerations on that public issue, have to open a new disagreement, where they can influence the new outcome in agreement with their worldviews.

These two examples cast light on a consequence of opening all legitimating constituencies to all valid considerations. Namely, no matter how many people hold damaging worldviews. When damaging considerations affects the outcome of different disagreements significantly, and simultaneously; a pluralistic society may produce a series of collectively binding decisions that are exclusionary, despite people holding damaging doctrines being a minority. This puts at risk the stability of a pluralistic society. A pluralistic society is stable in so far as it allows all members to have individual subject-object relations with all possible objects of disagreement, because this relation meets the shared basic claim to meaningfully mark elements of the external reality. In the remaining of this section, I advance two responses to this objection. The first response is philosophical. It quickly shows that such objection rests upon a fallacy. The second response admits that such a possibility exists. However, in a pluralistic society, it is almost heuristic. Instability caused by several damaging decisions ultimately rests on the responsibility of members, who do not exercise the entitlement to open new disagreements.

First, the idea that several exclusionary decisions will ruin the stability of the pluralistic society rests on a fallacy of hasty generalization. When we infer that a statement about the whole is true because of it is true for some parts of the whole, we base our argument on insufficient evidence. The internal response, in turn, demonstrates how the two orders of normativity ensure stability despite

[406] Remind that, if it has profound inequalities, a society is not a pluralistic society. Namely, when parts of the population are not able to have subject-object relations with external objects, a society does not ensure the general entitlement to have a say.

exclusionary and legitimate decisions. Let me explain. In a pluralistic society, everyone has a right to have a say and a decision is legitimate when all members with valid considerations can recognize their individual subject-object relation in the outcome. As we have seen in chapter 8, institutions of a pluralistic society must fulfil expectations of justice, expectations that all members may have qua members of a pluralistic society. To recall, when we say that members have a right to have a say, it is important not to limit the scope of this right to the participation in disagreements that already exist. Crucially, the exercise of one's entitlement also means to introduce new objects of disagreement in the pluralistic society. New disagreements bring about new legitimating constituencies. However, the borders of the legitimating constituency are marked by the distinction between those considerations that do not have a demonstrable connection with the object of disagreement and those considerations that have such a connection. While I have suggested that the right to have a say applies only to members of a pluralistic society, the validity requirements is essentially wider in scope. The mismatch between the scope of the right to have a say and the scope of the conception of legitimacy, which nevertheless follows from the first-order normativity, is crucial for a pluralistic society to remain stable.

To clarify this point, let me continue with the argument. I have defined the legitimating constituency as the set of valid considerations on a certain object of disagreement. I also have defined a consideration as the union between a worldview and a certain issue that matters – a subject-object relation. Although, in order to be bound to the two orders of normativity, the object of disagreement has to be internal to the pluralistic society, such an object of disagreement may call upon human beings who live outside the territory of the pluralistic society. In fact, an object of disagreement provides the basis for communicative exchanges that go beyond the natural or political limit of the pluralistic society. Specifically, from my account of legitimacy, it does not follow that considerations of members take priority over valid considerations from outside the territory of a pluralistic society. Though the act of initiating disagreements is a privilege that only members of a pluralistic society have (in virtue of the circumstance of living in a society informed by the first-order normativity), the legitimating constituency of such disagreements

depends on the number of valid and available considerations, regardless of the place in which the holders of these considerations happen to be. So, a legitimating constituency can be global even if the disagreement is contextually located within the pluralistic society. Consequently, considerations of members of the pluralistic society do not have any priority, other than the one of initiating disagreements.

Let me now return to the example of climate change. The issue may call upon a very large number of people, from activists and farmers in the Global South to lobbies, traders and international organisations. In fact, it is not so difficult to imagine the expansion of the available considerations beyond borders. Global communicative networks, the internet and the different supranational and international institutions increase significantly the number of people that might have something to say on local issues. The second-order normativity goes on to assert that, in the pluralistic society, a decision is legitimate if and only if all individuals with valid and available considerations can recognize their subject-object relations in the outcome.[407] Damaging considerations, therefore, are valid considerations, which constitute a subset of an expanding network of valid and available considerations.

Damaging considerations must have equal worth in the decision-making procedure. However, by granting all members the non-instrumental value to have subject-object relations with objects of disagreement, a pluralistic society can protect itself from damaging decision.[408] When several and different disagreements pop up, by accessing the legitimating constituency with a valid consideration, individuals with a valid consideration reaffirm why participation matters from their own point of view. It follows that, with several disagreements in which members of the pluralistic society take part, there are many junctures where members reassert the reason why they should have a say. Participation exposes members to affirm their equal status. Damaging decisions call upon members to affirm their right to open new disagreements. This means to resort on the first-order normativity. Namely, members exercise the general entitlement in the form of a right to open

[407] As a result, in a pluralistic society, a legitimate decision may be the combination of considerations from outside the pluralistic society, but that, through suitable mechanisms, have had an effect on the outcome.
[408] Participation in decision-making procedures is also instrumental. From the point of view of the member, because it leads to some other moral ends, it is also instrumentally valuable.

new disagreements. Therefore, vis-à-vis legitimacy-based sources of instability, stability hinges upon the actual exercise of the right to have a say. When a large portion of members attempts to take part in disagreements, it is more likely for them to reaffirm the non-instrumental value of their claim to have subject-object relations with external objects. When just a small part of the members attempts to participate, the society as a whole turns out to be more vulnerable to damaging doctrines, which, in such a scenario, might affect a number of public issues.[409]

To summarize the argument of this section. In this section, I have clarified that valid damaging considerations must be part of the legitimating constituency, given viewpoint neutrality of a non-exclusionary conception of justice. In other words, a pluralistic society, given its viewpoint neutrality, has no means to contain dissemination of damaging doctrines. This generates a problem of internal instability: a pluralistic society might bring about a series of damaging decisions because damaging considerations affect several outcomes. Against this objection, I have argued that, when members of a pluralistic society do not exercise their entitlement to open new disagreements, the multiplication of damaging decisions may typify a serious threat for the stability of a pluralistic society. This occurrence may cause the spread of damaging worldviews within a pluralistic society, and it can cause several damaging that, taken together, inhibit the normative potential of pluralistic institutions. In the next section, I shall look at the same problem from the perspective of members who do not share the standpoint of justice – the damaging members.

4. Damaging members in a pluralistic society

The study of damaging doctrines has demonstrated that a pluralistic society, because of its viewpoint neutrality, has no normative arguments to avoid the spread of damaging considerations. Much depends on active members who have non-exclusionary worldviews. In this section, I shall continue our investigation by

[409] There is also the extreme hypothesis that only members with damaging considerations have subject-object relations with external objects of disagreement. In that case, the stability of the pluralistic society is seriously under threat. A series of damaging decisions might undermine the basis of pluralistic institutions so strongly to hinder all their means to enact the first-order normativity.

looking at those members that do not accept the standpoint of justice. Because they live within the borders of a pluralistic society, they are members, but they do not recognize the authority of its fundamental normativity. Indeed, as I have assumed in chapter 8, in a pluralistic society, there are several conceptions of justice and none of them is predominant. A non-exclusionary conception of justice is one amongst many other conceptions of justice, whose comparative merit is the promise to let all members, irrespective of their worldviews, have subject-object relations with all possible objects of disagreement. However, this standpoint of justice does not exclude the possibility that, once institutions have incorporated the two orders of normativity, some members stop affirming the right to have a say.

Members who exalt selfishness and despotism do not extend the right to have a say to other members, but they affirm such right from their own point of view. Let me explain. They might leave this component implicit in their moral behaviour. Nevertheless, a recursive reconstruction of their agency shows that the right to have a say is a necessary condition for the spread of their exclusionary worldviews. Let me consider Frida. Frida thinks that she is the only person who deserves having a say. No matters what other people claim. Frida insists in saying that she is the only one that is to have a say. By doing so, Frida is not contradicting the right to have a say. She does not extend the right to the other members, but she is not able to negate that the right to have a say matters from her point of view. Of course, Frida might advance her claim without references to the right to have a say, but, the basic claim to access external objects remains precondition for the display of her worldview. Consider, in turn, members who live in a pluralistic society but do not affirm the right to have a say in the light of a higher moral authority. Commands of this supreme authority might imply a repudiation of the right to have a say as well as the search for alternative forms of interjection in the pluralistic society. Religious extremists would be the most obvious example. However, forms of radical political protest, like waves of left-wing and right-wing radicalism, seek also to create a revolutionary state through armed struggle. These higher authorities might push members to be silent or to hyper-activism. If they are silent, in a society

that predominantly affirms the right to have a say, they are not a threat for stability. At least, they are not a recognized threat for stability.[410]

In a society where all members have a right to have a say, hardliners, extremists and fanatics are not by themselves a problem for pluralistic institutions. This means to say that the standpoint of justice protects them, even if they refuse it. Therefore, there must be an explicit violation of the first-order normativity to justify coercion. In order to clarify this point, we have to pause and pay attention to the several faces that these forms of dissent can take. First, hardliners may misrecognize the structure of a pluralistic society and avoid participating in decision-making processes. In practical terms, by withdrawing their subject-object relations from public disagreements, hardliners also do not enter into the legitimating constituency. For this reason, their views do not constitute a problem for the stability of a pluralistic society. Let me explain. A pluralistic society can expect institutions to enforce collectively binding decisions when members can recognize their subject-object relations in the object. If members with a right to have a say decide not to participate, as we have seen in the previous chapters, institutions may expect them to comply with the outcome.

Now, we can think of different cases in which damaging members can affect the stability of a pluralistic society. For instance, in a pluralistic society, there might be disagreement around the decision of observing a moment of silence to mark the anniversary of Armenian genocide. There is a lengthy and challenging disagreement among members with valid considerations. Despite a lengthy deliberative phase, I assume, the considerations are organized in agreement with cultural and religious cleavages: Turkish, Armenians, French members of a pluralistic society, Catholics, Orthodox Christians and Islamic minorities. Eventually, after a voting procedure, pluralistic institutions ratify the moment of silence. Now, members that have actually opposed the decision in the relevant legitimating constituency as well as those who have not participated in the disagreement are expected to comply with the decision. All those members that influenced in some way the outcome, by advancing their considerations (or being

[410] For instability, the publicity of the threat is crucial. On the one hand, it could justify penalisation. On the other hand, it could cause emulation, external support, and even more instability.

silent despite having full entitlement to do otherwise), might be expected to comply. If they do not do so (hissing loudly at the moment of silence, showing disrespectful signs, harassing public manifestation), pluralistic institutions have a legitimacy-based claim to enforce on them the collective decision. For instance, this might imply to push them out of public spaces during public celebrations, block them while harassing, and confiscate their sings. By being members of a pluralistic society, these members know the risk they incurred, so penalisation is legitimate on the ground that it is among the expected consequence of the exercise of the right to have a say. It is important to notice that this is not a form of forward-looking enforcement: namely, non-compliant members are not penalised because this might function as symbolic deterrence for other members. Enforcement is eminently backward-looking: a pluralistic society responds with an act that a member could expect as a consequence of his or her action.

Second, some members make use of alternative forms of communication to voice their damaging worldview. In order to terrorize the pluralistic society and cause mistrials, terrorist activities might escalate up to preclude participation to other members. Consider the following example. An autonomist movement carries out unprecedented acts of terrorism. It leads public protests, but it also kidnaps political leaders. It assassinates key political figures and it bombs public spaces. Members of this movement find justification of this violent means in a high end, namely the introduction of an alternative political order. They do not consider regulations of the pluralistic society as binding so they act openly against the regulations of the pluralistic society. Consequent to these actions, there is a loss of some members of the pluralistic society. The action of the activist movement causes a breach in the protection of the universal entitlement to have a say, both by actually killing people and frustrating the genuine participation of some members. In a pluralistic society, this ensures institution a justice-based reason to penalise protesters according to the public scheme, which members of the pluralistic society have constructed. Whether or not members of the movement find pluralistic institutions as binding does not count anymore. The penalisation is justified by the fact that some members have lost their agency. Simply, as a part of what they are required to do in order to be pluralistic, institutions must compensate for this agency

loss, given the non-exclusionary commitment to ensure subject-object relations for all members of the society. However, this kind of enforcement does not judge upon the way protesters have advanced their claims, but it works in the light of the consequences of such acts. At the same time, since it is directed backward, penalisation only has a compensatory meaning.

As a violation of the first-order normativity, these practices require institutions to penalise damaging members in accordance with the laws of a pluralistic society. However, it is important to make clear that the intent of penalisation is not the regaining of stability vis-à-vis a considerable risk. The purpose of penalisation is to compensate what some members, in their singularity, have done against another member's entitlement to have a say. The aim is to assign the costs of this unjust outcome to those agents that caused the loss. The voluntary element is decisive. This element clarifies an important point. Namely, only those acts that deliberately aim to prevent someone from the exercise of his or her own franchise can be penalised with valid reasons of justice. For instance, if Jane accidently runs over Frida while Frida is going to cast her vote, Jane is not liable to be charged punishment on justice-based reasons. The chef of your favourite restaurant who causes you a terrible stomach-ache cannot be punished on justice-based reasons, even if you are not able to exercise the legitimate franchise. In this case, by ensuring you adequate health-care, and an ample time-span for voting or participating in disagreement, or by making available a wide range of restaurants, a pluralistic society has accomplished the requirements of justice.

So, the justification of penalisation is not in deterrence. Namely, the containment of the prospect that members of a pluralistic society will undertake this sort of action in the future. If this were the case, a pluralistic society would violate its worldview neutrality as well as the neutral stance on the practices that members can find appropriate to advance their worldviews in public. Justification for penalisation can only reside in the actual violation of someone's entitlement to have a subject-object relation with all external objects. Under this view, coercive state interference compensates the consequences of usurping a right that should be granted. It is not a condemnatory action against a particular form of protesting, but

rather it is a way to make protesters responsible for a significant loss, which the pluralistic society has incurred because of a certain action.

By granting pluralistic institutions the capacity to penalise the violation of one's right to have a say, however, I do not secure the stability of a pluralistic society. First, before acting, protesters know the kind of consequences that they have to cope with. Their decision to take action shows the price they are able to pay for advancing their worldviews. Second, such penalisation does not have the kind of normative justification that can cause stability directly. Namely, pluralistic institutions do not have the normative justification to prevent someone from disobey. The right to have a say dictates that all members can access objects of disagreement in their own ways. Therefore, the expression of a member's political engagement is not per se a ground for penalisation. Because of the breach in the promise to grant everyone the same entitlement to have individual subject-object relations, penalisation is a way through which a pluralistic society makes some members pay for the costs it has to bear.

Third, members might protests in ways that do not violate other members' right to have a say. When a protest does not entail a violation of the right to have a say, protesters are entitled not to bear the burdens of the social and political costs of their political action. These activities may take the form of bank robberies, strikes, systematic occupation of squares and monuments. In this case, pluralistic institutions lack justice-based reasons to penalise protesters. Worldview neutrality trumps claims for containment of protesters unless such claims demonstrate the thwarting of someone's right to have a say. For instance, right-wing groups lead strikes in factories. They systemically occupy public spaces evoking nationalist heroes. They do expropriate banks in order to finance public action. They do so without channelling dissent in existing disagreements. They do not even attempt to raise issues of collective decisions. They only try to destabilize a pluralistic society. In this case, pluralistic institutions do not have a justice-based claim to prevent these members from doing so. A pluralistic society must ensure that all members can express their sincerely held convictions and to reclaim their entitlement to have subject-object relations with all objects of disagreement. Since all members of a pluralistic society have a right to have subject-object relations with all possible

objects of disagreement, a pluralistic society must ensure meaningful channels for participation and dissent. However, members, who do not recognize the normativity of this conception of justice, might find the resulting channels meaningless. For this reason, they may resort to radical forms of dissent. In this case, the commitment to ensure that all members can have an actual say provides a justice-based reason to let some members protest.[411] So, while certain forms of public protesting may cause normatively grounded reasons for punishment – for instance, if the act in question directly harms third parties – no normative significance attaches to the mere fact that these demonstrations involve disobedience to pluralistic institutions.

If we want to see these claims from the point of view of stability, the three kind of damaging groups do not constitute a threat for the overall stability of a pluralistic society. Let me explain. At the level of the first order normativity, even if members might refuse the non-exclusionary character of the right to have a say, pluralistic institutions are well equipped to keep widespread affirmation of the right to have say without undermining its worldviews neutrality. Pluralistic institutions have justice-based reasons to penalise holders of damaging worldviews, when they deny other members the entitlement to have a say. At the same time, institutions have justice-based reasons to let holders of damaging worldviews protest without assessing the form and the ends of such protests. Things change, if we think that holders of damaging worldviews bring forward valid considerations in the relevant disagreements. Regardless of what they say, from the perspective of pluralistic institutions, all those individuals who advance valid considerations, which eventually lead to a damaging outcome, must count the same. In this way, we deduce that, when members holding damaging worldviews actively take part in the relevant disagreement, there may be a strong threat for the stability of a pluralistic society. This brings us back to the argument concerning damaging considerations. A pluralistic society does not have normative reasons to avoid dissemination of damaging worldviews, when these worldviews translate into subject-object relations with specific objects of disagreement. In this case, the stability of a

[411] It is important to notice that the demand to give equal weight only to valid and available considerations does not bind institutions of a pluralistic society to avoid forcing public decision onto dissenters, who did not bring forward valid considerations within the relevant interaction community.

pluralistic society depends on the participation of its members – and precisely those members who have no reasons to deny the worth of a non-exclusionary conception of justice.

So, in the past two sections, I have tried to investigate the position of "damaging worldviews" and "members who hold damaging worldviews". A pluralistic society has no-justice based reasons to contain neither damaging doctrines nor damaging members. With worldviews, there is no justice-based reason whatsoever. With damaging members, a pluralistic society has justice-based reasons to penalise damaging members if and only if they prevent someone else from exercising his or her right to have a say. Therefore, within a pluralistic society, there might be worldviews and considerations that go against its non-exclusionary character. Against these worldviews, a policy of deterrence has no justice-based reason because this policy violates explicitly viewpoint-neutrality. In this context, the stability of a pluralistic society may be seriously under threat when damaging considerations influence several collective decisions, and, at the same time, only a small portion of the members exercises the entitlement to have subject-object relations with external. In all other cases, when members open many disagreements, or when they attempt to challenge legitimate collectively binding decisions, a pluralistic society is overall stable.

To sum up, we have seen that the right to have a say protects the fundamental claim to have an effect on elements of the external reality. From the point of view of the member, this protection means to be able to have subject-object relations with all possible objects of disagreement. From the point of view of institutions, pluralistic institutions are under a special expectation to defend the general entitlement to have a say. According to this view, the right to have a say requires political and social arrangements to allow all members to act upon all possible objects of disagreement. Any institutional action that contravenes this expectation justifies a justice-based resistance on the part of members. From the perspective of the members of a pluralistic society, overcoming injustice means to ask institutions to undo barriers that prevent someone from the exercise of the right to have a say. This implies the constitution of a peculiar kind of claim right. As we shall see in the next section, this kind of claim right marks a failure in the action of

pluralistic institutions: namely, members resort to the first order of normativity to contest institutions that deemed themselves to be justified on that same ground. In this way, the first-order normativity works as an external standard. On this view, members claim to possess the proper modality to enforce this standard on institutions. As we shall see, the affirmation of the right to have a say as a claim-right is the major source of instability for a pluralistic society. In this case, resistance and institutions have the same basis: that is, the non-instrumental value of the claim to appropriate elements of external reality.

5. Resistance in a pluralistic society

So far, I have argued that the stability of a pluralistic society is not under attack unless members do not participate. The idea is simple. Different disagreements are ways to reaffirm one's right to have a say. Within a pluralistic society, such right is a necessary resource to have the opportunity to joining with other members in the collective decision-making process. When members experience what this entitlement means, they have reasons to affirm the right to have a say and a society constructed accordingly. However, in the conclusion of section 4, I have argued that, when both protesters and pluralistic institutions justify their action by appealing to the non-exclusionary desideratum, a pluralistic society might be unstable. This is the topic of the present section.

The first task of pluralistic institutions is to guarantee that all members have an irrevocable right to have a say. I maintain that the construal of the right to have a say as a general entitlement facilitates political self-determination because it leaves to members the construction of specific regulations. First, in the public exchange of considerations, members with a right to have a say determine collective outcomes and modify them when appropriate. Thanks to such an entitlement, members of a pluralistic society can initiate disagreements and invite valid considerations from different worldviews. Second, the right to have a say draws an imaginary axis that all political and social arrangements turn around. It constitutes

a general standpoint from which members evaluate social and political arrangements.

Moreover, at the two levels, we can say that the right to have a say has a maieutic force, which follows two directions. As we have seen so far, thanks to public exchanges of considerations, the right to have a say renders political and social arrangements responsive to worldviews that are normally excluded from the discourse about justice. Moreover, since the right to have a say does not depend on any prior worldview, it is intended to illuminate exclusionary practices, which survive in social and political arrangements, even if they are named to be pluralistic. For instance, oftentimes those members who find themselves in structural minorities may denounce that their own considerations might have won support, had there been even-handed decision-making procedures. In the acknowledgement of this incident, the right to have a say stands as an entitlement both to take part in the decision making process itself and to contest decisions reached by exclusionary processes.

By shielding members of a pluralistic society from exclusionary political and social arrangements, the right to have a say also constitutes a justificatory reason for action against pluralistic institutions when these institutions do not continue protecting individual subject-object relations with all objects of disagreement. Therefore, in a pluralistic society, the real question is not whether it is ever permissible to disobey pluralistic institutions in the service of the pursuit of justice but when it is the case. In other words, what kind of injustice leads to justifying resistance to pluralistic institutions whatsoever? This question comes together with a derivative interrogative. When rise against pluralistic institutions is normatively justified, which are the otherwise-unjustified-practices that the right to have a say justifies? If we think of my discourse in this chapter, we can arrive at a preliminary answer to the second question. In a pluralistic society, when social and political arrangements fail to respect the right to have a say, the right to have a say justifies a violation of the entitlement of other members, which is the only practice that pluralistic institutions forbid prior consultations. In this section, therefore, we shall reconstruct the theoretical grounding of this response by answering the first

question. This shall help us to clarify why, in certain occurrences, it is permissible for members to violate other members' right to have a say.

In order to answer the first question, we must deconstruct the normative work of the right to have a say upon members of a pluralistic society. As we have seen in different parts of this work, a non-exclusionary form of coexistence reduces as much as possible the action of circumstantial elements onto the weight of a view in decision-making procedures. A general entitlement to have a say compels institutions to erase barriers, which deny subject-object relations with external objects of disagreement. This angle should help me to clarify the kind of injustice that justifies a claim-right against pluralistic institutions. If manifest or unseen barriers continue to exist, a society is only superficially pluralistic, since it denies some members the equal standing as participants in the resolution of disputes over public issues. Specifically, when the normal channels of voice are not available or effective anymore; when, in a pluralistic society, significant systemic injustices deny someone the right to have a say, resistance is unobjectionable from the evaluative point of the right to have a say. In these cases, we cannot expect members to accept collective decisions. We also cannot assume that they recognize in the institutions the normative basis upon which compliance should be expected.

If we think of structural inequalities that favour certain worldviews over others, these inequalities violate the general entitlement that all members of a pluralistic society should have a say without distinction. For instance, permanent unemployment, chronic low-paying, systematic incarceration reiterate exclusionary forces, which interrupt the normal exercise of the basic right. If we think that decision-making procedures are de facto inaccessible to members with valid considerations, these closures are exclusionary practices that deny the exercise of the right to have a say. In all these cases, in the absence of a secure entitlement to have a say, the need to bring back the general normativity of the right to have a say at the centre of political and social arrangements might make some members unable to continue following the prescriptions of pluralistic institutions. To put it bluntly, to these members, who are object of the greatest injustice of a pluralistic society, the distinction between lawful and unlawful conducts does not have any normative

significance. An action in agreement with what a member considers as normatively right (righteous) trumps the prescriptive commands of pluralistic institutions.

The mismatch between "what is righteous to do" according to the member and "what is just to do" according to pluralistic institutions casts lights upon a distinctive feature of the right to have a say. This brings me to answer the second question of this section. Which are the otherwise-unjustified-practices that, in certain circumstances, the right to have a say justifies? In the interest of a non-exclusionary conception of justice, the right to have a say involves actions that, if a pluralistic society were not exclusionary, would be seen as deserving condemnation, like the violation of another member's entitlement to have a say. This is so because, in these circumstances, an act of resistance serves better the non-exclusionary desideratum of a pluralistic society than compliance with institutional prescriptions and the dominant social ethos.

If an act of resistance is less exclusionary than institutions appear to be, then, vis-à-vis such act of resistance, institutions, whose authority is founded on the general entitlement to have a say, have shaky normative underpinnings to justify censure. Let me explain this passage. First, it is important to clarify the conditional clause. An act of resistance is less exclusionary when it prefigures the same society without the present obstacles to have subject-object relations with external objects of disagreement. This keeps the assumption that, when members resist, they adhere to the non-exclusionary desideratum, and they think that an ideally non-exclusionary pluralistic society ought to strive to realize the promise to ensure a general entitlement to have a say.[412] In this way, resistance pictures an alternative form of coexistence on the same premises of a pluralistic society. This brings us to the second clause of the passage; namely the reference to the general entitlement to have a say. The prospect of a society that is less exclusionary than the pluralistic society shows that existing institutions do not adhere to their normative justification fully. Nevertheless, the ultimate ground upon which pluralistic institutions claim to

[412] I borrow the idea of prefiguration from Norman Geras, *The Legacy of Rosa Luxemburg* (London: Verso, 1983), 141.

have authority on members of a pluralistic society is precisely the same reason that pushes protesters to envisage less-exclusionary societies.

Protesters and institutions have a communal denominator for action. Specifically, resistance violates some members' rights in order to bring about a less-exclusionary society. Institutions ought to compensate violations as a manifest infringement of the non-exclusionary desideratum. At the same time, the demand for reform and the demand for compensation reaffirm the non-exclusionary desideratum from different points of view. Despite the same rationale, the contrasting articulation of such claim makes a breach in the pluralistic society, such a breach shows the transitory character of institutions, which have incorporated the right to have a say. As we have seen in chapter 8, such a reflexivity is an indispensable quality for a non-exclusionary conception of justice to the extent to which it sustains practices of contestation against exclusionary practices.

Let me explain. As a general entitlement, the right to have a say specifies what members can demand from other members and common institutions. Specifically, when pluralistic institutions are supposed to be non-exclusionary, institutional incorporation of the general standpoint of justice transforms right to have a say into a claim-right against institutions. By borrowing from Hohfeld, we can define the right to have a say in the form of a claim-right as follows. If Frida has a right against pluralistic institutions that they shall ensure her entitlement to have a say, the correlative is that pluralistic institutions are under a duty toward Frida to do so. Frida, in other words, acts as if her right were a justified claim to expect institutions to take action in her favour.[413] Such a claim-right gives us reason to think that all members are entitled to take some steps to ensure that they enjoy their due right to have a say. Otherwise, it seems odd that members have to comply with institutions, which question the general entitlement to participate. It also seems odd to maintain that members cannot take steps to secure the right to have a say, when pluralistic institutions do not grant it.

[413] Hohfeld 1919, 38. For recent works on claim-rights, see Gopal Sreenivasan 2005, 267-74. See also Leif Wenar, "The Nature of Claim-Rights," *Ethics* 123 (2) (2013): 202-229. For an excellent reading of the right of resistance as a claim-right, see Simon Caney, "Responding to Global Injustice: On The Right of Resistance," *Social Philosophy and Policy* 32 (1) (2015), 53.

When, as a claim-right, the right to have a say causes instability – members who do not sustain pluralistic institutions and violate others' right to have a say, the right to have a say is still non-instrumentally connected with the claim to defend non-exclusionary social and political relations. Now, if one regards members of a pluralistic society as potential-participants, they are active beings whose fundamental claim is to be able to have an effect on elements of the external reality. Therefore, when a pluralistic society does not see some of the members primarily as the subjects who can determine its immanent logic, it follows that those same members, who are entitled to have a say, may feel themselves authorised to question the status quo.

This action of resistance may cause instability. However, the consequent instability aims to ensure that a non-exclusionary conception of justice actually informs institutions. Whether this means to rethink the terms of coexistence, it is irrelevant from the standpoint of justice, because, if someone cannot act upon external objects of disagreements, it is a matter of justice to give back the due entitlement. In this case, institutions are not entitled to complain, because protesters are worse off than they are entitled to be, therefore, they have a justice-based reason to find their own way to push for more non-exclusionary social and political configurations.

A pluralistic society, however, as a society whose social and political relations are constructed upon a non-exclusionary conception of justice, is a condition for this critical juncture to happen. By constructing the general expectation to be an active participant in the decision-making procedure, a pluralistic society builds into itself the possibility of instability. As a society inspired by the right to have a say, the pluralistic society has two fundamental characteristics. It affirms itself as a society that does not force norms without connecting with those who are subject to it. However, as a society in which everyone affirms the right to have a say from his or her own perspective, a pluralistic society can be supported until its members do not experience exclusion, according to the standards governing political and social activities. When this is the case, stability, namely the situation in which members support institutions that affirm a certain conception of justice, is not a concern. From the point of view of

the members (or some members), such an institutional configuration is not a representation of the general standpoint of justice, therefore it is not worth defending anymore.

This is not a bad thing for a non-exclusionary political theory because its central features, those features that derive from the purpose of the general standpoint of justice, are uncontested. In conclusion of this section, let us clarify this point. Whoever brings about instability refuses, on the grounds of the gravity of the exclusion, which is held to be unjust, to sustain that the institutional forms of the right to have a say have been exhausted. On these terms, the challenge to institutions, which were deemed to be pluralistic, can only occur under the condition of a pluralistic society, where all members have a right to have a say. In the turmoil, the normative conditions of a pluralistic society remain intact. Protesters do not recognize the justice of the existing order, but the bounds of an appeal to the general standpoint of justice are still there. For this reason, despite instability, rather than challenging the spirit of a pluralistic society, the pressure of resistance is a chance to correct errors in the process of the realization of a just society.

The right to have a say builds into a pluralistic society mechanisms of self-correction because the animating cause of a non-exclusionary conception of justice is not to eliminate possibilities for revision, but rather reckoning diverse demands for change. Therefore, violations of the right to have a say are themselves strategic experiments without which a pluralistic society can retain neither its non-exclusionary capacity nor its possibility for institutional innovation. For a non-exclusionary political theory, if the society proves to be exclusionary, members as a collective, which are empowered by the right to have a say, must be permitted to rethink that original right too. This is so because, in the last instance, the pluralistic society, as a state of possibility, expects compliance because of its non-exclusionary character, as a possible order that allows all members to pursue their own worldviews, and affect objects of disagreement accordingly.

This brings me to conclude my analysis of stability and resistance. Resistance puts the stability of a pluralistic society under siege but it does so with

a just cause. Such an instance of instability, however, does not furnish institutions with a justice-based reason to contain protesters, who have a justice-based claim to resist in turn. For members who engage in such a resistance are reclaiming their due entitlement as members of a pluralistic society, whose basic structure denies them the possibility to act upon objects of disagreement. In this vein, resistance is an implicit necessity. This is something different from an exhortation to resist. What I mean to say, in turn, is that resistance is built into a pluralistic society. A member who believes herself to be excluded from the exercise of his or her franchise has weighty reasons to challenge exclusion, even if these actions disassociate the member from the common practices of a pluralistic society. By doing so, the member affirms that a pluralistic society is as non-exclusionary as it claims to be. She also affirms that such a society needs changes in order to meet the non-exclusionary desideratum. Provided that this kind of actions are possible reactions to exclusion within a pluralistic society, resistance is an always-present immanent possibility in a society where all members have a right to have say. When this possibility becomes real, the temporary and flexible character of pluralistic institutions become explicit.

6. Conclusion

In this chapter, I have responded to concerns with the stability of a pluralistic society by highlighting three kinds of problems: damaging considerations, damaging members and excluded members. We have seen that stability may be a problem for a pluralistic society when members do not exercise their entitlement. This means to say that they do not participate deliberately, or that they are prevented from doing so. In the first case, the pluralistic society can generate damaging outcomes, which are nevertheless fully legitimate. Such occurrence may lead to exclusionary practices that generate discontents and frustration, therefore pushing people to claim back their due entitlement. In the second case, instability means to resist to exclusionary arrangements on the same ground that makes these

arrangements just. This important source of instability, I have argued, illuminates the self-reflective character of the pluralistic society.

This chapter concludes my dissertation. In the three parts of this dissertation, I have defended three theses. 1) For me, existing responses to the fact of pluralism are exclusionary. This observation justifies the demand for alternative normative strategies that entitle all individuals to participate in the decision-making procedures, regardless of their moral and political commitments. 2) Then, I think that a perspectivist normative theory can be one of such accounts. In this vein, my proposal constructs two orders of normativity. 3) Eventually, the pluralistic society is an ideal society in which members have a right to have a say, and the basic structure of society has incorporated the two orders of normativity. Together, the three steps of this work defend the construction of non-exclusionary political theories, which try to avoid normative pre-commitments in the examination of diversity and exclusion/inclusion. My simple intuition has been that the defence of the individual subject-object relation with external objects of disagreement informs an argument against exclusion.

Now, to bring this matter to a close, I want to address another objection against the ideal of a pluralistic society. A society in which all members must have a right to have a say may generate a paradox. Thought to be the best response to pluralism, the imperative to ensure that all members can exercise their right to have a say may erase important sources of disagreement and restrict disputes only to issues that are not very controversial. If we think of the normative work of the right to have a say, this problem can be more evident. The standpoint of justice of a pluralistic society demands that all members of a pluralistic society can have subject-object relations with all possible objects of disagreement. In order to ensure such an access, the general and non-exclusionary conception of justice prescribes a relaxation of the limits to freedom of expression in all its forms, but also it requires members to have adequate material means and channels for self-respect. Nevertheless, if compared with the status quo, the implementation of these normative requirements impose solutions for a number of disputes, from gay-marriage to fair redistribution and abortion, which are central objects of disagreement in today's societies. By affirming the right to have a say, then, will a

pluralistic society hibernate a great deal of political conflicts in favour of a kind of perfectionist political programme? Is a pluralistic society exclusionary for those members who have particularly conservative positions?

My response is straightforward. The standpoint of justice that characterizes a pluralistic society demands to erase all barriers that exclude someone from disagreements, even if these barriers may be potential objects of disagreement in the society where we live now. However, this is not a limitation to the pluralism of a pluralistic society. A pluralistic society is a utopia where all members have a right to have a say. In a pluralistic society, non-members, who have valid and available considerations, may participate in the existing disagreements. In this context, the widespread exercise of the right to have a say is a necessary condition for a society to meet the non-exclusionary desideratum. The number and quality of the objects of disagreement in such a society is neither sufficient nor necessary to define its non-exclusionary character – and its degree of pluralism. In other words, we cannot assume that a society, where we have the same number and kind of objects of disagreement as those objects we have now, is pluralistic. The objects of disagreement, which can arise among people who have the same entitlement to have a say, are a matter of philosophical speculation. By thinking otherwise, we assume again that pluralism is something that exists, with certain characteristics, which are contingent to a certain list of doctrines and public issues. As we have seen in the first two parts of this dissertation, this view has problems and may generate hidden forms of exclusion. We can otherwise think that both objects of disagreement and worldviews are contingent to the evolution of social reality. For instance, today, we do not challenge that the earth is round. Decades ago, anthropogenic climate change was not an issue of concern for academics and social activists. When black people were routinely denied access to buses and public spaces; institutional racism was not in the agenda. So, the worry that, by ensuring that everyone can have a say, we restrict the room of pluralism neglects a fundamental element: members of a pluralistic society deal with disagreements that are contingent to a distinctive social configuration, one in which all members have a say. Moreover, this objection confuses exclusion with pluralism. In a pluralistic society, members have the right to have a say because this entitlement secure individual subject-object relations with

all objects of disagreement. In a pluralistic society, therefore, many of the structural forms of injustice, which, perhaps too quickly, we put under the rubric of pluralism, will find no space, because they are not modes of “the fact of pluralism” but forms of exclusion.

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